

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

MONTE A. ROSE, JR., et al.,)	
)	
Plaintiffs,)	
)	No. 1:19-cv-02848-JEB
v.)	
)	
ALEX M. AZAR II, et al.,)	
)	
Defendants.)	

MOTION REGARDING PROPOSED BRIEFING SCHEDULE

Plaintiffs in this action, four Indiana Medicaid beneficiaries, assert claims under the Administrative Procedure Act, 5 U.S.C. § 706, and the Take Care Clause of the U.S. Constitution, Art. II, § 3, cl. 5, seeking declaratory and injunctive relief pertaining to actions taken by federal government officials pursuant to Section 1115 of the Social Security Act, 42 U.S.C. § 1315. In particular, Plaintiffs challenge the Secretary of Health and Human Services’: (1) issuance of a letter to State Medicaid Directors concerning states’ imposition of work and community-engagement requirements on Medicaid recipients; and (2) approval of the Healthy Indiana Plan 2.0 extension application, which allows Indiana to impose a number of restrictions on Medicaid eligibility, including work requirements.

The State is currently implementing several key features of the approval. Specifically, Indiana is: charging Medicaid beneficiaries monthly premiums; terminating coverage and imposing a lockout penalty or reducing benefits for inability to pay premiums; not providing retroactive coverage; and not providing non-emergency medical transportation to and from health care services. Medicaid beneficiaries are also currently required to comply with work requirements to maintain their Medicaid coverage. Indiana is scheduled to begin suspending Medicaid coverage

for individuals who have not met the work requirements on December 31, 2019. In addition, the approval permits Indiana to impose a lockout penalty on individuals who do not complete the eligibility redetermination process by the deadline. The State chose to pause implementation of that lockout penalty, and Plaintiffs do not know when Indiana plans to resume implementation.

Plaintiffs propose the briefing schedule below, which could allow this Court to make a decision in advance of December 31, 2019.

November 1, 2019: Defendants produce administrative record

November 15, 2019: Plaintiffs' Motion for Summary Judgment and First Amended Complaint

December 3, 2019: Defendants' Opposition to Plaintiffs' Motion for Summary Judgment and Defendants' Motion to Dismiss and/or Motion for Summary Judgment

December 10, 2019: Plaintiffs' Opposition to Defendants' Motion(s) and Plaintiffs' Reply in Support of their Motion

December 17, 2019: Defendants' Reply in Support of their Motion(s)

Plaintiffs also propose to stay Defendants' obligation to Answer the Complaint until resolution of these motions.

Plaintiffs have been conferring with Defendants regarding a briefing schedule in this case, but the parties have failed to reach an agreement. Plaintiffs emailed Defendants asking their position on this motion. The federal Defendants stated their position on this motion as follows: "The federal Defendants oppose Plaintiffs' motion for an expedited schedule and plan to respond and cross-move for a stay of this case." Plaintiffs did not receive a response from the state Defendant.

Dated: October 23, 2019

Thomas J. Perrelli
(D.C. Bar No. 438929)
Ian Heath Gershengorn
(D.C. Bar. No. 448475)
Devi M. Rao
(D.C. Bar No. 1004146)
Natacha Y. Lam
(D.C. Bar. No. 1030168)
Zachary M. Blau
(D.C. Bar No. 1600714)
Jenner & Block LLP
1099 New York Avenue, N.W.
Suite 900, Washington, DC 20001
Phone: 202-639-6004
TPerrelli@jenner.com
IGershengorn@jenner.com
DRao@jenner.com
NLam@jenner.com
ZBlau@Jenner.com

Counsel to National Health Law Program

Respectfully submitted,

By: /s/ Jane Perkins
Jane Perkins
Catherine McKee
National Health Law Program
200 N. Greensboro Street, Suite D-13
Carrboro, NC 27510
Phone: 919-968-6308 (x101)
perkins@healthlaw.org
mckee@healthlaw.org

/s/ Adam Mueller
Adam Mueller
Amanda Hall
Indiana Legal Services, Inc.
151 N. Delaware St. #1850
Indianapolis, IN 46204
Phone: 317-829-3174
adam.mueller@ilsi.net
amanda.hall@ilsi.net

Counsel for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that on October 23, 2019, I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send an electronic notice to the Defendants' attorneys of record.

By: /s/ Catherine McKee
Catherine McKee

