

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA**

IRISH 4 REPRODUCTIVE HEALTH  
*et al.*,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF  
HEALTH AND HUMAN SERVICES  
*et al.*,

Defendants.

Case No. 3:18-cv-0491-PPS-JEM

**JOINT MOTION FOR A STAY OF PROCEEDINGS**

On August 12, the Court dismissed a number of the claims at issue in this case, leaving pending only Plaintiffs' arbitrary and capricious challenge to the Final Rules. Op. and Order, ECF No. 137. The parties have conferred and, given that the defendant-agencies intend to initiate further rulemaking regarding the contraceptive coverage requirement within the next six months, the parties respectfully request that this case be stayed pending the rulemaking to conserve the resources of the Court and the parties.

1. The remaining claim in this case is an arbitrary and capricious challenge to the 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. Federal Defendants (now the only defendants remaining in the case) have previously filed a partial motion for summary judgment on the arbitrary and capricious claim, ECF No. 114, and Plaintiffs' opposition to that motion would otherwise be due October 11, 2021. ECF No. 135.

3. The Court has the inherent power to stay this case to save "time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936).

4. Earlier this month, Federal Defendants announced that they intend to initiate a rulemaking regarding the contraceptive coverage requirement within 6 months. *See CMS.Gov, Frequently Asked Questions, Affordable Care Act Implementation FAQs (Set 48)* (Aug. 16, 2021), [https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs#Affordable\\_Care\\_Act](https://www.cms.gov/CCIIO/Resources/Fact-Sheets-and-FAQs#Affordable_Care_Act), Ex. 1 ("The Departments [of Health and Human Services, Treasury, and Labor] intend to initiate rulemaking within 6 months to amend the 2018 final regulations and obtaining public input will be included as part of the Departments' rulemaking process.").

5. Now that only an APA claim relating to the Final Rules remains in this case, this case is similarly situated to pending cases in California and Pennsylvania, which are both currently stayed. *See California v. HHS*, No. 4:17-cv-5783 (N.D. Cal.) (motions held in abeyance Mar. 2, 2021, ECF No. 454); *Pennsylvania v. Biden*, No. 2:17-cv-4540 (E.D. Pa.) (stayed Mar. 8, 2021, ECF No. 271).

6. Accordingly, the parties agree that staying this case pending the agencies' rulemaking would conserve the resources of the Court and the parties, and respectfully request a stay of proceedings. The parties propose that Federal Defendants file a status report with the Court on or before November 17, 2021 and every 90 days thereafter.

In accordance with the Local Rules of this Court, a proposed order is attached hereto.

Dated: August 24, 2021

/s/ Janice Mac Avoy

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing Joint Motion for a Stay of Proceedings was served on counsel for all parties using the Court's CM/ECF system on August 24, 2021.

*/s/ Rebecca M. Kopplin*  
REBECCA M. KOPPLIN  
*Counsel for Federal Defendants*

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**[PROPOSED] ORDER**

Upon consideration of the parties' Joint Motion for a Stay of Proceedings, it is hereby  
**ORDERED** that the motion is **GRANTED** and the case is **STAYED**. Federal Defendants shall  
file a status report on or before November 17, 2021, and every 90 days thereafter.

**SO ORDERED.**

Dated: \_\_\_\_\_

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THE HONORABLE PHILIP P. SIMON  
United States District Judge