

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

DIOCESE OF FORT WAYNE-SOUTH BEND,)
INC., *et al.*,)

Plaintiffs,)

v.)

Case No. 1:12-CV-159 JD

KATHLEEN SEBELIUS, in her official capacity)
as Secretary of the U.S. Department of Health and)
Human Services, *et al.*,)

Defendants.)

ORDER

The Court has reviewed the parties’ joint report [DE 63], considering whether a further stay in this case is warranted given a case with related issues pends on appeal (now itself stayed) and because proposed rules relative to the preventative care coverage final regulations, (NPRM) 77 Fed. Reg. 8725 (Feb. 15, 2012), if adopted, would likely impact aspects of the present case and necessitate a substantively different legal analysis than if the case were decided now [DE 61]. *See e.g., Geneva College v. Sebelius*, No. 2:12-cv-00207, 2013 WL 838238, *14 (W.D. Pa. Mar. 6, 2013) (holding that the proposed rules appear to exempt Geneva College, a nonprofit religious organization, and determining that its claims, although ripe when the case was filed, are not ripe now). In summary, the Plaintiffs agree that the case should be stayed until July 1, 2013 or such time that the Defendants adopt new final rules to the regulations, whichever occurs first. The Defendants believe that a stay is inappropriate because dismissal of the case is proper for lack of jurisdiction where the regulations in their current form, assuming adoption, will not be enforced against the Plaintiffs. However, Defendants also acknowledge that they will not object to a further stay being entered, if the Court believes that the interests of judicial economy weigh

in favor of a stay [DE 63].

In fact, the Court believes that the joint report by the parties reveals the continuing disagreement concerning the possible effect of the proposed rules on the outcome of the litigation, and serves as further support for the need to have a stay entered in this case. Moreover, it is possible that Plaintiffs could seek to amend the complaint, rather than filing a new lawsuit if the regulations are amended. In light of the recently issued NPRM, and given the time and expense involved in such complex litigation, moving forward on the present case would be inefficient for all involved and a stay pending the outcome of these matters is appropriate. *See e.g., Finova Capital Corp. v. Ryan Helicopters U.S.A., Inc.*, 180 F.3d 896, 898 (7th Cir. 1999) (noting that “[a]lthough federal courts have a ‘virtually unflagging obligation’ to exercise the jurisdiction conferred on them by Congress, in exceptional cases, a federal court should stay a suit and await the outcome of parallel proceedings as a matter of ‘wise judicial administration, giving regard to the conservation of judicial resources and comprehensive disposition of litigation.’”) (citations omitted).

Accordingly, the Court STAYS the case until such time as the Defendants finalize their proposed rules or until July 1, 2013, whichever date comes *first*. *See e.g., Landis v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936) (noting that the power to stay proceedings is incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants; and, how this can best be done calls for the exercise of judgment, which must weigh competing interests and maintain an even balance).

SO ORDERED.

ENTERED: May 13, 2013

 /s/ JON E. DEGUILIO
Judge
United States District Court