

**THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

COMMONWEALTH OF )  
PENNSYLVANIA, )  
v. Plaintiff, ) Civil Action No. 2:17-cv-04540 (WB)  
JOSEPH R. BIDEN, in his official )  
capacity as President of the United States, )  
*et al.*, )  
Defendants. )

---

**STATUS REPORT**

On March 8, 2021, the Court entered an order staying this case and instructing Federal Defendants to file a status report. ECF No. 271. Federal Defendants report the following:

1. This case involves a challenge to final rules the defendant agencies issued in 2018 expanding the prior religious exemption to the contraceptive coverage requirement and creating a new moral exemption. *See Religious Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA*, 83 Fed. Reg. 57,536 (Nov. 15, 2018); *Moral Exemptions and Accommodations for Coverage of Certain Preventive Services Under the ACA*, 83 Fed. Reg. 57,592 (Nov. 15, 2018).
2. This Court entered a preliminary injunction; the judgment was reversed and remanded by the Third Circuit on August 21, 2020, following the Supreme Court's decision in *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S. Ct. 2367 (2020).
3. The Court has before it fully briefed dispositive motions. *See, e.g.*, ECF Nos. 252, 254, 255.
4. On March 5, 2021, Federal Defendants asked the Court to stay this case or, in the alternative, hold the pending dispositive motions in abeyance, to enable new leadership

at the Defendant Agencies and the U.S. Department of Justice to evaluate the issues presented by the case. ECF No. 269.

5. The Court entered an order staying the case until April 30, 2021 and instructing Federal Defendants to file a status report on or before the same day. ECF No. 271.
6. New leadership at the federal defendant agencies—the U.S. Department of Health and Human Services, the U.S. Department of Labor, and the U.S. Department of the Treasury—and the U.S. Department of Justice are continuing to evaluate the issues that this case presents in light of all relevant facts and circumstances, including the Executive Order on Strengthening Medicaid and the Affordable Care Act, January 28, 2021 (EO), [https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/28/executive-order-on-strengthening-medicaid-and-the-affordable-care-act/?\\_hs\\_mi=117826243&\\_hsenc=p2ANqtz-9ZGdrSbFhmzpZv1U5tBXA5boILZhCzIZdVpKC3RgZl3d3ZDayiCDM0lrq6CTOqVJsF88ThoYbQQFpNxZbyc7C5jyrg9A](https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/28/executive-order-on-strengthening-medicaid-and-the-affordable-care-act/?_hs_mi=117826243&_hsenc=p2ANqtz-9ZGdrSbFhmzpZv1U5tBXA5boILZhCzIZdVpKC3RgZl3d3ZDayiCDM0lrq6CTOqVJsF88ThoYbQQFpNxZbyc7C5jyrg9A).
7. The EO states, “it is the policy of [the Biden] Administration to protect and strengthen Medicaid and the ACA and to make high-quality healthcare accessible and affordable for every American.” *Id.* § 1. The EO also instructs “[t]he Secretary of the Treasury, the Secretary of Labor, the Secretary of Health and Human Services, and the heads of all other executive departments and agencies with authorities and responsibilities related to Medicaid and the ACA (collectively, heads of agencies) [to] as soon as practicable, review all existing regulations, orders, guidance documents, policies, and any other similar agency actions (collectively, agency actions) to determine whether such agency actions are inconsistent with the” Administration’s policy articulated in the first sentence of this paragraph. *Id.* § 3.
8. Contemporaneously with the filing of this status report, Federal Defendants are filing a motion asking the Court to extend the stay until July 30, 2021, to afford the agencies additional time to evaluate the issues presented by this litigation.

DATED: April 30, 2021

Respectfully submitted,

SARAH E. HARRINGTON  
Deputy Assistant Attorney General

JENNIFER D. RICKETTS  
Director, Federal Programs Branch

MICHELLE R. BENNETT  
Assistant Director, Federal Programs Branch

/s/ Justin M. Sandberg

JUSTIN M. SANDBERG (Il. Bar No. 6278377)  
Senior Trial Counsel  
MICHAEL GERARDI  
CHRISTOPHER R. HEALY  
REBECCA M. KOPPLIN  
DANIEL RIESS  
Trial Attorneys  
U.S. Dep't of Justice, Civil Div., Federal Programs Branch  
1100 L Street, NW  
Washington, D.C. 20001  
(202) 514-5838  
Justin.Sandberg@usdoj.gov

*Attorneys for Federal Defendants*

**CERTIFICATE OF SERVICE**

I hereby certify that, on April 30, 2021, a copy of the forgoing document was electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

DATED this 30th day of April, 2021.

*s/ Justin M. Sandberg*  
JUSTIN M. SANDBERG  
Senior Trial Counsel  
United States Department of Justice