

The Honorable Ronald B. Leighton

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

WASHINGTON HEALTH CARE )  
ASSOCIATION, a Washington non-profit )  
corporation, et al., )  
) **Plaintiffs,** )  
v. )  
) **SUSAN N. DREYFUS, Secretary of the** )  
Washington Department of Social and Health )  
Services, et al., )  
) **Defendants.** )

No. CV09-5395-RBL

**STIPULATION AND ORDER  
STAYING PROCEEDINGS**

IT IS HEREBY STIPULATED AND AGREED BETWEEN THE PARTIES AS  
FOLLOWS:

1. On July 2, 2009, Plaintiffs filed a Motion for Temporary Restraining Order (“Motion”) [Dkt. No 4]. The Court granted the Motion on July 9, 2009, and entered its Order Granting Plaintiffs’ Motion For Temporary Restraining Order on July 13, 2009 (herein called the “TRO”) [Dkt. No. 28].
2. By its terms, the TRO enjoined Defendants from implementing a 7.29% reduction in nursing facility Medicaid reimbursement rates for fiscal year 2010 (July 1, 2009, through June 30, 2010) pursuant to Washington’s “budget-dial” statute, RCW 74.46.421, as triggered by the \$156.37 budget-dial rate set forth in ESHB 1244, § 206(1).

STIPULATION AND ORDER STAYING  
PROCEEDINGS - 1  
NO. CV09-5395RBL

120338.0012/1778425.1

LANE POWELL PC  
1420 FIFTH AVENUE, SUITE 4100  
SEATTLE, WASHINGTON 98101-2338  
206.223.7000 FAX: 206.223.7107

- 1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26
3. Also by its terms, the TRO shall remain in force until thirty (30) days following a decision by the federal Centers for Medicare & Medicaid Services (“CMS”) either approving or disapproving a proposed amendment to the Washington Medicaid State Plan (herein called the “SPA”) relating to the establishment of a \$156.37 budget-dial rate. Defendants subsequently proposed a SPA to CMS regarding the \$156.37 budget-dial rate set forth in ESHB 1244, § 206(1).
4. On October 13, 2009, CMS made a formal request for additional information (“RAI”) to Defendants in connection with the SPA. In the RAI, CMS asked Defendants to provide additional information within ninety (90) days of the date of the RAI, *i.e.*, on or before January 11, 2010. The practical effect of the RAI is to delay CMS’s consideration of the SPA and, thus, extend the duration of the TRO.
5. The 2010 Legislative Session is scheduled to commence on January 11, 2010, and is expected to adjourn sixty days later.
6. The parties stipulate and agree that it is in their mutual best interest to work toward a legislative solution to issues regarding Medicaid payment rates for nursing facility services, rather than invest more resources into this litigation.
7. In order to achieve that result, Defendants will seek to obtain from CMS ninety (90) additional days to respond to the RAI. If the request is granted, Defendants will not submit a response to the RAI until after the close of the 2010 Legislative Session. If the request is not granted, the Defendants will confer with the Plaintiffs.
8. Plaintiffs and Defendants will suspend all current discovery including outstanding requests for discovery and deposition notices or other discovery requests until after the close of the 2010 Legislative Session.

1 9. Neither Plaintiffs nor Defendants will file any motions until after the close of the  
2 2010 Legislative Session, including but not limited to a motion for preliminary or  
3 permanent injunction as it relates to the TRO and/or the validity of the Medicaid  
4 rate cuts as set by the "budget-dial" statute, RCW 74.46.421, as triggered by the  
5 \$156.37 budget-dial rate set forth in ESHB 1244, § 206(1).

6 10. During the stay, Plaintiffs will cease communication with CMS directly or through  
7 third parties.

8 11. Nothing herein shall be construed as inconsistent with the TRO which shall remain  
9 in full force and effect by its terms.

10 DATED this 23<sup>rd</sup> day of November, 2009.

11  
12 LANE POWELL PC

ROBERT M. MCKENNA-Attorney General

13  
14 

---

Barbara J. Duffy, WSBA No. 18885  
15 Robin Dale, WSBA No. 22166  
16 Ryan P. McBride, WSBA No. 33280  
Theodore A. Sheffield, WSBA No. 35874

Attorneys for Plaintiffs

14 

---

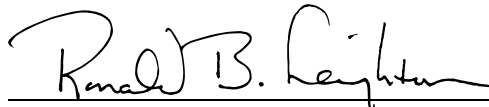
William T. Stephens, WSBA No. 24254  
15 R. Timothy Crandall, WSBA No. 12178  
Assistant Attorneys General

Attorneys for Defendants

17  
18 **ORDER**

19 Based on the foregoing Stipulation, it is

20 IT IS SO ORDERED this 24th day of November, 2009.

21  
22 

23 

---

RONALD B. LEIGHTON  
24 UNITED STATES DISTRICT JUDGE

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

Presented by:

LANE POWELL PC

---

Barbara J. Duffy, WSBA No. 18885  
Robin Dale, WSBA No. 22166  
Ryan P. McBride, WSBA No. 33280  
Theodore A. Sheffield, WSBA No. 35874  
Attorneys for Plaintiffs

Approved as to Form; Notice of  
Presentation Waived:

ROBERT M. MCKENNA  
Attorney General

---

William T. Stephens, WSBA No. 24254  
R. Timothy Crandell, WSBA No. 12178  
Assistant Attorneys General  
Attorneys for Defendants