

United States Court of Appeals

FIFTH CIRCUIT
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December 12, 2025

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No. 23-40605 Texas Medical Association v. HHS
USDC No. 6:22-CV-450
USDC No. 6:22-CV-453

Dear Counsel:

This letter is to advise the parties that the court has requested supplemental letter briefs to be filed on or before January 2, 2025, to answer the following questions:

1. Was the July Rule contrary to law on the day that it was issued because it incorporated \$0 rates into the QPA methodology? See 86 Fed. Reg. 36889 (2021). Please give page references to where this point was discussed in the briefings to this court, and/or explanation as to whether it is properly before us.

2. By telling insurers not to include \$0 rates, was the FAQ document operating as a legislative rule that required notice and comment? See ROA.11469 n.29.
3. If so, did the agencies comply with the notice-and-comment procedural requirements of § 553 of the APA?
4. If an agency tries to fix a substantive defect in a procedurally improper way, what is the proper remedy under the APA?

Briefs are limited to 15 pages. No responses or replies will be permitted.

Sincerely,

LYLE W. CAYCE, Clerk

A handwritten signature in black ink that reads "Melissa Mattingly". The signature is written in a cursive, flowing style.

By: _____
Melissa V. Mattingly, Deputy Clerk
504-310-7719

cc:

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