

20-1114 AMERICAN HOSPITAL ASSOCIATION V. BECERRA

DECISION BELOW: 967 F.3d 818

LOWER COURT CASE NUMBER: 19-5048, 19-5198

QUESTION PRESENTED:

Under federal law, the reimbursement rate paid by Medicare for specified covered outpatient drugs is set based on one of two alternative payment methodologies. If the Department of Health and Human Services (HHS) has collected adequate "hospital acquisition cost survey data," it sets the reimbursement rate equal to the "average acquisition cost for the drug," and "may vary" that rate "by hospital group." 42 U.S.C. 1395l(t)(14)(A)(iii)(I). If HHS has not collected adequate "hospital acquisition cost data," it must set a reimbursement rate equal to the "average price for the drug," which is "calculated and adjusted by [HHS] as necessary for purposes of" the statute. 42 U.S.C. 1395l(t)(14)(A)(iii)(II).

The question presented is whether *Chevron* deference permits HHS to set reimbursement rates based on acquisition cost and vary such rates by hospital group if it has not collected adequate hospital acquisition cost survey data.

IN ADDITION TO THE QUESTION PRESENTED BY THE PETITION, THE PARTIES ARE DIRECTED TO BRIEF AND ARGUE THE FOLLOWING QUESTION: WHETHER PETITIONERS' SUIT CHALLENGING HHS'S ADJUSTMENTS IS PRECLUDED BY 42 U. S. C. §13951(t)(12).

CERT. GRANTED 7/2/2021