

**IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA**

<b>TRI-COUNTY HOSPICE, INC.,</b>	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>Case No. CIV-10-244-RAW</b>
	)	
<b>KATHLEEN SEBELIUS, Secretary</b>	)	
<b>of the U.S. Department of Health and</b>	)	
<b>Human Services,</b>	)	
	)	
Defendant.	)	

**FINAL JUDGMENT AND ORDER OF REMAND**

Consistent with the order entered contemporaneously in this case:

1. It is the order of the court that 42 C.F.R. §418.309(b)(1) is unlawful and set aside.
2. The prior calculation by HHS as to plaintiff for FY 2008 is also set aside.
3. The defendant is once again enjoined from henceforward using 42 C.F.R. §418.309(b)(1) to calculate the maximum amount to be paid to plaintiff for hospice care, as contemplated by 42 U.S.C. §1395f(i)(2).

This matter is remanded to HHS for proceedings not inconsistent with this judgment.

**IT IS SO ORDERED** this 24th day of JANUARY, 2011.

**Dated this 24<sup>th</sup> Day of January 2011.**



Ronald A. White  
United States District Judge  
Eastern District of Oklahoma

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