

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

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NATIONAL FAMILY PLANNING &  
REPRODUCTIVE HEALTH ASSOCIATION,

Plaintiff,

v.

ROBERT F. KENNEDY, JR., in his official  
capacity as United States Secretary of Health  
and Human Services, *et al.*,

Defendants.

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No. 1:25-cv-01265 (ACR)

**PLAINTIFF’S RESPONSE TO DEFENDANTS’ SUPPLEMENTAL  
PRE-MOTION NOTICE**

Defendants’ Supplemental Pre-Motion Notice (ECF No. 22) (“Defs.’ Suppl. Notice”) argues that this lawsuit is moot because Plaintiff’s two Affected Members that were named in the complaint have had their grants restored. But Plaintiff alleged that fourteen of its members had their grants withheld (Complaint ¶ 4), and, as Plaintiff noted in its response to Defendants’ first pre-motion notice, only four have had their grants restored (ECF No. 20 at 3 n.2). Accordingly, the case is not moot.

Defendants assert that “because Plaintiff has not identified any other members besides Essential Access Health and Missouri Family Health Council that allegedly have suffered an injury, Plaintiff lacks Article III standing.” Defs.’ Suppl. Notice at 2. But, on June 18, 2025, Plaintiff provided the names of all fourteen of its Affected Members to Defendants, at their request. Therefore, Defendants know exactly which ten Affected Members continue to have their grants withheld.

Defendants appear to believe that the case is moot unless additional Affected Members were named *in the complaint*. But the two cases on which they rely contradict that position. In *Chamber of Commerce of the U.S. v. EPA*, 642 F.3d 192 (D.C. Cir. 2011), the members who had standing were not identified in the petition for review; rather, co-petitioner National Automobile Dealers Association (“NADA”) established that it had standing because “[a]long with its briefs, NADA has submitted *declarations* from two of its automobile dealer members alleging injury as a result of the waiver decision.” *Id.* at 200 (emphasis added). Likewise, in *Summers v. Earth Island Institute*, 555 U.S. 488 (2009), “[t]he Government concede[d]” that “[a]ffidavits submitted to the District Court” by an organization’s member were “sufficient to establish Article III standing.” *Id.* at 494 (emphasis added).

Should Defendants nevertheless file a motion under Rule 12(b)(1) to dismiss the case as moot—despite knowing that the motion is meritless—Plaintiff will file a declaration naming one or more additional Affected Members that continue to have their grants withheld, thereby defeating that motion. *See, e.g., Ranchers-Cattlemen Action Legal Fund, United Stockgrowers of Am. v. U.S. Dep’t of Agric.*, 573 F. Supp. 3d 324, 333–336 (D.D.C. 2021).

July 11, 2025,

Respectfully submitted,

/s/ Brigitte Amiri

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*\*Pro hac motion pending*