

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

AMERICAN HOSPITAL ASS'N, *et al.*,

Plaintiffs-Appellees,

v.

ALEX M. AZAR II, *et al.*,

Defendants-Appellants.

No. 19-5198

STATEMENT OF THE ISSUE ON APPEAL

Pursuant to the Court's July 15, 2019 Order, the government respectfully submits that the following issue is on appeal before this Court:

Under the Outpatient Prospective Payment System set out in Medicare Part B, the Department of Health and Human Services (HHS) sets Medicare payment rates through annual notice-and-comment rulemaking. Plaintiffs have challenged the OPPS payment rates for certain drugs acquired by hospitals known as 340B hospitals for calendar years 2018 and 2019. The question on appeal is whether the district court erred in declaring that an adjustment to the Medicare Part B payment rates for these drugs in the 2018 and 2019 calendar years exceeded HHS's authority under 42 U.S.C. § 1395(t)(14).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 23, 2019, I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the District of Columbia Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

ls/ Laura E. Myron

LAURA E. MYRON