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17 UNITED STATES DISTRICT COURT
 18 NORTHERN DISTRICT OF CALIFORNIA
 19 SAN FRANCISCO DIVISION

20	ST. FRANCIS MEMORIAL HOSPITAL)	No. CV 08-1440 MMC
21	AND FRANKLIN BENEVOLENT)	
22	CORPORATION f/k/a DAVIES MEDICAL)	JOINT STATUS REPORT
	CENTER,)	
23	Plaintiffs,)	AND ORDER THEREON
)	
24	v.)	
)	
25	KATHLEEN SEBELIUS, Secretary,)	
26	U.S. Department of Health and Human)	
	Services,)	
27	Defendant.)	
28	_____)	

1 The Court's Order entered on April 9, 2012 (docket entry no. 44) directed the parties to file a
2 Joint Status Report no later than May 4, 2012. The parties, by and through their undersigned
3 counsel, respectfully submit this Joint Status Report.

4 1. In their previous Joint Status Reports, the parties have advised this Court that:

5 (a) The Provider Reimbursement Review Board ("PRRB") had issued its decision dated
6 January 26, 2009 in the case of Quality 89-92 Hospital Based SNF, Group Appeal No. 98-1376G
7 (the "Group Appeal"). See Docket Entry Nos. 30, 31, 33, 34, 35, 36, 37, 39, 41, 43 (all advising
8 this Court of this development).

9 (b) In a decision dated March 20, 2009, the Administrator of the Centers for Medicare and
10 Medicaid Services reversed the decision of the PRRB. The March 20, 2009 decision of the
11 Administrator of the Centers for Medicare and Medicaid Services constituted the final decision
12 of the Secretary regarding the Group Appeal. See 42 U.S.C. § 1395oo(f). See Docket Entry Nos.
13 31, 33, 34, 35, 36, 37, 39, 41, 43 (advising the Court of this development).

14 (c) The hospitals participating in the Group Appeal, which include the Plaintiffs in the
15 instant case (but for different fiscal years than in the instant case), filed a Complaint in the United
16 States District Court for the District of Columbia on April 6, 2009, as amended on April 9, 2009.
17 Glendale Memorial Hospital and Health Center et al. v Sebelius, Case No. 1:09-cv-637 (D.D.C.
18 2009) ("Glendale Memorial Hospital"). See Docket Entry Nos. 31, 33, 34, 35, 36, 37, 39, 41, 43
19 (advising the Court of this development).

20 (d) The parties ultimately settled the Glendale Memorial Hospital District of Columbia case
21 and on September 15, 2011, they filed a Stipulation of Settlement and Dismissal which was
22 incorporated into an Order the Court entered on October 11, 2011. See Glendale Mem'l Hosp.
23 and Health Ctr., et al., v. Sebelius, Case No. 1:09CV00637 (D.D.C. 2009), Docket Entry Nos. 43
24 and 44.

25 (e) On or about November 15, 2011, the settlement agreement in the Glendale Memorial
26 Hospital District of Columbia action was fully implemented. See Docket Entry No. 37.

27 2. On November 23, 2011 and January 17, 2012, the parties to this action filed Joint Status
28 Reports in which they reminded the Court of all of these developments. See Docket Entry Nos.
37 and 39. The parties, however, requested the opportunity to confer further and explore the

1 possibility of settling this action. Id.

2 3. In an order dated January 23, 2012, the Court granted the parties' request that they be
3 given an opportunity to discuss settlement and to thereafter file another Joint Status Report, and
4 directed the parties to file a Joint Status Report no later than February 17, 2012. See Docket
5 Entry No. 40.

6 4. On February 17, 2012, the parties to this action filed a Joint Status Report in which they
7 reminded the Court of all of the aforementioned developments, advised the Court of the status of
8 their settlement negotiations, and indicated that they "require additional time to continue
9 settlement negotiations, and if a settlement is reached, to begin the process of formally
10 recommending approval of the proposed settlement." Accordingly, the parties jointly requested
11 that they be given an additional forty-five (45) days, through April 4, 2012 to submit a Joint
12 Status Report advising the Court of the status of their settlement negotiations. See Docket Entry
13 No. 41.

14 5. In an order dated February 23, 2012, the Court granted the parties' request that they be
15 given an opportunity to discuss settlement and to thereafter file another Joint Status Report, and
16 directed the parties to file a Joint Status Report no later than April 4, 2012. See Docket Entry
17 No. 42.

18 6. On April 4, 2012, the parties to this action filed a Joint Status Report in which they
19 reminded the Court of all of the aforementioned developments, and advised the Court of the
20 following: "Since February 23, 2012, the parties have made significant progress. After engaging
21 in settlement negotiations, they agreed to the terms of a proposed settlement, subject to
22 agreement between the parties on the principal amount in controversy and subject to final CMS
23 approval and approval of the U.S. Department of Justice ("DOJ"). The parties will now work to
24 reach agreement on the principal amount in controversy. Agency counsel will also now work
25 expeditiously to finalize a formal settlement recommendation memorandum. Once that
26 memorandum is completed it will be sent to DOJ for its review and approval or disapproval."

27 7. Accordingly, the parties jointly requested that the stay in this case be extended for an
28 additional thirty (30) days, through May 4, 2012, and that they be given until that date to submit a

1 new Joint Status Report to enable the parties to reach agreement on the principal amount in
2 controversy and to allow agency counsel to begin work on the settlement recommendation
3 memorandum, obtain the remaining necessary internal approvals, and to allow DOJ to begin its
4 review the settlement recommendation memorandum for final approval. See Docket Entry No.
5 43.

6 8. In an order dated April 9, 2012, the Court granted the parties' request and directed the
7 parties to file a Joint Status Report no later than May 4, 2012. See Docket Entry No. 44.

8 9. Because of the recent (unexpectedly early) birth of his child, the undersigned agency
9 counsel, Jonathan Brumer, was out of the office on paternity leave between April 16-April 26,
10 2012. Consequently, he was not able to work on this matter during that two week period.

11 10. Now that agency counsel is back in the office, he intends to work expeditiously on
12 finalizing the settlement recommendation memorandum for this case and obtaining the remaining
13 necessary internal approvals. Once that memorandum is completed, it will be sent to DOJ for its
14 review and approval or disapproval, and DOJ will endeavor to review the memorandum and
15 render a decision on whether or not to approve the recommendation on an expedited basis.

16 11. Accordingly, the parties jointly request that the stay in this case be extended for an
17 additional thirty (30) days, through June 4, 2012, and that they be given until that date to submit
18 a new Joint Status Report concerning their progress, to allow agency counsel to finalize the
19 settlement recommendation memorandum, obtain the remaining necessary internal approvals,
20 and to allow DOJ to begin its review the settlement recommendation memorandum for final
21 approval. If, before June 4, 2012, either party reasonably believes that settlement will not be
22 achieved, it shall notify the other party, and within the earlier of five days thereafter or June 4,
23 2012, the parties shall file a Joint Status Report advising the Court of that fact and submit a
24 proposed case management plan.

25 The filer of this document, attests that concurrence in the filing of this document has
26 been obtained from each of the other signatories.

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Respectfully submitted,

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Attorneys for Plaintiffs

Attorneys for Federal Defendant

Dated: May 4, 2012

Dated: May 4, 2012

ORDER

The parties' joint request that the stay be extended through June 4, 2012 is GRANTED, and the parties are DIRECTED to file a Joint Status Report no later than June 4, 2012.

IT IS SO ORDERED.

Dated: May 16, 2012


United States District Judge