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THE HONORABLE BENJAMIN H. SETTLE

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MULTICARE HEALTH SYSTEM, d/b/a GOOD  
SAMARITAN HOSPITAL,

Plaintiff,

v.

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

Defendant.

No. C12-05546-BHS

STIPULATION AND ORDER  
AMENDING BRIEFING SCHEDULE

**Note on Motion Calendar for:  
November 1, 2012**

NOW COME the Parties, Plaintiff Multicare Health System, d/b/a Good Samaritan Hospital (the "Hospital") and Defendant Kathleen G. Sebelius, Secretary of the United States Department of Health and Human Services (the "Secretary"), and request that the Court enter this Stipulation and Order, amending an earlier briefing schedule established by the Court on October 9, 2012, and in support thereof, respectfully represent as follows:

This case was filed on June 21, 2012, by the Hospital, seeking judicial review of a final decision of the Provider Reimbursement Review Board ("PRPB" or "Board"), a component of the United States Department of Health and Human Services ("HHS").

On October 8, 2012, this Court entered an Order setting aside its standard Pre-Trial Order Regarding Initial Disclosures, the Joint Status Report and Discovery Plan, based on the fact that this

1 case constitutes “an action for review on an administrative record” within the meaning of Fed. R. Civ.  
2 P. 26(a)(1)(E)(i), and is therefore exempt from the requirements of Fed. R. Civ. P. 26(f). Instead, upon  
3 the stipulation of the parties, the Court entered a Stipulated Scheduling Order, establishing a briefing  
4 schedule for the parties to file cross-motions for summary judgment pursuant to Fed. R. Civ. P. 56.  
5 Under the provisions of that Stipulated Scheduling Order, the first motion would be due November 2,  
6 2012, and the briefing would be completed as of January 4, 2013.

7 Since October 8, 2012, when the Stipulated Scheduling Order was entered, the parties have made  
8 good progress in settlement negotiations. They are now cautiously optimistic that this case can be  
9 resolved by agreement without the need for further briefing. Accordingly, the parties respectfully  
10 request that the Court amend the Stipulated Scheduling Order to provide for an extension of  
11 approximately 30 days of the various deadlines established in that Order. Amending the Stipulated  
12 Scheduling Order is in the interests of justice because it will permit the parties to devote their full  
13 attention to settlement discussions, and allow them to avoid the considerable cost otherwise associated  
14 with filing cross-motions for summary judgment and briefing in support thereof.

15 Accordingly, through their counsel of record, the Hospital and the Secretary hereby respectfully  
16 request that the Court enter as an ORDER the following STIPULATION establishing the following  
17 schedule for the briefing and submission of cross-motions for summary judgment in this case:

- 18 1. The Secretary shall file and serve her Motion for Summary Judgment and supporting  
19 memorandum on or before Friday, December 7, 2012.
- 20 2. The Hospital shall file its Opposition to Plaintiff’s Motion for Summary Judgment and a  
21 Cross-Motion for Summary Judgment on or before Friday, January 4, 2013.
- 22 3. The Secretary shall file her Opposition to the Hospital’s Cross-Motion for Summary  
23 Judgment, and her Reply to the Hospital’s Opposition to the Secretary’s Motion for Summary Judgment  
24 no later than Friday, January 18, 2013.
- 25 4. The Hospital shall file its Reply to the Secretary’s Opposition no later than Friday, February  
26 1, 2013.
- 27 5. Both Plaintiff’s Motion for Summary Judgment and Defendant’s Cross-Motion for  
28 Summary Judgment shall be noted on the Court’s motion calendar for Friday, February 1, 2013.

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**SO STIPULATED.**

DATED: November 1, 2012

Respectfully submitted,

JENNY A. DURKAN  
United States Attorney  
Western District of Washington

By: s / Peter A. Winn  
PETER A. WINN  
Assistant United States Attorney  
Attorneys for Defendant

**SO STIPULATED.**

DATED: November 1, 2012

By: s / Teresa A. Sherman  
TERESA A. SHERMAN  
Sherman Law Office, PLLC  
Attorney for Plaintiff

**SO ORDERED.**

DATED: November 5, 2012.

  
BENJAMIN H. SETTLE  
United States District Court Judge