

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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PLANNED PARENTHOOD SOUTHEAST,)
INC., <i>et al.</i> ,)
)
Plaintiffs,)
)
v.)
)
XAVIER BECERRA, <i>et al.</i> ,)
)
Defendants,)
)
and)
)
STATE OF GEORGIA,)
)
Intervenor-Defendant.)
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Civil Action No. 1:21-cv-00117 (JEB)

STATUS REPORT AND CONSENT MOTION TO EXTEND STAY

Federal Defendants respectfully move, with the consent of all other parties, to extend the stay in this case for 120 days, until September 8, 2022, with status reports to the Court every 30 days to provide the Court with updates of any relevant events that may occur in the interim. In support of this motion, Federal Defendants state:

1. Plaintiffs filed their Complaint on January 14, 2021. *See* Compl., ECF No. 1. This case is currently stayed through May 11, 2022. *See* Minute Order of April 11, 2022.
2. Plaintiffs’ Complaint challenges the “Georgia Access Model,” a portion of the State Innovation Waiver requested by Intervenor-Defendant, the State of Georgia, under section 1332 of the Affordable Care Act and approved on November 1, 2020, by the Secretaries of Health and Human Services and the Treasury. Plaintiffs allege, among other things, that the Georgia Access Model “violates the statutory guardrails” of section 1332. Compl. ¶ 4.

3. On June 3, 2021, Defendant Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, sent a letter to Brian Kemp, Governor of Georgia, on behalf of the U.S. Department of Health and Human Services and the U.S. Department of the Treasury (“the Departments”), requesting additional analysis of the Georgia Access Model by July 3, 2021, in order “to evaluate whether the Georgia Access Model will satisfy the statutory guardrails” in light of relevant changes to federal law and policy. *See* ECF No. 21 Ex. A at 6.

4. The Departments and the State of Georgia subsequently exchanged additional correspondence about the Departments’ June 3 request.¹

5. Most recently, on April 29, 2022, Ms. Brooks-LaSure sent a letter to Grant Thomas, Director of the Office of Health Strategy and Coordination in the Georgia Governor’s Office of Planning and Budget, on behalf of the U.S. Department of Health and Human Services and the U.S. Department of the Treasury, advising Mr. Thomas that “[t]he Departments are suspending implementation of the Georgia Access Model, Part II of Georgia’s section 1332 waiver plan, effective July 28, 2022, unless Georgia responds before that date by sending a corrective action plan that would bring the waiver, with the Georgia Access Model in place, into compliance with the statutory guardrails or by submitting a written challenge to the Departments’ determinations.” ECF No. 28.

¹ *See* July 2, 2021 letter from Grant Thomas to Chiquita Brooks-LaSure, *available at* <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Response-1332-GA-request-Updated-GA-Analysis-Letter.pdf>; July 30, 2021 letter from Chiquita Brooks-LaSure to Grant Thomas, *available at* <https://www.cms.gov/files/document/response-1332-ga-depts-follow-letter.pdf>; August 26, 2021 letter from Grant Thomas to Chiquita Brooks-LaSure, *available at* <https://www.cms.gov/files/document/1332-georgia-letter-cms-82621.pdf>; November 9, 2021 letter from Chiquita Brooks-LaSure to Grant Thomas, *available at* <https://www.cms.gov/files/document/depts-letter-comment20period.pdf>; *see also* Request for Comment on the Georgia Access Model, *available at* <https://www.cms.gov/files/document/1332-ga-access-public-comment-request.pdf>.

6. Good cause exists to extend the stay. As noted, the State of Georgia may submit by July 28, 2022, either (1) a corrective action plan that would bring the waiver, with the Georgia Access Model in place, into compliance with the statutory guardrails or (2) a written challenge to the Departments' determinations, and any further proceedings resulting from such submissions could affect the outcome of this litigation. It is therefore prudent to stay this case to allow that process to continue.

7. Accordingly, Federal Defendants respectfully request that the Court extend the stay in this case until September 8, 2022.

8. Counsel for Federal Defendants have conferred with counsel for the other parties, who consent to the requested relief.

Dated: May 11, 2022

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General
Civil Division

ERIC B. BECKENHAUER
Assistant Branch Director

/s/ Christopher M. Lynch
CHRISTOPHER M. LYNCH
(D.C. Bar No. 1049152)
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L. St., N.W.
Washington, D.C. 20005
Telephone: (202) 353-4537
Facsimile: (202) 616-8470
Email: Christopher.M.Lynch@usdoj.gov

Counsel for Defendant

