



U.S. Department of Justice
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November 8, 2018

Via CM/ECF

Ms. Maria R. Hamilton
Clerk of Court
United States Court of Appeals
for the First Circuit
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 2500
Boston, Massachusetts 02210

Re: *Commonwealth of Massachusetts v. U.S. Department of Health and Human Services et al.*, No. 18-1514

Dear Ms. Hamilton:

In this case, plaintiff, the Commonwealth of Massachusetts, challenges two interim final rules issued by the Departments of Health and Human Services (HHS), Labor, and the Treasury. We write to inform the Court that the agencies have promulgated final rules superseding those interim final rules. The final rules were made publicly available on the Federal Register's website (<https://www.federalregister.gov/public-inspection/current>), on November 7, 2018, and are scheduled to be published in the Federal Register on November 15, 2018.

Briefing has not yet been completed in this case. Massachusetts filed its opening brief on September 17, 2018, and the government's response brief is currently due November 16, 2018. We propose that the

government file a motion to govern further proceedings by November 20, 2018, and that Massachusetts file any response by December 7, 2018 (a schedule to which Massachusetts has agreed). We further propose that the current briefing deadlines be stayed pending this Court's disposition of that motion and the issuance of a revised briefing schedule if appropriate.

Respectfully submitted,

Sharon Swingle
Lowell V. Sturgill Jr.
/s/ Karen Schoen
Karen Schoen
*Counsel for the Federal
Government*

cc: Counsel of record (via CM/ECF)

CERTIFICATE OF SERVICE

I hereby certify that on November 8, 2018, I electronically filed the foregoing letter with the Clerk of the Court for the United States Court of Appeals for the First Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

/s/ Karen Schoen

Karen Schoen

*Counsel for the Federal
Government*