



U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L Street, NW
Washington, DC 20005

April 30, 2021

VIA ECF

The Honorable Paul W. Grimm
United States District Judge
District of Maryland
6500 Cherrywood Lane
Greenbelt, MD 20770

Re: *Pharmaceutical Research and Manufacturers of America v. Becerra, et al.*
No. 8:21-cv-00198-PWG (D. Md.)

Dear Judge Grimm:

Pursuant to the Court's Letter Order Regarding the Filing of Motions, ECF No. 5, the parties write jointly to request that the Court set a schedule for dispositive motions briefing that would allow for the complete and efficient resolution of this matter.

Plaintiff Pharmaceutical Research and Manufacturers of America ("PhRMA") filed this suit on January 22, 2021 challenging the U.S. Department of Health and Human Services' ("HHS") final rule, 340B Drug Pricing Program; Administrative Dispute Resolution Regulation ("ADR Rule"), 85 Fed. Reg. 80632 (Dec. 14, 2020), as arbitrary and capricious, contrary to law, and unconstitutional. Defendants' responsive pleading deadline is May 7, 2021.

The parties agree this action can be decided most efficiently through cross-motions presenting pure questions of law. The parties also agree that there is no need for Defendants to file an answer in this matter. The parties disagree, however, about the scope and contents of the administrative record that should be submitted to the Court.

Accordingly, the parties have conferred and respectfully request that the Court adopt the following schedule for proceedings in this case:

- Defendants will produce the materials that they believe constitute the administrative record for this case on May 7, 2021;
- Defendants will also file an opening brief moving to dismiss or, in the alternative for summary judgment on May 7, 2021;
- If, following review of the record Defendants submit, Plaintiff believes it is necessary to file a motion to correct or supplement the administrative record, it will do so on or before May

28, 2021, and the filing of such a motion will suspend the rest of this schedule until the issue is resolved;

- If Plaintiff does not file a motion to correct or supplement the record, it will file a brief opposing Defendants' motion and cross-moving for summary judgment on June 21, 2021;
- If Plaintiff files its opposition and cross-motion on June 21, 2021, Defendants will file a reply in support of their motion and opposing Plaintiff's cross-motion for summary judgment on Thursday, August 5, 2021; and Plaintiff will file a reply in support of its motion for summary judgment on September 3, 2021;
- Oral argument on the motion will be set at the court's discretion thereafter.

The parties also request that the Court vacate Defendants' obligation to answer Plaintiff's Complaint.

The parties respectfully suggest that this schedule will enable them to fully develop and present argument for the Court in the most efficient manner on the administrative law and constitutional issues raised by Plaintiff's Complaint. Because this case presents claims that should be decided as questions of law, the parties also request that they be excused from providing a statement of material facts not in dispute.

The parties appreciate the Court's consideration.

Sincerely,

/s/ Joseph R. Guerra
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