

UNITED STATES DISTRICT COURT FOR
THE DISTRICT OF COLUMBIA

RYAN WHITE CLINICS
FOR 340B ACCESS, et al.,

Plaintiffs,

v.

ALEX M. AZAR II, Secretary of the United States
Department of Health and Human Services, et al.,

Defendants.

Case No. 20-cv-2906-KBJ

JOINT MOTION FOR STAY OF PROCEEDINGS

Plaintiffs, Ryan White Clinics for 340B Access, et al., and Defendants, Alex M. Azar II, et al., jointly move to stay this case to February 15, 2021. In support of their motion, Plaintiffs and Defendants state as follows:

Plaintiffs are “covered entities” that participate in the 340B drug discount program, 42 U.S.C. § 256b, and a trade association of covered entities. Defendants are the federal agencies and officers that administer the 340B program. Plaintiffs filed this action on October 9, 2020, seeking declaratory and injunctive relief related to the 340B program. ECF No. 1. On October 23, 2020, Plaintiffs filed an amended complaint. ECF No. 21. Plaintiffs seek an order compelling the Secretary of Health and Human Services to issue administrative dispute resolution (“ADR”) regulations and for relief related to the delay in issuing ADR regulations.

The final ADR rule Plaintiffs sought to compel was published in the Federal Register on December 14, 2020. *See* 85 Fed. Reg. 80,632. That rule takes effect on January 13, 2021. Several Plaintiffs intend to bring a claim before the Secretary’s ADR Panel to resolve their

dispute with drug manufacturers that precipitated this action against the Secretary. On January 7, 2021, the Court granted a stay in a related case, *National Association of Community Health Centers v. Azar*, No. 1:20-cv-03032-KBJ, to permit that plaintiff to pursue its claims in the ADR proceedings.

The Parties respectfully suggest that a similar stay is warranted here. The proposed stay will best serve judicial economy while also preserving the resources of the parties by avoiding further briefing matters that ultimately may not be necessary for the Court to address. Several Plaintiffs promptly intend to bring a claim or claims for relief before the agency now that the ADR rule has taken effect, 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. 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.

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.

January 13, 2021

Respectfully submitted,

/s/ Ronald S. Connelly

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