

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BAYSTATE MEDICAL CENTER,

Plaintiff,

v.

**MICHAEL O. LEAVITT, Secretary,
United States Department of Health and
Human Services, et al.,**

Defendants.

Civil Action No. 06-1263 (JDB)

ORDER

Upon consideration of [37] plaintiff's motion to amend the Memorandum Opinion and Order entered on March 31, 2008, the partial opposition of defendant Secretary of Health and Human Services ("Secretary"), and the entire record herein, and for the reasons stated in the Memorandum Opinion issued on this 7th day of November, 2008, it is hereby

ORDERED that plaintiff's motion to amend the Memorandum Opinion and Order entered on March 31, 2008 is **GRANTED IN PART and DENIED IN PART**; it is further

ORDERED that the Memorandum Opinion and Order are amended and clarified in the following respects:

1. The Secretary's final decision, as set forth in the document signed by the Administrator of the Centers for Medicare and Medicaid Services ("CMS") dated May 11, 2006, is **VACATED**.
2. This matter is **REMANDED** to the Secretary for the purpose of recalculating plaintiff's SSI fractions for fiscal years 1993 through 1996 consistent with the

Memorandum Opinion issued on March 31, 2008 and the accompanying Memorandum Opinion issued on this date, and paying plaintiff any additional monies due as a result of that recalculation plus interest calculated in accordance with 42 U.S.C. § 1395oo(f)(2).

3. The Secretary is not required to proceed with evidentiary hearings on whether individuals without Title II numbers were excluded from the match process for plaintiff's fiscal years 1993 through 1996, nor is he required to articulate an explanation for the exclusion of social security numbers and other patient identifiers from the match process for those years.
4. The Court clarifies that the Social Security Administration ("SSA") and the predecessor to CMS were both divisions of the Department of Health and Human Services through March 31, 1995; thereafter, the SSA has functioned as an independent agency pursuant to Pub. L. 103-296, § 110(a), 108 Stat. 1464, 1490 (1994), but has continued to maintain a close working relationship with CMS with respect to the transmission of SSI eligibility data for the remaining year at issue.

It is further

ORDERED that plaintiff's motion is **DENIED** in all other respects, and that the parties shall confer and file a proposal to govern further proceedings on Counts Two and Three by not later than November 21, 2008.

SO ORDERED.

/s/
JOHN D. BATES
United States District Judge