

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

BRYLEE MCCUTCHEN, *et al.*,

Plaintiffs,

V.

No. 1:21-cv-01112-TSC

XAVIER BECERRA, Secretary
of Health and Human Services, *et al.*,

Defendants.

**FEDERAL DEFENDANTS' UNOPPOSED MOTION FOR
EXTENSION OF TIME TO RESPOND TO THE COMPLAINT**

Defendants Xavier Becerra, in his official capacity as Secretary of Health and Human Services, the United States Department of Health and Human Services, the Center for Medicare and Medicaid Services (“CMS”), and Chiquita Brooks-LaSure, in her official capacity as Administrator of CMS (collectively, “Federal Defendants” or the “agency”), by and through undersigned counsel, respectfully move pursuant to Federal Rule of Civil Procedure 6(b)(1), for a sixty-day enlargement of time, up to and including August 27, 2021, to respond to the Amended Complaint.¹ Federal Defendants respectfully submit that good cause exists for the requested extension, as explained below:

1. Plaintiffs filed this action on April 23, 2021, challenging a January 8, 2021 decision by the agency to approve a Medicaid demonstration project under Section 1115 of the

¹ Pursuant to Fed. R. Civ. P. 25(d), CMS Administrator Brooks-LaSure is automatically substituted for Acting CMS Administrator Elizabeth Richter as a defendant in this case.

Social Security Act, 42 U.S.C. § 1315(a). *See* Complaint, ECF No. 4. Plaintiffs filed an Amended Complaint shortly thereafter. *See* Am. Compl. ECF No. 23. Plaintiffs raise various substantive and procedural challenges to the agency's January 8 decision. *See id.*

2. The current deadline to respond to the Amended Complaint is June 28, 2021.

3. Federal Defendants submit that an extension of sixty days to respond is warranted. On January 20, 2021, following the change in administration, new leadership assumed responsibility for the Department of Health and Human Services. Federal Defendants Secretary Becerra and CMS Administrator Brooks-LaSure assumed office on March 19, 2021, and May 27, 2021, respectively. Additional time is needed because the agency's new leadership is currently in the process of familiarizing themselves with the issues in the case, and is considering whether any further action should be taken with respect to the January 8, 2021 decision challenged herein.

4. Federal Defendants have not previously requested or received an extension of time in this matter.

5. Pursuant to Local Rule 7(m), the undersigned counsel contacted Plaintiffs' counsel and was informed that Plaintiffs consent to the relief sought in this Motion. The undersigned also contacted counsel for the proposed Intervenor Defendant, the State of Tennessee, and was advised that they do not oppose the relief sought in this Motion.

8. A proposed order is attached.

WHEREFORE, Defendant's motion for a sixty-day extension of time, up to and including August 27, 2021, to respond to the Amended Complaint should be granted.

Dated: June 22, 2021

Respectfully submitted,

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/s/ Peter M. Bryce
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Attorney for Federal Defendants

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)	
Defendants.)	
)	

[PROPOSED] ORDER

Upon consideration of the Federal Defendants’ Unopposed Motion for Extension of Time to Respond to the Complaint (the “Motion”), and for good cause shown, the Motion is hereby GRANTED.

It is hereby ORDERED that Federal Defendants shall respond to the Amended Complaint, ECF No. 23, by August 27, 2021.

Dated: _____, 2021

Hon. Tanya S. Chutkan
UNITED STATES DISTRICT JUDGE