

JUL 27 2011

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

DOROTHY CALABRESE, M.D.,

Plaintiff - Appellant,

v.

UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,
Kathleen Sebelius, Secretary,*

Defendant - Appellee.

No. 10-56351

D.C. No. 8:09-cv-00120-CJC-
RNB

MEMORANDUM**

Appeal from the United States District Court
for the Central District of California
Cormac J. Carney, District Judge, Presiding

Submitted July 12, 2011***

Before: SCHROEDER, ALARCÓN, and LEAVY, Circuit Judges.

* Kathleen Sebelius is substituted for her predecessor, Charles E. Johnson, as Secretary of the Department of Health and Human Services under Fed. R. App. P. 43(c)(2).

** This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

*** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2). Accordingly, Calabrese's request for oral argument is denied.

Dorothy Calabrese, M.D., appeals pro se from the district court's order dismissing her action alleging equal protection violations based on defendant's denial of Medicare reimbursements for patients with chemical sensitivity. We have jurisdiction under 28 U.S.C. § 1291. We review de novo, *Uhm v. Humana, Inc.*, 620 F.3d 1134, 1139 (9th Cir. 2010), and we affirm.

The district court properly dismissed the action because Calabrese failed to state an equal protection claim. *See Engquist v. Or. Dep't of Agric.*, 553 U.S. 591, 601-03 (2008) (addressing "class of one" equal protection claim); *Weinberger v. Salfi*, 422 U.S. 749, 769-70 (1975) (addressing class-based equal protection claim).

Calabrese's remaining contentions are unpersuasive.

AFFIRMED.