UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CITY OF COLUMBUS, *et al.*, Plaintiffs, v. ROBERT F. KENNEDY, JR., in his official capacity as Secretary of the United States Department of Health and Human Services, *et al.*, Defendants.	Civil Action No. 1:26-cv-2215-BAH

MOTION FOR ENTRY OF FINAL JUDGMENT ON CERTAIN CLAIMS UNDER FEDERAL RULES OF CIVIL PROCEDURE 54(b) AND 56

Defendants respectfully move the Court to convert portions of its July 16, 2026, Opinion and Order Granting Stay, ECF Nos. 30, 31, to a final decision on the merits and to direct the entry of final judgment on those claims under Federal Rule of Civil Procedure 54(b), without prejudice to Defendants' right to appeal that final judgment. Defendants request this relief as to claims identified in items two, three, and four of the Court's July 16, 2026, Opinion and Order Granting Stay, ECF Nos. 30, 31 ("Stay Opinion and Order"):

> (2) The mandatory verification policy for low-income enrollees in the rule's revisions to 45 C.F.R. § 155.320(c)(3)(iii)(A) and (c)(3)(vi)(C)(2);
> (3) The revocation of the option for enrollees to attest to their income in the rule's rescission of 45 C.F.R. § 155.320(c)(5);
> (4) The imposition of special enrollment period verification in the rule's revision to 45 C.F.R. § 155.420(g);

Stay Order at 1-2. Plaintiffs oppose this Motion.

This case concerns an Administrative Procedure Act ("APA") challenge to multiple provisions of a Final Rule promulgated by the U.S. Department of Health and Human Services that makes several regulatory changes to the health insurance marketplaces established under the Affordable Care Act. *See* Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2027; and Basic Health Program, 91 Fed. Reg. 29,256 (May 20, 2026) ("Rule"). Plaintiffs filed their Complaint on June 3, 2026, ECF No. 1, and filed a motion for preliminary relief the next day ("Stay Motion"), ECF No. 17, which Defendants opposed ("Stay Opposition"), ECF No. 23. The Court held a hearing on Plaintiffs' Stay Motion on July 8, 2026. *See* ECF No. 27. On July 16, 2026, the Court issued a Memorandum Opinion and Order granting Plaintiffs' Stay Motion, ECF Nos. 30, 31, and entered a stay under 5 U.S.C. § 705.

In their briefing on the Stay Motion, the parties fully addressed the merits of the claims identified in items two, three, and four of the Court's Stay Order. The parties' arguments on these three issues consumed approximately nine pages in Defendants' Stay Opposition (pp. 20-28), and approximately nine pages in Plaintiffs' Stay Motion (pp. 20-23) and Reply (pp. 9-13), collectively. The Court's Stay Opinion also fully addressed the merits of these claims over approximately seventeen pages (pp. 30-46). Defendants have no new arguments to raise with respect to these claims. Accordingly, Defendants request that the Court convert the portions of its Stay Opinion and Order addressing items two, three, and four to a final decision on the merits. *See, e.g.*, *FTC v. Assail, Inc.*, 98 F. App'x 316, 317 (5th Cir. 2004) (stating that "the district court had the power to convert the preliminary injunction into a permanent injunction"); Fed. R. Civ. P. 56(f).

Defendants further request that the Court direct the entry of partial final judgment to Plaintiffs as to those three claims under Federal Rule of Civil Procedure 54(b), without prejudice to Defendants' right to appeal that final judgment. Under Rule 54(b), a court may direct entry of a final judgment as to one or more, but fewer than all, claims if the court expressly determines that there is no just reason for delay. Fed. R. Civ. P. 54(b); *see Kinsale Ins. Co. v. JDBC Holdings, Inc.*, 31 F.4th 870, 874 (4th Cir. 2022). In determining whether there is no "just reason for the delay", courts conduct a "case-specific" inquiry. *Id.* (citing *Braswell Shipyards, Inc. v. Beazer E., Inc.*, 2 F.3d 1331, 1335 (4th Cir. 1993)). They must consider the following factors:

> (1) the relationship between the adjudicated and unadjudicated claims; (2) the possibility that the need for review might or might not be mooted by future developments in the district court; (3) the possibility that the reviewing court might be obliged to consider the same issue a second time; (4) the presence or absence of a claim or counterclaim which could result in a set-off against the judgment sought to be made final; (5) miscellaneous factors such as delay, economic and solvency considerations, shortening the time of trial, frivolity of competing claims, expense, and the like.

Braswell, 2 F.3d at 1335-36 (footnotes omitted) (drawing factors from *Allis-Chalmers Corp. v. Phila. Elec. Co.*, 521 F.2d 360, 364 (3d Cir. 1975).

Here, the factors weigh in favor of entry of partial final judgment. *First*, each of Plaintiffs' claims relates to independent policies within a larger Rule. *See* Patient Protection and Affordable Care Act; HHS Notice of Benefit and Payment Parameters for 2027; and Basic Health Program, 91 Fed. Reg. 29,256 (May 20, 2026). And the three claims that are the subject of this Motion can be resolved separately without impact to the other policies challenged within Plaintiffs' Complaint. Thus, there would be no collateral consequences to this litigation if this Court enters final judgment as to these three claims. *Second*, Defendants are unaware of any future developments reasonably expected to impact this litigation. *Third*, entry of partial final judgment would be in the interest of judicial economy because it would eliminate the need for the parties to re-brief these issues and this Court to decide them a second time. Defendants have no new arguments to raise with respect to these specific policies. *Fourth*, Defendants are unaware of any claims or counterclaims that could result in a set off against the judgment sought. *Fifth*, Defendants suffer substantial and ongoing financial injury due to the stay of the policies that are the subject of this Motion. Indeed, the financial burden on the Government and American taxpayers is well over one-billion dollars each plan year.

> The stay of the mandatory verification policy for low-income enrollees is estimated to increase Federal outlays for advance payments of the premium tax credits (APTC) by approximately **$213 million per plan year**. The stay of the recission the income attestation option is estimated to increase Federal APTC outlays by approximately **$1,069 million per plan year**. The stay of a special enrollment period verification under 45 C.F.R. § 155.420(g) is estimated to increase Federal APTC outlays by approximately **$105.4 million per plan year**.

Decl. of Jeff Wu, Sep. 10, 2026, at 3 (emphasis added). Given the costliness of the ongoing stay alongside the time it would take for any appeal on these claims, the Government respectfully requests entry of partial final judgment as to these three claims.

DATED: September 17, 2026 Respectfully submitted,

BRETT A. SHUMATE
Assistant Attorney General
Civil Division

ERIC B. BECKENHAUER
Assistant Director
Federal Programs Branch

/s/ Jordan A. Hulseberg
JORDAN A. HULSEBERG
(D.C. Bar No. 90033542)
Trial Attorney
United States Department of Justice
Civil Division, Federal Programs Branch
1100 L Street NW
Washington, DC 20005
Phone: (202) 598-3856
Email: Jordan.A.Hulseberg2@usdoj.gov

Counsel for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CITY OF COLUMBUS, *et al.*, *Plaintiffs*, v. ROBERT F. KENNEDY JR., in his official capacity as Secretary of Health and Human Services, *et al.*, *Defendants.*	Case No. 25-cv-2215-BAH

PROPOSED ORDER

Upon consideration of Defendants' Motion for Entry of Final Judgment on Certain Claims under Federal Rules of Civil Procedure 54(b) and 56, ECF No. 38, and the parties' accompanying briefing, it is hereby **ORDERED** that Defendants' motion is **GRANTED.**

The Court determines that there is no just reason for delay in the entry of final judgment in favor of plaintiffs on the claims identified in items two, three, and four of the Court's July 16, 2026, Opinion and Order Granting Stay, ECF Nos. 30, 31 ("Stay Opinion and Order") as follows:

(2) The mandatory verification policy for low-income enrollees in the rule's revisions to 45 C.F.R. § 155.320(c)(3)(iii)(A) and (c)(3)(vi)(C)(2);

(3) The revocation of the option for enrollees to attest to their income in the rule's rescission of 45 C.F.R. § 155.320(c)(5);

(4) The imposition of special enrollment period verification in the rule's revision to 45 C.F.R. § 155.420(g).

Therefore, for the reasons contained within the Court's Stay Opinion, it is ordered that final judgment be entered vacating the above listed provisions of the Final Rule without prejudice to Defendants' right to appeal the final judgment of these three claims.

Dated: _____________, 2026

____
BRENDAN A. HURSON
United States District Judge