

IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

COMMONWEALTH OF MASSACHUSETTS,
Plaintiff-Appellant,
v.
UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES et al.,
Defendants-Appellees.

No. 21-1076

STATUS REPORT

On December 16, 2022, this Court granted defendants' motion to hold this appeal in abeyance for 90 days to give them time to review and evaluate the issues in this case. The Court has since granted additional 90-day stays of the appeal.

On February 2, 2023, defendants published a notice of proposed rulemaking that would have amended the regulations at issue in this appeal. *See* U.S. Dep't of the Treasury, U.S. Dep't of Labor, & Dep't of Health & Human Servs., Coverage of Certain Preventive Services Under the Affordable Care Act, 88 Fed. Reg. 7236 (Feb. 2, 2023).

Defendants now report that they have withdrawn the proposed rule in its entirety. *See* 89 Fed Reg. 106393 (Dec. 30, 2024).

Defendants have consulted with counsel for the Commonwealth of Massachusetts, who advise that the Commonwealth wishes for this appeal to be taken out of abeyance. Defendants do not oppose taking the appeal out of abeyance.

Respectfully submitted,

SHARON SWINGLE

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February 3, 2025

CERTIFICATE OF COMPLIANCE

Pursuant to Federal Rule of Appellate Procedure 32(g), I hereby certify that this motion complies with the requirements of Rule 27(d)(1)(E) because it has been prepared in 14-point Century Schoolbook, a proportionally spaced font, and that it complies with the type-volume limitation of Rule 27(d)(2)(A), because it contains 156 words, according to the count of Microsoft Word.

/s/ Lowell V. Sturgill Jr.
Lowell V. Sturgill Jr.

CERTIFICATE OF SERVICE

I hereby certify that on February 3, 2025, I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the First Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Lowell V. Sturgill Jr.
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