

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

_____	)	
BAGLY, <i>et al.</i> ,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 20-cv-11297-PBS
	)	
U.S. DEPARTMENT OF HEALTH	)	
AND HUMAN SERVICES, <i>et al.</i>	)	
	)	
Defendants.	)	
_____	)	

**REPORT ON STATUS OF PROPOSED RULEMAKING**

Pursuant to this Court’s Order, ECF No. 114, Defendants submit this report on the status of the proposed rulemaking. The United States Department of Health and Human Services (“HHS”) Office for Civil Rights published a proposed rule implementing Section 1557 of the Affordable Care Act in the Federal Register on August 4, 2022. Nondiscrimination in Health Programs and Activities, 87 Fed. Reg. 47,824 (Aug. 4, 2022). HHS is moving as quickly as possible to consider the more than 85,000 comments submitted on the proposed rule and to issue a final rule that addresses those comments and the many complex issues covered by the rulemaking.

It is difficult for HHS to predict with accuracy the time period for finalizing the rule given the multiple levels of intra and inter-agency review required, as well as the potential for unforeseen circumstances to interfere with the agency’s plans. Nonetheless, HHS aspires to submit the rule to the Office of Information and Regulatory Affairs for final clearance before the end of this calendar year and to issue a final rule not later than this winter.

Dated: November 30, 2023

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

MICHELLE R. BENNETT  
Assistant Director, Federal Programs Branch

Respectfully submitted,

/s/ Liam C. Holland  
LIAM C. HOLLAND B.B.O. #704799  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street, N.W.  
Washington, DC 20005  
Tel: (202) 514-4964  
Fax: (202) 616-8470  
Email: [Liam.C.Holland@usdoj.gov](mailto:Liam.C.Holland@usdoj.gov)

*Attorneys for Defendants*