

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

NATIONAL ASSOCIATION OF
COMMUNITY HEALTH CENTERS,

Plaintiff,

v.

ALEX M. AZAR II, *et al.*,

Defendants.

No. 20-cv-3032 (KBJ)

JOINT MOTION FOR STAY OF PROCEEDINGS

Plaintiff National Association of Community Health Centers brought this “action under the Administrative Procedure Act ... to compel the promulgation of administrative dispute resolution (“ADR”) regulations” mandated by the 2010 Patient Protection and Affordable Care Act. *See* ECF No. 1, Complaint, ¶ 1. Plaintiff’s members wish to rely on that dispute-resolution mechanism—the only process available to them to remedy violations of Section 340B of the Public Health Service Act—to resolve a dispute with drug manufacturers regarding statutory requirements to provide access to discounted drugs. *Id.* ¶¶ 1, 2-6.

The final rule Plaintiff sought to compel was published in the Federal Register on December 14, 2020. *See* 85 Fed. Reg. 80,632. Once the rule takes effect on January 13, 2021, Plaintiff will be able to bring a claim before the Secretary to resolve its members’ dispute with drug manufacturers that precipitated this action against the Secretary.

The parties have met and conferred in advance of Defendants’ upcoming December 22, 2020 deadline to respond to Plaintiff’s complaint, specifically in order to comply with this Court’s General Order and Guidelines Applicable to APA Cases Assigned to Judge Ketanji Brown

Jackson, entered in this action at ECF No. 5, November 9, 2020. During their discussions the parties agreed jointly to seek a stay of this action for 60 days, through February 15, 2021, to allow the rule Plaintiff sought to compel to take effect and Plaintiff or its members to avail themselves of that process.

The parties respectfully suggest that the proposed stay will best serve judicial economy while also preserving the resources of the parties by avoiding briefing a matter that ultimately may not be necessary for the Court to address. Plaintiff promptly intends to bring a claim or claims for relief before the agency when the ADR rule takes effect on January 13, 2021, and the proposed stay would permit the parties to file no later than February 15, 2021, a status report indicating whether (1) the parties believe this action should remain stayed pending further developments before the agency, (2) whether the action should be dismissed by stipulation of the parties, or (3) whether briefing should resume. “District courts have broad discretion to stay all proceedings in an action pending the resolution of independent legal proceedings.” *Nat’l Industries for the Blind v. Dep. of Veterans Affairs*, 296 F. Supp. 3d 131, 137 (D.D.C. 2017) (Jackson, J.) (citing *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)). That is no less true when the independent proceedings will take place before a federal agency to which Congress has granted authority to resolve a dispute in the first instance. And the power to grant such a stay stems from a court’s ability to manage its docket “with economy of time and effort for itself, for counsel, and for litigants.” *Id.* (citation omitted). Here, the parties agree that the proposed stay will best serve their interests and the interests of judicial economy.

Absent a stay, Defendants intend to move to dismiss this action as moot on the ground that the rule sought in Plaintiff’s complaint now has been issued. Defendants further respectfully request that, should the proposed stay be denied, the Court consider this motion to serve as the

notice required in conformance with General Order 3(b), to indicate their intent to file a motion to dismiss this action as moot in lieu of filing an answer, and to further permit Defendants a period no later than ten days to discuss with Plaintiff a briefing schedule for that motion and to serve that motion on Plaintiff, as required by this Court's General Order.

The parties hereby jointly request that the Court stay this action through February 15, 2021, with the parties to file a further joint status report no later than that date indicating proposed next steps for this matter.

Dated: December 17, 2020

Respectfully submitted,

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