

April 4, 2006: WASHINGTON (Reuters) - The Supreme Court on Monday let stand a ruling that the government must reconsider Medicare payments to hospitals that serve many poor patients, a ruling which could cost the government nearly \$3 billion.

The justices refused to hear a government appeal that argued that Health and Human Services Secretary Mike Leavitt was not obliged to reopen the reimbursement determinations and that a federal court could not compel him to do so.

Government lawyers estimated that it could cost as much as \$2.8 billion to reopen the payments from 1994 through 1996 under Medicare, the federal health insurance program for the elderly and the disabled.

In February 1997, the department changed its interpretation of the law and agreed to adjust rates paid to hospitals serving mainly low-income patients. But the adjustments applied only in the future and it refused to reopen settled cost reports.

A group of 26 public and private nonprofit hospitals sued to force the reopening of payment reimbursements for the three years before the rule took effect.

There have been about 275 similar lawsuits filed in the same U.S. district court in Washington by 639 hospitals. A hold has been put on those cases pending the outcome of the first lawsuit.

After a federal judge and a U.S. appeals court ruled for the 26 hospitals, the Justice Department appealed to the Supreme Court, arguing the decision on reopening reimbursements was a matter of the secretary's unreviewable discretion.

Besides the large amount of money at stake, it said the appeals court ruling would require the secretary to devote "substantial administrative resources" to reopen the cost reports and recalculate the decade-old payments.

Attorneys for the hospitals said most hospitals involved in the lawsuits were nonprofit, governmental or religious institutions in urban areas and that they would end up well short of being fully reimbursed for critical services provided long ago.

The high court rejected the government's appeal without any comment or recorded dissent.