

Nos. 25-1698, 25-1755

UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

PLANNED PARENTHOOD FEDERATION OF AMERICA, INC., ET AL.,

Plaintiffs-Appellees,

v.

ROBERT F. KENNEDY, JR., IN HIS OFFICIAL CAPACITY AS SECRETARY OF THE U.S.
DEPARTMENT OF HEALTH AND HUMAN SERVICES, ET AL.,

Defendants-Appellants.

On Appeal from the United States District Court
for the District of Massachusetts in Case No. 1:25-cv-11913

**OPPOSITION TO APPELLANTS' MOTION FOR STAY OF THE STATUS
REPORT DEADLINE IN LIGHT OF LAPSE IN APPROPRIATIONS**

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October 1, 2025

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Plaintiffs Planned Parenthood Federation of America, Planned Parenthood League of Massachusetts, and Planned Parenthood Association of Utah (together, “Planned Parenthood”) oppose the government’s Motion for a Stay of the Status Report Deadline in Light of Lapse in Appropriations (“Motion”), filed October 1, 2025, in the above-captioned cases.

1. On September 18, 2025, in combination with the Court’s order for expedited appellate briefing, this Court ordered the parties to submit a joint status report by no later than 5:00 p.m. on October 3, 2025, updating the Court on statutory implementation and any specific designations or identifications made under Section 71113 of the Act of July 4, 2025, Pub. L. No. 119-21, § 71113, 139 Stat. 72, 300-01 (2025) (the “Defund Provision”). In its Order, the Court noted its understanding that the implementing steps will commence formally on October 1 and “the potential significance to these appeals of the forthcoming designation or identification of ‘prohibited entities’ under the relevant statutory provision, and other aspects of statutory implementation that might be relevant to review of the merits and equities.”

2. On October 1, 2025, at 11:16 a.m., Plaintiffs’ counsel requested a draft of the joint status report from the government, given that the required content per the Court’s order would be exclusively in the government’s possession.

3. On October 1, 2025, at 12:15 p.m., counsel for the government responded by asking Plaintiffs to state their position on a forthcoming motion to extend the deadline for the joint status report, citing the lapse in federal appropriations.

4. Before receiving a response from Plaintiffs, and less than four hours after requesting Plaintiffs' position, the government filed its Motion. The Motion asserts that Department of Justice funding has lapsed and that Department of Justice attorneys are prohibited from working except in "very limited circumstances." Mot. at 1.

5. The Motion does not assert that the Department of Health and Human Services ("HHS") personnel are barred from working during the lapse, nor does it provide any information about what actions HHS has or will take with respect to the Defund Provision up to this point or going forward, including during the pendency of the partial lapse in federal appropriations.

6. Plaintiffs oppose the requested extension because the government has not justified it, especially in light of the exigencies of this case set for expedited briefing. Among other omissions from the government's Motion, it does not provide any information regarding whether HHS is pausing enforcement of the Defund Provision during the appropriations lapse, or whether any statutory implementation actions, such as designations or identifications, have occurred or are planned during

this period. Delaying this report indefinitely would prejudice Plaintiffs, particularly given the Court's recognition of the importance of timely updates on statutory implementation.

For these reasons, the Court should deny the government's Motion and require the submission of a joint status report by the October 3, 2025 deadline, and further require that the update must include, but not be limited to, an explanation as to how the lapse in appropriations has impacted or will impact implementation of the Defund Provision, including with respect to enforcement and any specific designations or identifications.

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Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), the undersigned hereby certifies that this brief complies with the type-volume limitation of Fed. R. App. P. 27(d)(2).

1. Exclusive of the exempted portions of the brief, as provided in Fed. R. App. P. 32(f), the brief contains 523 words.

2. The brief has been prepared in proportionally spaced typeface using Microsoft Word for Microsoft 365 MSO in 14-point Times New Roman font. As permitted by Fed. R. App. P. 32(g), the undersigned has relied upon the word count feature of this word processing system in preparing this certificate.

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October 1, 2025

CERTIFICATE OF SERVICE

I hereby certify that I filed the foregoing Motion for Reconsideration and Expedited Briefing and Argument with the Clerk of the United States Court of Appeals for the First Circuit via the CM/ECF system this 1st day of October, 2025 to be served on the following counsel of record via ECF:

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