

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:15-CV-317-D

CUMBERLAND COUNTY HOSPITAL)
SYSTEM, d/b/a CAPE FEAR VALLEY)
HEALTH SYSTEM,)

Plaintiff,)

v.)

SYLVIA MATTHEWS BURWELL,)
in her official capacity as Secretary of the)
UNITED STATES DEPARTMENT OF)
HEALTH AND HUMAN SERVICES)

Defendant.)

ORDER

On March 1, 2016, defendant requested reconsideration of the scheduling order. See [D.E. 43]. On March 21, 2016, plaintiff defendant responded in opposition. See [D.E. 45]. For good cause, defendant's motion is GRANTED, and it is ORDERED as follows:

1. The scheduling order [D.E. 42] is modified to eliminate paragraphs two through six, including deadlines and requirements for expert reports, discovery, dispositive motions, pretrial conference, and trial. This is an administrative record review case. See 42 U.S.C. § 1395ff(b)(1) (incorporating 42 U.S.C. § 405(g)).

2. The action shall proceed by motions for judgment on the pleadings pursuant to Rule 12(c), Federal Rules of Civil Procedure. Counsel for plaintiff shall file a motion for a judgment reversing or modifying the Secretary's decision, with or without remanding the case for a rehearing. If defendant opposes plaintiff's motion, counsel for defendant must file a response and motion for a judgment affirming the Secretary's decision.

3. Plaintiff's motion must be filed within sixty (60) days from the date of this order, accompanied by a supporting memorandum in compliance with Rule 7.2 of the Local Civil Rules

of Practice and Procedure Eastern District of North Carolina. Additionally, the memorandum must identify specific portions of the record which plaintiff contends justify the relief sought. If plaintiff believes that the law permits the court to consider affidavits concerning its motion for judgment on the pleadings, it may submit them and explain its legal arguments.

4. Defendant's response and motion must be filed within sixty (60) days after the filing of the plaintiff's motion and memorandum, accompanied by a supporting memorandum in compliance with Rule 7.2 of the Local Civil Rules of Practice and Procedure Eastern District of North Carolina. Additionally, the memorandum must identify specific portions of the record which defendant contends justify the action sought by the defendant.

SO ORDERED. This 25 day of March 2016.



JAMES C. DEVER III
Chief United States District Judge