



U.S. Department of Justice

Civil Division, Federal Programs Branch
P.O. Box 883, Ben Franklin Station
Washington, DC 20044

April 14, 2020

Hon. Catherine C. Blake
United States District Court
101 West Lombard Street
Chambers 7D
Baltimore, MD 21201

FILED VIA ECF

Re: *Planned Parenthood of Maryland, et al. v. Azar, et al.*, No. 1:20-cv-00361-CCB (D. Md.)

Dear Judge Blake:

As requested by the Court, Defendants submit this letter to explain their position regarding how briefing should proceed in this matter. Defendants respectfully ask that the Court establish a briefing schedule that allows briefing to complete in mid-to-late June 2020. Doing so would take into account the exigent circumstances caused by the COVID-19 public health emergency and would not prejudice Plaintiffs, in light of forthcoming regulatory action by HHS to delay the Rule's current June 27, 2020 implementation date by sixty days, to August 26, 2020.

The parties moved for expedited briefing on February 26, 2020, with the understanding that HHS would implement the relevant portion of the challenged Rule on June 27, 2020, and that a decision on the parties' cross-motions for summary judgment would be required by that date in order to provide Plaintiffs relief, in the event the Court were to agree with Plaintiffs on the merits of one or more of its claims. *See* ECF No. 26. Since then, however, all civil deadlines originally set to fall between March 16, 2020, and June 5, 2020—including those established in the Court's February 26, 2020 Order—have been extended by eighty-four days pursuant to Standing Order 2020-07.

In addition, in light of the COVID-19 public health emergency and its effect on government operations, HHS will be issuing in the Federal Register an announcement delaying the effective date of the Rule until August 26, 2020. HHS will move as quickly as possible to publish that announcement—taking into account competing priorities within the agency to provide regulatory relief to healthcare providers—and will do so well before the current June 27, 2020 implementation date. Given that HHS is extending the implementation date to August 26, 2020, and considering the substantial disruption to federal and state government operations caused by the COVID-19 pandemic, Defendants ask the Court to adopt the following briefing schedule:

- **May 8, 2020:** Deadline for Defendants to file (1) in lieu of an answer, a combined response to Plaintiffs' motion for summary judgment and a cross motion for summary judgment (not to exceed 55 pages), and (2) the certified Administrative Record;

- **June 3, 2020:** Deadline for Plaintiffs to file (1) a combined response to Defendants' cross-motion for summary judgment and reply in support of Plaintiffs' motion or summary judgment (not to exceed 45 pages), and (2) another copy of their original memorandum in support of summary judgment that is identical to the version filed March 2, 2020, with the exception that Plaintiff will add pincites to the Administrative Record; and
- **June 22, 2020:** Deadline for Defendants to file a reply in support of their cross-motion for summary judgment (not to exceed 30 pages).

Defendants' proposed schedule is significantly shorter than the deadlines established by Standing Order 2020-07 and tracks the prior standing order in this District extending deadlines by forty-two days in light of the COVID-19 public health emergency. Defendants submit that this proposed schedule strikes an appropriate balance between accounting for the current exigent circumstances, while also ensuring that briefing is concluded in time to provide Plaintiffs any relief before August 26, 2020, if the Court concludes that one or more of Plaintiffs' claims have merit.

Sincerely,

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