

FEDERAL JUDGE DENIES HOSPITALS' MOTION TO ENJOIN IMMINENT 340B PROGRAM PAYMENT CUTS

On December 29, 2017, a judge for the United States District Court for the District of Columbia DENIED a motion to enjoin significant Medicare payment cuts for certain hospitals that participate in the 340B Drug Pricing Program ("340B Program") that are scheduled to take effect on January 1, 2018. **As a result, the Medicare payment cuts will take effect as planned on January 1, 2018.** For a thorough discussion of the impact and scope of the pending Medicare payment cuts, please see our [previous article](#) on the topic.

By way of background, the American Hospital Association ("AHA"), the Association of American Medical Colleges ("AAMC") and America's Essential Hospitals (collectively the "Plaintiffs") filed a lawsuit against the U.S. Department of Health and Human Services ("HHS") in the United States District Court for the District of Columbia on November 13, 2017 in an attempt to postpone the proposed Medicare payment cuts. The plaintiffs primarily argued that HHS exceeded its authority by "adjusting" the statutory reimbursement rate by roughly 30 percent for drugs eligible for 340B Program pricing.

In dismissing the Plaintiffs' claims, the judge ultimately focused on legal procedure and found that the District Court lacked jurisdiction over the subject matter of the lawsuit because the Plaintiffs failed to present any concrete claims for reimbursement to HHS. Therefore, while this action was dismissed on procedural grounds, there remains a viable (albeit uphill) opportunity to appeal the Medicare payment cuts on substantive grounds once the cuts actually take effect.

We will continue to monitor new developments in this area. We will also continue to evaluate options for establishing a Medicare group appeal challenging the validity of the Final Rule's 340B payment reduction as inconsistent with statutory authority and congressional intent.

If you have any questions or would like additional information about this topic, please contact:

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