

**THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COMMONWEALTH OF PENNSYLVANIA,)	
)	
Plaintiff,)	
v.)	Civil Action No. 2:17-cv-04540 (WB)
)	
JOSEPH R. BIDEN, in his official capacity as President of the United States, <i>et al.</i> ,)	
)	
Defendants.)	

STATUS REPORT

On May 3, 2021, the Court entered an order staying this case and instructing Federal Defendants to file a status report. ECF No. 275. Federal Defendants report the following:

1. This case involves a challenge to final rules the defendant agencies issued in 2018 expanding the prior religious exemption to the contraceptive coverage requirement and creating a new moral exemption. *See* Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA, 83 Fed. Reg. 57,536 (Nov. 15, 2018); Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA, 83 Fed. Reg. 57,592 (Nov. 15, 2018).
2. This Court entered a preliminary injunction; the judgment was reversed and remanded by the Third Circuit on August 21, 2020, following the Supreme Court’s decision in *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S. Ct. 2367 (2020).
3. The Court has before it fully briefed dispositive motions. *See, e.g.*, ECF Nos. 252, 254, 255.
4. On March 5, 2021, Federal Defendants asked the Court to stay this case or, in the alternative, hold the pending dispositive motions in abeyance, to enable new leadership

- at the Defendant Agencies and the U.S. Department of Justice to evaluate the issues presented by the case. ECF No. 269.
5. The Court entered an order staying the case until April 30, 2021 and instructing Federal Defendants to file a status report on or before the same day. ECF No. 271.
 6. In the April status report, ECF No. 273, Federal Defendants explained that new leadership at the federal defendant agencies—the U.S. Department of Health and Human Services, the U.S. Department of Labor, and the U.S. Department of the Treasury—and the U.S. Department of Justice was evaluating the issues that this case presents in light of all relevant facts and circumstances, including the Executive Order on Strengthening Medicaid and the Affordable Care Act, January 28, 2019 (EO), https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/28/executive-order-on-strengthening-medicaid-and-the-affordable-care-act/?_hsmi=117826243&_hsenc=p2ANqtz-9ZGdrSbFhmzpZv1U5tBXA5boILZhCzIZdVpKC3RgZl3d3ZDayiCDM0lrq6CTOqVJsF88ThoYbQQFpNxZbyc7C5jyrg9A. The EO states, among other things, that “it is the policy of my Administration to protect and strengthen Medicaid and the ACA and to make high-quality healthcare accessible and affordable for every American.” *Id.* § 1.
 7. On May 3, 2021, the Court, on Federal Defendants’ motion, stayed this case until July 30, 2021. ECF No. 275.
 8. Since filing the last status report, Federal Defendants have held conference calls with both the Plaintiffs and Defendant-Intervenors to hear their views about how Federal Defendants should proceed in light of the legal and policy issues implicated by the rules and this litigation. Federal Defendants continue to assess the issues presented by this case—and to consider their regulatory and policy options.
 9. Contemporaneously with the filing of this status report, Federal Defendants are filing a motion asking the Court to extend the stay to afford the agencies additional time to

evaluate the issues presented by this litigation, as well as their regulatory and policy options.

DATED: July 30, 2021

Respectfully submitted,

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/s/ Justin M. Sandberg

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CERTIFICATE OF SERVICE

I hereby certify that, on July 30, 201 a copy of the forgoing document was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

DATED this 30th day of July, 2021.

s/ Justin M. Sandberg
JUSTIN M. SANDBERG
Senior Trial Counsel
Unite States Department of Justice