

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

AMERICAN HOSPITAL ASSOCIATION, *et al.*,

Plaintiffs,

v.

SYLVIA MATHEWS BURWELL, in her official
capacity as SECRETARY OF HEALTH AND
HUMAN SERVICES,

Defendant.

Civil Action No. 1:14-CV-851-JEB

[PROPOSED] ORDER

Upon consideration of Plaintiffs' Motion for Summary Judgment, the memorandum in support thereof, the opposition and reply thereto, and any argument thereon, it is hereby ORDERED that Plaintiffs' Motion for Summary Judgment is GRANTED; and it is further

ORDERED that judgment BE and hereby IS ENTERED in favor of Plaintiffs; and it is further

DECLARED that delays in adjudicating Medicare appeals by Defendant Secretary of Health and Human Services ("HHS") violate the Medicare Act, 42 U.S.C. § 1395ff; and it is further

ORDERED that, within ninety days, HHS shall provide hearings and decisions to Plaintiffs Baxter Regional Medical Center, Covenant Health, and Rutland Regional Medical Center in each of their claim appeals pending at the ALJ level for ninety days or more; and it is further

ORDERED that, within ninety days, HHS shall provide Plaintiffs Baxter Regional Medical Center, Covenant Health, and Rutland Regional Medical Center the resolution required

by law in each of their claim appeals pending at the DAB for ninety days or more; and it is further

ORDERED that HHS must comply with the statutory obligations in the Medicare Act in administering the appeals process for all hospitals by:

- (1) lifting the moratorium imposed as of July 15, 2013;
- (2) eliminating the backlog of appeals at the ALJ level by conducting and concluding a hearing in each of the currently pending cases within 180 days;
- (3) after elimination of the backlog, conducting and concluding each hearing and decision pending at the ALJ level within ninety days, as required by 42 U.S.C. § 1395ff(d)(1)(A); and
- (4) submitting a proposal to the Court within thirty days of the date of this Order for (a) promptly resolving any backlog of appeals pending at the MAC, QIC, ALJ, and DAB levels for longer than the timeframes provided for by the Medicare Act, 42 U.S.C. § 1395ff, and (b) conducting and concluding reviews at the MAC, QIC, ALJ, and DAB levels within the time frames required by statute (sixty days for the MAC, sixty days for the QIC, ninety days for the ALJ, and ninety days for the DAB). Plaintiffs may submit comments to Defendant's proposal within twenty-one days after its filing, and the Court may schedule further proceedings or take such other steps as may be needed to resolve this issue; and it is further

ORDERED that HHS shall pay all costs and reasonable attorney's fees to Plaintiffs pursuant to 28 U.S.C. § 2412.

Entered this ____ day of _____, 2014.

The Honorable James E. Boasberg
United States District Judge