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May 10, 2018

VIA CM/ECF

Mark Langer, Clerk of Court
U.S. Court of Appeals for the District of Columbia Circuit
333 Constitution Ave NW
Washington, DC 20001

RE: *American Hospital Ass'n v. Alex M. Azar II*, No. 18-5004 (D.C. Cir.)
(heard May 4, 2018 before Circuit Judges Srinivasan, Millett, and
Katsas)

Dear Mr. Langer:

Pursuant to Rule 28(j) of the Federal Rules of Appellate Procedure, we respectfully confirm the following points raised by questions at oral argument.

First, pursuant to 42 U.S.C. § 1395l(t)(14)(H), any reimbursement rate adjustments made by the Secretary to payment rates using the statutory formula outlined in paragraph (t)(14)(A)(iii) of the statute are subject to the general budget-neutrality requirements outlined in paragraph (t)(9) (subject to an express exception for 2004 and 2005).

Second, at 82 Fed. Reg. 52,362, the Secretary invoked his authority under 42 U.S.C. § 1395l(t)(9)(A) to review certain components of the OPPS not less often than annually, and to revise the groups, relative payment weights, and other adjustments.

Sincerely,

/s/ Laura Myron

Laura Myron
Counsel for Respondents

cc: All counsel (via CM/ECF)