IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS SHERMAN DIVISION

HARRIS HOSPICE, INC.
a Texas Corporation

Plaintiff,

VS.

Case No. 4:10cv252

KATHLEEN SEBELIUS, Secretary of
United States Department of
United States Department of
Health and Human Services

Defendant.

MEMORANDUM ORDER ADOPTING REPORT AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Came on for consideration the report of the United States Magistrate Judge in this action, this matter having been heretofore referred to the United States Magistrate Judge pursuant to 28 U.S.C. § 636. On January 6, 2011, the report of the Magistrate Judge was entered containing proposed findings of fact and recommendations that the Providers' Motions for Summary Judgment (Dkt.17 in 4:10cv275 and Dkt. 22 in 4:10cv252) should be GRANTED, that Defendant's Cross Motion for Summary Judgment (Dkt. 33 in 4:10cv252) should be DENIED, and that Plaintiff Providers should have summary judgment against Defendant.

The court, having made a *de novo* review of the objections raised by the parties and the responses thereto, is of the opinion that the findings and conclusions of the Magistrate Judge are correct, and the objections are without merit. Therefore, the court hereby adopts the findings and

conclusions of the Magistrate Judge as the findings and conclusions of this court.

The Providers' Motions for Summary Judgment (Dkt.17 in 4:10cv275 and Dkt. 22 in 4:10cv252) are GRANTED, Defendant's Cross Motion for Summary Judgment (Dkt. 33 in 4:10cv252) is DENIED, and Plaintiff Providers shall have summary judgment against Defendant.

IT IS SO ORDERED.

SIGNED this the 29th day of September, 2011.

RICHARD A. SCHELL

UNITED STATES DISTRICT JUDGE

Richard N. Schill