

[ORAL ARGUMENT HELD MARCH 20, 2020]

**IN THE UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

ASSOCIATION FOR COMMUNITY
AFFILIATED PLANS, NATIONAL ALLIANCE
ON MENTAL ILLNESS, MENTAL HEALTH
AMERICA, AMERICAN PSYCHIATRIC
ASSOCIATION, AIDS UNITED, NATIONAL
PARTNERSHIP FOR WOMEN & FAMILIES, and
LITTLE LOBBYISTS, LLC,

Plaintiffs-Appellants,

v.

No. 19-5212

U.S. DEPARTMENT OF THE TREASURY; U.S.
DEPARTMENT OF LABOR; U.S. DEPARTMENT
OF HEALTH AND HUMAN SERVICES; ALEX
M. AZAR II, in his official capacity as Secretary of
Health and Human Services; EUGENE SCALIA, in
his official capacity as Secretary of Labor; STEVEN
T. MNUCHIN, in his official capacity as Secretary of
the Treasury; and the UNITED STATES OF
AMERICA,

Defendants-Appellees.

**UNOPPOSED MOTION FOR A 15-DAY EXTENSION OF TIME TO
RESPOND TO REHEARING PETITION**

Under Circuit Rule 27(h), the government respectfully requests a 15-day extension, to and including November 10, 2020, of the deadline for its response to plaintiffs' petition for rehearing. Plaintiffs consent to the requested extension. There is good cause for the requested extension for the following reasons.

1. This case concerns a regulation, promulgated in 2018 by the Departments of the Treasury, Labor, and Health and Human Services, which largely restores the regulatory definition of “short-term limited duration insurance,” 42 U.S.C. § 300gg-91(b)(5), that was in place from 1997 to 2016. On July 17, this Court affirmed the dismissal of plaintiffs’ challenge to the regulation. *Association for Cmty. Affiliated Plans v. Department of the Treasury*, 966 F.3d 782 (D.C. Cir. 2020).

2. Plaintiffs petitioned for rehearing and rehearing en banc. On October 9, the Court directed the government to respond to plaintiffs’ petition within 15 days. The response is currently due on October 26. *See* Fed. R. App. P. 26(a)(1)(C).

3. A modest extension of time is necessary for the government to prepare and file its response, given competing demands and the need for consultation with the three defendant agencies.

4. Daniel Winik, who has primary responsibility for the government’s response, is also responsible for the government’s response brief in *Edgar v. Ratcliffe* (4th Cir. No. 20-1568, due October 23 as extended), and for arguing *VoteVets Action Fund v. Department of Veterans Affairs* (No. 19-5337) before this Court on November 9. Alisa Klein, who has supervisory responsibility in this case, has primary or supervisory responsibility for upcoming filings in *Yale New Haven Hospital v. Azar* (2d Cir. Nos. 20-2115, -2151, opening brief due October 14); *Community Health Choice v. United States* (Fed. Cir. Nos. 19-1633, -2102, response to rehearing petitions due October 23 as extended); *ASSE International, Inc. v. Pompeo* (9th Cir. No. 18-55979, reply in support of remand

motion due November 2 as extended); *State of Washington v. Azar* (9th Cir. No. 20-35521, reply brief due November 4); *Texas v. United States* (5th Cir. No. 18-10545, response to rehearing petition due November 16 as extended); and *Planned Parenthood of Maryland v. Azar* (4th Cir. No. 20-2006, opening brief due November 23 as extended). Mr. Winik and Ms. Klein also have various internal responsibilities.

5. As noted above, plaintiffs consent to the requested extension.

Respectfully submitted,

ALISA B. KLEIN

/s/ Daniel Winik

DANIEL WINIK

Attorneys, Appellate Staff

Civil Division, Room 7245

U.S. Department of Justice

950 Pennsylvania Avenue NW

Washington, DC 20530

(202) 305-8849

October 9, 2020

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I hereby certify this motion complies with the requirements of Fed. R. App. P. 27(d)(1)(E) because it has been prepared in 14-point Garamond, a proportionally spaced font, and that it complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because it contains 383 words, according to the count of Microsoft Word.

/s/ Daniel Winik

Daniel Winik