

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

STATE OF CALIFORNIA, et al.,

Plaintiffs-Appellees,

v.

XAVIER BECERRA, Secretary of Health and
Human Services, et al.,

Defendants-Appellants.

No. 20-16802

UNOPPOSED MOTION TO HOLD APPEAL IN ABEYANCE

This appeal involves a regulation issued by the U.S. Department of Health and Human Services (HHS) that addressed the manner in which insurers bill for coverage of certain abortion services. *See* 84 Fed. Reg. 71,674 (Dec. 27, 2019). The district court vacated the regulation. Following the recent change in administration, the government moved to suspend appellate proceedings to allow new HHS agency officials sufficient time to become familiar with the issues in this case. The Court granted the government's motion in part, staying appellate proceedings until April 2, 2021, absent a motion for further relief. *See* Order, No. 20-16802 (Feb. 2, 2021). Since then, the Court has twice granted unopposed motions to continue to hold this appeal in abeyance for a specified period of time. *See* Order, No. 20-16802 (April 6, 2021) (granting limited abeyance until June 1, 2021); Order, No. 20-16802 (June 4, 2021) (granting limited abeyance until August 2, 2021).

On July 1, 2021, HHS published a notice of proposed rulemaking, proposing, among other things, to repeal the portion of the regulation challenged in this appeal. *See* 86 Fed. Reg. 35156, 35216 (July 1, 2021). The comment period closed on July 28, 2021, and the agency is now reviewing the submissions. Because these developments may have a substantial impact on the parties' litigation, the government respectfully requests that the Court continue to hold this appeal in abeyance and order the government to provide status reports at 60-day intervals. Plaintiffs have authorized us to state that this motion is unopposed.

Respectfully submitted,

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AUGUST 2021

CERTIFICATE OF COMPLIANCE

I certify that this motion complies with the word limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), it contains 260 words.

/s/ Amanda L. Mundell
AMANDA L. MUNDELL

CERTIFICATE OF SERVICE

I hereby certify that on August 3, 2021, I electronically filed the foregoing motion with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Amanda L. Mundell
AMANDA L. MUNDELL