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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

Sharon Newton-Nations; Manuela
Gonzalez; Cheryl Bilbrey; Hector
Martinez; Dawn House; Dana Franklin;
Edward Bonner; D.H.; Jack Baumhardt;
Manuel Esparza,

Plaintiffs,

and

Donald McCants; Anne Garrison; Patricia
Jones; Todd Eaton, on behalf of
themselves and all others similarly
situated,

Plaintiffs-Appellants,

vs.

Thomas J. Betlach, Director of the Arizona
Health Care Cost Containment System;
and Kathleen Sebelius, Secretary of the
United States Department of Health and
Human Services, in their official
capacities,

Defendants - Appellees.

No. CV 03-2506-PHX-EHC

Ninth Circuit No. 10-16193

ORDER

On March 29, 2010, the Court filed an Order granting Defendants' Motions for Summary Judgment, denying Plaintiffs' Motion for Summary Judgment, and vacating the previously imposed preliminary injunction (Doc. 186 - Order). Judgment was entered in favor of Defendants and against Plaintiffs on March 29, 2010 (Doc. 187).

On May 25, 2010, Plaintiff Class Representatives filed a Notice of Appeal (Doc. 188).

1 On August 6, 2010, Plaintiffs filed a Motion for a Stay of Judgment or, in the
2 alternative, Injunction Pending Appeal (Doc. 195), and supporting Memorandum (Doc. 194,
3 201). The matter is now fully briefed by the parties (Doc. 204-206, 208, 211-212). Plaintiffs
4 have filed an unopposed Motion for an Expedited Decision (Doc. 213).

5 On September 20, 2010, Plaintiffs' Motion for Stay or Injunction Pending Appeal
6 came before the Court for a hearing. Counsel for the parties appeared by telephone at the
7 hearing. During the hearing, defense counsel agreed that the Court has jurisdiction to
8 consider Plaintiffs' motion for stay or injunction, including ordering a stay of 30 days so
9 Plaintiffs could seek relief in the Court of Appeals. Plaintiffs' counsel informed the Court
10 that a whole new administrative rule was approved on July 13, 2010 regarding the increased
11 copayments (see Doc. 201 - Plaintiffs' Memorandum at 5). Plaintiffs argue that the
12 challenged copayments for medical services are included in the Arizona administrative rule
13 set to become effective October 1, 2010.

14 The Court will grant in part and deny without prejudice in part Plaintiffs' Motion for
15 a Stay of Judgment or, in the alternative, Injunction Pending Appeal.

16 Accordingly,

17 **IT IS ORDERED** that Plaintiffs' Motion for an Expedited Decision (Doc. 213) is
18 granted.

19 **IT IS FURTHER ORDERED** that Plaintiffs' Motion for a Stay of Judgment or, in
20 the alternative, Injunction Pending Appeal (Doc. 195) is granted in part and denied without
21 prejudice in part.

22 **IT IS FURTHER ORDERED** that Plaintiffs' Motion for a Stay of Judgment or, in
23 the alternative, Injunction Pending Appeal (Doc. 195) is granted for 30 days from the
24 October 1, 2010 effective date of the copayments to the right of Plaintiffs to seek relief in the
25 Court of Appeals for the Ninth Circuit. Plaintiffs' Motion for Stay or Injunction in all other
26 respects is denied without prejudice.

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DATED this 23rd day of September, 2010.



Earl H. Carroll
United States District Judge