

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

STATE OF WASHINGTON,

Plaintiff-Appellee,

v.

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

Defendants-Appellants.

No. 20-35521

STATUS REPORT

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). A district court vacated the regulation in related litigation. *See State of California v. HHS*, No. 20-cv000682 (N.D. Cal. July 20, 2020), *appeal pending*, No. 20-16802 (9th Cir.). Following the recent change in administration, the government moved to place this appeal in abeyance to allow new HHS agency officials sufficient time to become familiar with the issues in this case. The Court granted the government's motion and ordered it to file status reports at 60-day intervals.

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). Comments on the proposed rule are due

by July 28, 2021. *Id.* 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, with the next status report due in 60 days.

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

I certify that the foregoing 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 200 words.

/s/ Amanda L. Mundell
AMANDA L. MUNDELL

CERTIFICATE OF SERVICE

I hereby certify that on July 27, 2021, I electronically filed the foregoing 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
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