

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ASSOCIATION OF AIR MEDICAL SERVICES,
et al.,

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, *et al.*,

Defendants.

Civ. Action No. 1:21-cv-3031-RJL

NOTICE OF THE DEPARTMENTS' DECISION TO APPEAL

Plaintiffs in the AMA/AHA action respectfully notify the Court that the Departments filed a Notice of Appeal on April 22, 2022, in *Texas Medical Association. v. U.S. Department of Health and Human Services*, No. 6:21-cv-00425 (Exhibit A). The Departments' decision to appeal the Eastern District of Texas's decision confirms that a live controversy remains in this case. Not only have the Departments failed to abandon their unlawful interpretation of the No Surprises Act, *see* ECF Nos. 61, 62, it is now abundantly clear that they have no intention of acquiescing to the Texas decision. Under well-established precedent, where "the government ha[s] announced 'an intention' to restore the rule under challenge if the lower-court decision [is] vacated," the controversy remains "live." *Am. Bankers Ass'n v. Nat'l Credit Union Admin.*, 934 F.3d 649, 661 (D.C. Cir. 2019).

The Departments' decision to appeal makes it all the more imperative for the Court to enter an order without delay holding that the presumption in favor of the qualifying payment amount (QPA) is unlawful, and vacating all the provisions of the September Rule challenged by the AMA/AHA Plaintiffs.

Respectfully submitted,

Dated: April 27, 2022

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EXHIBIT A

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

TEXAS MEDICAL ASSOCIATION, *et al.*,

Plaintiffs,

v.

U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES, *et al.*,

Defendants.

No. 6:21-cv-00425-JDK

NOTICE OF APPEAL

PLEASE TAKE NOTICE that all Defendants—the United States Department of Health and Human Services; the United States Department of the Treasury; the United States Department of Labor; the Office of Personnel Management; Xavier Becerra, in his official capacity as the Secretary of Health and Human Services; Janet Yellen, in her official capacity as the Secretary of the Treasury; Martin J. Walsh, in his official capacity as the Secretary of Labor; and Kiran Ahuja, in her official capacity as the Director of the Office of Personnel Management—hereby appeal to the United States Court of Appeals for the Fifth Circuit from the Memorandum Opinion and Order (ECF No. 113) granting summary judgment to the Plaintiffs and denying summary judgment to the Defendants, entered in this action on February 23, 2022; from the Final Judgment (ECF No. 114) in favor of the Plaintiff, entered in this action on the same date; and from all previous rulings in this action.

Dated: April 22, 2022

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify on this 22nd day of April, 2022, a true and correct copy of this document was served electronically by the Court's CM/ECF system to all counsel of record.

/s/ Joel McElvain
JOEL McELVAIN