

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

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

**JOINT STATUS REPORT AND
FEDERAL DEFENDANTS’ UNOPPOSED MOTION TO EXTEND STAY**

Pursuant to the Court’s minute order of November 7, 2022, the Federal Defendants respectfully submit this joint status report on behalf of all parties, together with the Federal Defendants’ unopposed motion to extend the stay in this case for 60 days, until March 7, 2023, with the parties to file a status report at that time reflecting their positions on how this litigation should proceed.

1. Plaintiffs filed their Complaint on January 14, 2021. *See* Compl., ECF No. 1. This case is currently stayed through January 6, 2023. *See* Minute Order of November 7, 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. On August 9, 2022, Ms. Brooks-LaSure wrote to Grant Thomas, Director of the Office of Health Strategy and Coordination in the Georgia Governor’s Office of Planning and Budget, suspending implementation of the Georgia Access Model effective that same day. *See* ECF Nos. 33 & 33-1 Ex. B.

6. The Federal Defendants respectfully seek an extension of the stay and believe that good cause exists to do so. Counsel for the State of Georgia previously advised the Federal Defendants that the state “is still evaluating the rescission and takes no position on how the case should proceed

¹ *See* ECF Nos. 33-1 (Exs. A & B); ECF No. 28, Ex. A; 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>.

at this time.” Counsel for Plaintiffs have indicated that if Georgia intends to challenge the suspension, they wish to continue their challenge to the Departments’ approval of the Georgia Access Model. Federal Defendants believe that any challenges to their decisions with respect to the Georgia Access Model should be coordinated for purposes of efficiency, to conserve judicial and party resources, and to avoid the possibility of inconsistent judgments. The Federal Defendants believe it is therefore prudent to continue to stay this case pending Georgia’s decision about how it intends to proceed.

7. Accordingly, Federal Defendants respectfully request that the Court extend the stay in this case for 60 days, until March 7, 2023.

8. Counsel for Federal Defendants have conferred with counsel for the other parties. Plaintiffs consent to the requested relief. Georgia takes no position on the requested relief.

Dated: January 6, 2023

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General
Civil Division

ERIC B. BECKENHAUER
Assistant Branch Director

/s/ Joshua C. Abbuhl
JOSHUA C. ABBUHL
(D.C. Bar No. 1044782)
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L St., N.W.
Washington, D.C. 20005
Telephone: (202) 616-8366
Email: Joshua.Abbuhl@usdoj.gov

Counsel for Federal Defendants