

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

PLANNED PARENTHOOD SOUTHEAST,)
INC., *et al.*,)
)
Plaintiffs,)
) Civil Action No. 1:21-cv-00117 (JEB)
v.)
)
XAVIER BECERRA, *et al.*,)
)
Defendants,)
)
and)
)
STATE OF GEORGIA,)
)
Intervenor-Defendant.)
)

**STATUS REPORT AND CONSENT MOTION TO EXTEND 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 until the earlier of (a) May 11, 2022 (*i.e.*, 30 days), or (b) 14 days after they complete their review of the Georgia Access Model. 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 April 11, 2022. *See* Minute Order of February 9, 2022.

2. Plaintiffs’ Complaint challenges the “Georgia Access Model,” a portion of the State Innovation Waiver requested by Intervenor-Defendant, the State of Georgia, under section 1332 of 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. 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

5. The Departments continue to evaluate whether the Georgia Access Model satisfies the statutory guardrails in light of relevant changes to federal law and policy. Most recently, on November 9, 2021, the Departments opened a 60-day public comment period, to receive input on the impact of changes in federal law and policy on the Georgia Access Model, as approved on November 1, 2020, including whether the Georgia Access Model continues to meet the guardrails in light of these changed circumstances. The public comment period closed on January 9, 2022.²

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>.

² *See* November 9, 2021 letter from Chiquita Brooks-LaSure to Grant Thomas, *available at* <https://www.cms.gov/files/document/depts-letter-comment20period.pdf>; *see also* Request for Comment on the Georgia Access Model, *available at* <https://www.cms.gov/files/document/1332-ga-access-public-comment-request.pdf>.

6. 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.

7. Accordingly, Federal Defendants respectfully request that the Court extend the stay in this case until the earlier of (a) May 11, 2022 or (b) 14 days after they complete their review of the Georgia Access Model so that Federal Defendants can complete their review of whether the Georgia Access Model continues to meet Section 1332 of the ACA's statutory guardrails—including by considering the comments submitted during the recently-closed public comment period. Should Federal Defendants complete their review of the Georgia Access Model before May 11, 2022, they will inform the parties and the Court within 24 hours, and the Parties will submit a status report by the earlier of May 11, 2022 or 14 days after Federal Defendants complete their review of the Georgia Access Model.

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

Dated: April 11, 2022

Respectfully submitted,

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Principal Deputy Assistant Attorney General
Civil Division

ERIC B. BECKENHAUER
Assistant Branch Director

/s/ Christopher M. Lynch
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Counsel for Defendant

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

**[PROPOSED] ORDER GRANTING CONSENT MOTION TO EXTEND STAY
PENDING FEDERAL DEFENDANTS’ FURTHER EVALUATION OF THE GEORGIA
ACCESS MODEL**

Having considered the Status Report and Consent Motion to Extend Stay Pending Federal Defendants’ Further Evaluation of the Georgia Access Model, it is hereby ordered that the motion is GRANTED. This action is hereby STAYED until the earlier of May 11, 2022 or fourteen days after Federal Defendants complete their review of the Georgia Access Model. Should Federal Defendants complete their review of the Georgia Access Model before May 11, 2022, they shall inform the parties and the Court within 24 hours. The parties shall file a status report by the sooner of May 11, 2022 or 14 days after Federal Defendants complete their review of the Georgia Access Model.

It is so ORDERED this day, _____, 2022.

JAMES E. BOASBERG

UNITED STATES DISTRICT JUDGE