

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

ASSOCIATION OF AIR MEDICAL SERVICES,

Plaintiff,

v.

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

Defendants.

Civ. No. 1:21-cv-3031 (RJL)

Consolidated with
No. 1:21-cv-3231 (RJL)

PLAINTIFF’S MOTION FOR A STATUS CONFERENCE

Plaintiff Association of Air Medical Services (AAMS) files this motion to respectfully request that the Court hold a status conference with all parties to obtain clarification on the record of when the Defendants shall publish a final rule.

The Defendants have twice provided the Court and the parties with aspirational or expected timeframes for publication of a final rule that have lapsed. At this Court’s hearing on March 21, 2022, the Defendants represented that they were “hoping to achieve” the issuance of a final rule “no later than May.” Dkt. 57, at 34:11-15. Later, the Defendants stated that they “expect to issue a final rule early this summer.” Dkt. 65, at 1. Early summer has now come and gone. It is now August, and the Defendants have still not published the final rule. In the meantime, IFR Part I continues to harm AAMS members. Clarification on the record of when the Defendants shall publish a final rule will inform the parties’ conduct in the litigation and may also inform the Court’s consideration of the motions currently pending before it.

Plaintiffs in the consolidated case, American Medical Association (AMA) and American Hospital Association (AHA), do not object to a status conference. The Defendants stated as follows in response to e-mail correspondence from AAMS:

The Defendant agencies sent a draft of the final rule to the Office of Management and Budget (OMB) on June 15, 2022. Pursuant to Executive Order No. 12,866, OMB officials met with the Association of Air Medical Services (AAMS) on July 12, 2022; AAMS's member PHI Health on June 24, 2022; and AAMS's member Air Methods on July 25, 2022. Defendants anticipate that the final rule will be issued shortly.

While the Defendants do not believe that a status conference is necessary at this time, and therefore take no position on AAMS's motion, they stand ready to appear should the Court wish to hold a status conference.

Counsel for the Defendants also informed AAMS that he is out of the office and unavailable to participate in a status conference the week of August 8, 2022.

Given the history of lapsed timeframes in this matter, and the harm that IFR Part I is still causing to AAMS members, AAMS respectfully requests that the Court schedule a status conference at the Court's earliest convenience to obtain clarification regarding the final rule.

Dated: August 3, 2022

Respectfully submitted,

/s/ Brian R. Stimson

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Association of Air Medical Services

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[PROPOSED] ORDER

Upon consideration of Plaintiff's Motion for a Status Conference, it is hereby

ORDERED that Plaintiff's Motion is **GRANTED**; and

ORDERED that the Defendants shall come prepared to address the publication of the final rule at a status conference held [telephonically/over videoconference] on [date].

Dated: _____

Hon. Richard J. Leon
Senior United States District Judge