

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

<hr/>)
PLANNED PARENTHOOD SOUTHEAST,)
INC., <i>et al.</i> ,)
)
Plaintiffs,)
)
v.)
)
XAVIER BECERRA, <i>et al.</i> ,)
)
Defendants,)
)
and)
)
STATE OF GEORGIA,)
)
Intervenor-Defendant.)
<hr/>)

Civil Action No. 1:21-cv-00117 (JEB)

STATUS REPORT AND CONSENT MOTION TO STAY PENDING FEDERAL DEFENDANTS’ FURTHER EVALUATION OF THE GEORGIA ACCESS MODEL

Federal Defendants respectfully move, with the consent of all other parties, to extend the stay in this case for 60 additional days, until November 12, 2021, while they reevaluate the challenged waiver. In support of this motion, Federal Defendants state:

1. Plaintiffs filed their Complaint on January 14, 2021. *See* Compl., ECF No. 1. This case is currently stayed through September 13, 2021. *See* Minute Order of June 14, 2021.
2. Plaintiffs’ Complaint challenges the “Georgia Access Model,” a portion of the State Innovation Waiver requested by Intervenor-Defendant, the State of Georgia, under the Affordable Care Act and approved on November 1, 2020, by the Secretaries of Health and Human Services and the Treasury. Plaintiffs allege, among other things, that the Georgia Access Model “violates the statutory guardrails” of Section 1332 of the Affordable Care Act. Compl. ¶ 4.

3. On June 3, 2021, Defendant Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, sent a letter to Brian Kemp, Governor of Georgia, on behalf of the U.S. Department of Health and Human Services and the U.S. Department of the Treasury (“the Departments”), requesting additional analysis of the Georgia Access Model by July 3, 2021, in order “to evaluate whether the Georgia Access Model will satisfy the statutory guardrails” in light of relevant changes to federal law and policy. *See* ECF No. 21 Ex. A at 6.

4. The Departments and the State of Georgia have subsequently exchanged additional correspondence about the Departments’ June 3 request,¹ and the Departments are continuing to evaluate whether the Georgia Access Model satisfies the statutory guardrails in light of relevant changes to federal law and policy.

5. Good cause exists to extend the stay because the Departments’ evaluation could affect the outcome of this litigation and it is therefore prudent to stay this case to allow that evaluation to continue.

6. Accordingly, Federal Defendants request that the Court extend the stay in this case for 60 additional days, until November 12, 2021, for Federal Defendants to conduct further review of whether the Georgia Access Model—the subject of this lawsuit—continues to meet Section 1332 of the ACA’s statutory guardrails, with the parties to submit a status report at the end of the 60-day period.

¹ *See* July 2, 2021 letter from Grant Thomas to Chiquita Brooks-LaSure, *available at* <https://www.cms.gov/CCIIO/Programs-and-Initiatives/State-Innovation-Waivers/Downloads/Response-1332-GA-request-Updated-GA-Analysis-Letter.pdf>; July 30, 2021 letter from Chiquita Brooks-LaSure to Grant Thomas, *available at* <https://www.cms.gov/files/document/response-1332-ga-depts-follow-letter.pdf>; August 26, 2021 letter from Grant Thomas to Chiquita Brooks-LaSure, *available at* <https://www.cms.gov/files/document/1332-georgia-letter-cms-82621.pdf>.

7. Counsel for Federal Defendants have conferred with counsel for the other parties, who consent to the requested relief.

Dated: September 13, 2021

Respectfully submitted,

BRIAN M. BOYNTON
Acting Assistant Attorney General
Civil Division

ERIC B. BECKENHAUER
Assistant Branch Director

/s/ Christopher M. Lynch
CHRISTOPHER M. LYNCH
(D.C. Bar No. 1049152)
Trial Attorney
U.S. Department of Justice
Civil Division, Federal Programs Branch
1100 L. St., N.W.
Washington, D.C. 20005
Telephone: (202) 353-4537
Facsimile: (202) 616-8470
Email: Christopher.M.Lynch@usdoj.gov

Counsel for Defendant

