

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND**

SOCIETY OF GENERAL INTERNAL  
MEDICINE & NORTH AMERICAN  
PRIMARY CARE RESEARCH  
GROUP,

*Plaintiffs,*

v.

ROBERT F. KENNEDY, JR., *et al.*,  
*Defendants.*

Case No. 8:25-cv-2751-BAH

**PLAINTIFFS' RESPONSE TO DEFENDANTS' NOTICE OF  
FACTUAL UPDATE AND SUPPLEMENTAL EXHIBIT**

Plaintiffs respectfully submit this response to Defendants' May 8, 2026, Notice of Factual Update and Supplemental Exhibit in support of their motion to dismiss, ECF No. 38. Defendants' notice reports that the Agency for Healthcare Research and Quality (AHRQ) recently awarded continuation funding for 35 existing grants, using funds made available in its fiscal year 2026 appropriation. That update does not support dismissal of any aspect of Plaintiffs' complaint.

As Plaintiffs explained in their opposition to the motion to dismiss, evidence of activity at the agency eight months *after* the filing of the complaint cannot be used, on a motion to dismiss, to contradict the allegations about the state of affairs at the time that Plaintiffs filed suit. Continuation awards issued in April 2026, like those issued in late September 2025, are not relevant to whether, as of August 21, 2025, the agency had decided to destroy AHRQ's grantmaking capacity, and taken steps to do so, for both continuation and new awards. *See* Opp. to MTD at 9–10, ECF No. 34. While that evidence could be relevant to determining whether some portion of this case may be *moot*, Defendants have disclaimed any mootness argument. *See* Reply

Br. 4, ECF No. 37. And they have conceded that at least some “aspects of the Complaint continue to present a live dispute”—particularly those aspects related to the failure to review applications for and award new grants. *Id.* at 5. With respect to *other* aspects of the complaint, Defendants entirely failed to respond to Plaintiffs’ arguments about the “heavy burden” that they would face to establish mootness. *See* Opp. to MTD at 10–11 (noting that, under binding precedent, Defendants must show that halt of grantmaking is not reasonably expected to recur, and that subsequent acts have eradicated the effects of the legal violation).

Even if the Court were to consider mootness, notwithstanding that Defendants have not made that argument, evidence that Defendants have begun issuing some continuation awards would not support dismissal of any count in the complaint. In Count One, Plaintiffs allege that Defendants’ halt of AHRQ’s grantmaking program violated the Public Health Service Act and AHRQ regulations, including statutory and regulatory commands to conduct peer review and render decisions on each application for a new grant award. *See* Compl. ¶¶ 42–45 (citing 42 U.S.C. § 299c-1(a)(1)–(2), 42 C.F.R. §§ 67.15(a), 67.16). Defendants have neither argued nor presented any evidence that they have begun to review initial grant applications, in compliance with those legal commands. In Counts Two and Three, Plaintiffs allege that Defendants’ halt of AHRQ grantmaking made it impossible for the agency to spend all of its substantial appropriations for fiscal year 2025, violating both the statutes governing that year’s appropriations and the Impoundment Control Act. *See* Compl. ¶¶ 46–54. Whether Defendants have now spent a small portion of AHRQ’s fiscal year 2026 appropriations is irrelevant to the validity of claims related to the 2025 appropriations. In Count Four, Plaintiffs allege that halting AHRQ’s grantmaking capacity in the summer of 2025 was arbitrary and capricious, as it failed to account for the substantial reliance interests of researchers, healthcare providers, and patients that relied on

AHRQ’s support for both new and existing health services research. *See* Compl. ¶¶ 55–56. But the fact that AHRQ has now, months later, issued a select number of continuation awards for existing projects does not undermine either the factual basis or the legal validity of that claim—particularly with respect to new grant awards, which the agency is still not making. Finally, in Count Five, Plaintiffs allege that, by halting AHRQ’s process for reviewing grant applications, Defendants have unlawfully withheld the peer review and application decisions that researcher-applicants, including Plaintiffs’ members, are entitled to by law. *See* Compl. ¶¶ 58–61. In their motion to dismiss and in their recent supplemental notice, Defendants are conspicuously silent about the prospect for AHRQ to restart peer reviewing and deciding whether to fund new grant applications. This evidence thus cannot support dismissal of Count Five of the Complaint.

Dated: May 11, 2026

Respectfully submitted,

*/s/ Stephanie B. Garlock*

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