

Dartmouth-Hitchcock v. NHDHHS 11-CV-358-SM 9/27/13  
UNITED STATES DISTRICT COURT

DISTRICT OF NEW HAMPSHIRE

Dartmouth-Hitchcock Clinic, et al.,  
Plaintiffs

v.

Case No. 11-cv-358-SM  
Opinion No. 2013 DNH 130

Nicholas Toumpas, Commissioner,  
N.H. Dept. of Health and Human Services,  
Defendant

**O R D E R**

Plaintiffs have had ample time to seek reconsideration by the Secretary of Health and Human Services with respect to her approval of 2008 Medicaid reimbursement rate reductions (TN No. 10-014 and TN No. 10-011). To the extent the court has deferred action pending that request for administrative review, the motion to stay has been effectively granted. A further stay, however, seems unwarranted, and, as of the date of this order, the motion to stay is formally denied. (Also, to the extent the defendant orally renewed his earlier motion to dismiss, which preceded the Secretary's administrative action, that motion is denied without prejudice.)

The clerk shall schedule a status conference at which counsel should be prepared to identify dispositive issues they believe remain in the case, given the administrative decisions made by the Secretary with respect to the challenged SPAs, and

should address what briefing may yet be required, in light of Douglas v. Independent Living Center of Southern California, \_\_\_ U.S. \_\_\_, 132 S. Ct. 1204 (2012); see also Managed Pharmacy Care, et al. v. Sebelius, 716 F.3d 1235 (9th Cir. 2013); California Association of Rural Health Clinics, et al. v. Douglas, 2013 WL 5184355 (9th Cir. September 17, 2013).

**SO ORDERED.**

  
Steven J. McAuliffe  
United States District Judge

September 27, 2013

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