

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

_____)	
Andrea Young, et al.,)	
)	
Plaintiff,)	No. 1:19-cv-03526-JEB
)	
)	
v.)	
)	
)	
Alex M. Azar, et el.,)	
)	
Defendants.)	
_____)	

INTERVENOR’S UNOPPOSED MOTION TO STAY PROCEEDINGS

In light of the Coronavirus Disease 2019 (“COVID-19”) pandemic, Intervenor Michigan Department of Health and Human Services (“MDHHS”) hereby moves to stay this action, including the suspending of briefing deadlines, effective immediately, until the earlier of (1) the end of the COVID-19 public health emergency declared by Defendant Alex M. Azar under Section 319 of the Public Health Services Act;¹ or (2) 45 days before the date on which Michigan begins to implement the premiums or healthy behavior requirements that are conditions of continued Medicaid eligibility, which are currently scheduled to go into effect on October 1, 2020.

¹ This is available at <https://www.phe.gov/emergency/news/healthactions/phe/Pages/2019-nCoV.aspx>.

This motion is unopposed.²

This Court has “broad discretion” to stay proceedings “to ‘coordinate the business of the court efficiently and sensibly.’” *McSurely v. McClellan*, 426 F.2d 664, 671 (D.C. Cir. 1970) (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 255 (1936)); *accord*, e.g., *Barton v. D.C.*, 209 F.R.D. 274, 278 (D.D.C. 2002); *see also*, e.g., *Alexian Bros. Med. Ctr. v. Sebelius*, 63 F. Supp. 3d 105 (D.D.C. 2014). In deciding a motion to stay, the Court should exercise its judgment to “weigh competing interests’ of itself, counsel, and the litigants involved.” *Barton*, 209 F.R.D. at 278 (quoting *Dellinger v. Mitchell*, 442 F.2d 782, n.7 (D.C. Cir. 1971)).

This balancing of interests clearly counsels in favor of granting the unopposed motion to stay. The country and the State of Michigan face a pandemic of a scale and scope not seen in over half a century. As the agency that both oversees public health in Michigan and administers the Michigan Medicaid program, Exec. Order No. 1996-1 (Apr. 1, 1996), MDHHS is on the front lines in fighting the pandemic. MDHHS is focusing enormous resources and attention on curbing the spread of COVID-19 and providing prompt access to care for individuals with COVID-19, while simultaneously

² Prior to filing this motion, Intervenor consulted with counsel for Plaintiffs and Defendants. Defendants stated: “The federal defendants consent to the request, while reserving their right to seek a further stay if appropriate.” Plaintiffs stated: “Without conceding the merits of their legal positions with respect to the legality of the project as a whole, the components of that project, or the ultimate relief that the Court should grant, the Plaintiffs do not oppose a stay of proceedings that ends on the date the national COVID-19 emergency is declared to be over or 45 days before the date when Michigan begins to implement the heightened premiums that are conditions of continued Medicaid eligibility at issue in Count IV or the healthy behavior requirements that are conditions of Medicaid eligibility at issue in Count V, whichever is earlier. And upon that end point, Plaintiffs intend to ask the Court to hold a scheduling conference at the earliest convenient time so that a final schedule can be established for deciding this case on the merits.”

ensuring that the Medicaid program continues to provide beneficiaries with timely access to other critical health care in a health care system strained by the pandemic. Continuing with this case during the pandemic would distract and divert needed resources away from these efforts.

Plaintiffs and the federal defendants will not suffer any harm from a stay of this case, and they do not oppose this motion. After this Court's vacatur of the community engagement requirements, there are only two remaining eligibility-impacting provisions of the Healthy Michigan Plan ("HMP") Demonstration: the premiums and the healthy behavior requirements that are conditions of continued Medicaid eligibility. However, these eligibility-impacting provisions will not go into effect during the public health emergency, and it is unlikely they will go into effect on October 1, 2020, because of the recently enacted Families First Coronavirus Response Act, Pub. L. No. 116-127 ("FFCRA"). Among many other provisions, the FFCRA provides States with a 6.2 percent increase in their Medicaid federal medical assistance percentage ("FMAP"), which will mean hundreds of millions of dollars of additional federal support for the Michigan Medicaid program. As a condition of receiving this funding, the FFCRA prohibits Michigan (and all other States) (1) from imposing Medicaid "eligibility standards, methodologies, or procedures" that "are more restrictive during [a quarter in which the increased match is available] than the eligibility standards, methodologies, or procedures" in effect on January 1, 2020; and (2) from terminating eligibility for any individual who is enrolled in Medicaid as of the date of enactment of the FFCRA, or who enrolls after enactment, through the

end of the month in which the public health emergency is terminated. FFCRA, § 6008. Michigan is accepting the 6.2 percent increased FMAP described above, and thus these provisions effectively prohibit Michigan from implementing the eligibility-impacting provisions of the HMP Demonstration until the end of the public health emergency declared by the Secretary.

CONCLUSION

For the foregoing reasons, the unopposed motion to stay should be granted.

Respectfully submitted,

/s/ Toni L. Harris

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April 2, 2020

CERTIFICATE OF SERVICE

I hereby certify that on April 2, 2020, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which shall send notification of such filing to any CM/ECF participants.

/s/ Toni L. Harris
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PROPOSED ORDER

Upon consideration of the Motion to Stay Proceedings filed by the Michigan Department of Health and Human Services (“MDHHS”), the Court ORDERS that the proceedings in the above-captioned case are stayed, including all briefing deadlines, until the earlier of (1) the end of the COVID-19 public health emergency declared by Defendant Alex M. Azar under Section 319 of the Public Health Service Act; or (2) 45 days before the date when Michigan begins to implement the premiums that are conditions of continued Medicaid eligibility (at issue in Count IV) or the healthy behavior requirements that are conditions of Medicaid eligibility (at issue in Count V).

IT IS SO ORDERED.

JAMES E. BOASBERG
United States District Judge

Date: _____