

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

AMERICAN ASSOCIATION OF
ANCILLARY BENEFITS, *et al.*,

Plaintiffs,

v.

DOROTHY FINK, in her official capacity as
Acting Secretary of the United States
Department of Health and Human Services, *et al.*,

Defendants.

Case No. 4:24-cv-00783-SDJ

**REPLY IN SUPPORT OF DEFENDANTS' MOTION
FOR EXTENSION OF TIME TO FILE REPLY**

Plaintiffs are challenging a rule that was published in early April of last year, and became effective in June. 89 Fed. Reg. 23,338 (Apr. 3, 2024). The American Association of Ancillary Benefits (“AAAB”) did not file suit until late August, at which point it sought a preliminary injunction. ECF No. 11. That motion was fully briefed and argued by the end of September, and remains pending. *See* ECF No. 22. In the meantime, AAAB amended its complaint to add Premier Health Solutions as a co-plaintiff, ECF No. 27, and the Court set a schedule for summary judgment briefing, ECF No. 30. Under that schedule, the government’s reply brief is currently due Tuesday, February 4—one week from today. *Id.* at 2.

The government has moved for a fifteen (15) day extension of its time to file, until February 19, to accommodate a change of counsel. ECF No. 61. In its motion, the government noted that the attorney previously assigned to handle this case was leaving the Department of Justice, and

explained that undersigned counsel was working diligently to master the details of the challenged rule and the parties' previous filings in this matter, along with nine (9) other cases that have recently been reassigned to him, many with deadlines in early February.

In their opposition, Plaintiffs fault the government for not "identifying the other cases" or providing "the specific deadlines." ECF No. 63 at 2. The cases, four of which have filings due February 3, are listed in a footnote below.¹ Plaintiffs also object that the attorney previously assigned to handle this case was still employed by the Department of Justice as of last Thursday. She has now left the Department, and was preparing to do so when the government filed its motion. Plaintiffs go on to suggest that they will suffer irreparable harm if this Court does not resolve the parties' cross-motions for summary judgment well in advance of April 30, when short-term, limited duration insurance policies issued on January 1 will no longer be renewable. If the Court wishes to address Plaintiffs' allegations of irreparable harm pending resolution of this lawsuit, Plaintiffs' opposed motion for a preliminary injunction remains pending before it.

Defendants submit that an extension of the government's reply deadline by slightly more than two weeks, until February 19, would be reasonable under the circumstances. But in the event that the Court disagrees, Defendants would respectfully request an extension until February 12, with the joint appendix (currently due February 13) to be filed by February 14.

¹ *Muckrock, LLC v. CIA*, No. 14-cv-997 (D.D.C.); *Scudder v. CIA*, No. 16-cv-1917 (D.D.C.) (status report due Feb. 3); *Judicial Watch v. DOJ*, No. 18-cv-262 (D.D.C.) (status report due Feb. 3); *Privacy International v. FBI*, No. 18-cv-1488 (W.D.N.Y.); *Muckrock, LLC v. CIA*, No. 20-cv-2474 (D.D.C.) (status report due Feb. 3); *Leopold v. DOJ*, No. 20-cv-3651 (D.D.C.); *Leopold v. CIA*, 22-cv-453 (D.D.C.) (status report due Feb. 3); *America First Legal Found. v. DOJ*, No. 23-cv-391 (D.D.C.); *Baugh v. CIA*, No. 2:24-cv-10036 (E.D. Mich.).

Respectfully submitted,

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/s/ James Bickford
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