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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
8 AT SEATTLE

9 UNIVERSITY OF WASHINGTON, d/b/a  
10 UNIVERSITY OF WASHINGTON MEDICAL  
11 CENTER,

12 Plaintiff,

13 v.

14 KATHLEEN SEBELIUS, in her official capacity  
15 as Secretary, United States Department of Health  
16 and Human Services,

17 Defendant.

CASE NO. C11-625RSM

ORDER ON MOTION FOR  
RECONSIDERATION

18 Plaintiff University of Washington Medical Center (“UW Medical Center”) filed this action for  
19 administrative review of a final decision by the Secretary of the United States Department of Health and  
20 Human Services (“Secretary”) regarding Medicare reimbursement. Specifically, plaintiff challenges a  
21 February 7, 2011, decision by the Medicare Provider Reimbursement Board (“PRRB”) that denied  
22 jurisdiction over a Medicare cost report appeal for the fiscal year ending June 30, 1999 (“FYE  
23 6/30/99”). Dkt. # 1. The appeal, Case No. 02-1021, concerned direct and indirect medical education  
24 payments (“DGME” and “IME” respectively) received by UW Medical Center from Medicare for  
25 graduate education medical activities. *Id.* Such payments are based, in part, on the number of full time  
26 equivalent (“FTE”) residents and graduate fellows participating in an approved medical education  
27 program. *Id.* The PRRB serves as the first level of appeal for hospitals challenging their annual  
28 Medicare cost reports, following finalization by an agent of the Secretary referred to as the Fiscal  
Intermediary (“Intermediary.”). *Id.*

ORDER ON MOTION FOR  
RECONSIDERATION - 1

1 This matter is before the Court for consideration of Plaintiff's motion for reconsideration of the  
2 Court's December 22, 2011 Order denying Plaintiff's motion to supplement the record. Dkt. ## 31, 32.  
3 Plaintiff sought to have the record supplemented with two documents: a letter dated August 31, 2010 in  
4 which the Intermediary conceded jurisdiction over IME Research FTE's for FYE 6/30/97 and FYE  
5 6/30/98, and portions of a February 3, 2011, jurisdictional response which Plaintiff argued is "related to  
6 UWMC's IME resident FTEs for FYE 6/30/99." Motion to Supplement, Dkt. # 15, p. 10. The Court  
7 denied the motion, noting that neither document was filed in Case No. 02-1021 or bears that number on  
8 the face sheet, and was therefore not made part of the record or considered by the PRRB in Case No. 02-  
9 1021. The Court specifically noted that Plaintiff had not demonstrated that supplementation of the  
10 record was justified by any of the four factors identified by the Ninth Circuit Court of Appeals: (1) if  
11 admission is necessary to determine whether the agency has considered all relevant factors and has  
12 explained its decision; (2) if the agency has relied on documents not in the record; (3) when  
13 supplementing the record is necessary to explain technical terms or complex subject matter; or (4) where  
14 there has been a strong showing of bad faith or improper behavior on the part of agency decision  
15 makers. *Lands Council v. Powell*, 395 F. 3d 1019, 1030 (9th Cir. 2005) (internal quotations omitted);  
16 *Animal Defense Counsel v. Hodel*, 840 F. 2d 1432, 1436 (9th Cir. 1988).

17 In moving to supplement the record, Plaintiff argued that these documents go to the issue of  
18 whether the agency considered all relevant factors in reaching its decision. Plaintiff takes issue with the  
19 Court's finding that it "fails to demonstrate that the PRRB had the documents at issue before it when it  
20 made the challenged decision. The Court cannot make a finding that these documents are necessary [for  
21 it] to determine whether the agency has considered all relevant factors, when the documents at issue  
22 were not actually put before the agency in this case." Plaintiff has provided, with the motion, a delivery  
23 receipt for the February 3, 2011 letter demonstrating that it was received by the Board Advisor for  
24 UWMC's IME Research group appeal on February 4, 2011, three days before the Board reached its  
25 decision in the 02-1021 individual appeal. Declaration of Kelly Thomas, Dkt. # 33. Both the  
26 declaration and the receipt demonstrate that the letter was submitted in the group appeal, Case No. 05-  
27 1478G.

1 The motion for reconsideration thus simply renews arguments made in the original motion: that  
2 documents submitted in a different appeal (the group appeal) should have been considered in the related  
3 individual appeal. The Court rejected this argument in the Order and declines to reconsider it now.

4 The motion for reconsideration (Dkt. # 32) is accordingly DENIED.

5 DATED this 23 day of July 2012.

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8 RICARDO S. MARTINEZ  
9 UNITED STATES DISTRICT JUDGE