

Fast Facts: *Stewart v. Azar* Oral Argument

By [Mara Youdelman](#) and [Jane Perkins](#)

The U.S. District Court of the District of Columbia will hear oral arguments on motions for summary judgment in the *Stewart v. Azar* case on Friday, June 15. The case arises from HHS's January approval of the "Kentucky HEALTH" section 1115 waiver. Sixteen Kentuckians enrolled in Medicaid [filed a class action lawsuit](#) against the Trump administration challenging its approval of sweeping changes to Medicaid law that will terminate Medicaid coverage of tens of thousands of low-income individuals and families in the State. The plaintiffs are represented by the [National Health Law Program](#) (NHeLP), [Kentucky Equal Justice Center](#) (KEJC), and the [Southern Poverty Law Center](#) (SPLC). Jenner & Block is counsel to NHeLP in this case.

What happens on June 15?

[District Judge James E. Boasberg](#) will hear oral arguments on motions for summary judgment. The [plaintiffs](#) (16 Kentuckians) and the defendants (HHS Secretary Azar, represented by the U.S. Department of Justice, and the Commonwealth of Kentucky, which intervened in the case as a defendant) have all filed motions for summary judgment. Two amicus curiae briefs were filed in support of the plaintiffs, one by a group of [health policy researchers and scholars](#) and one by [older adult and disability rights groups](#).

What is a motion for summary judgment?

A motion for summary judgment is a request by a party for the court to rule that the other party has no case because the facts are not in dispute and the law supports the party making the motion. If a judge rules in favor of a party on a motion for summary judgment, the case is decided with regards to the claims addressed in the motion. The "losing" party can appeal the summary judgment decision.

What happens after oral argument?

The judge has indicated that he expects to rule on the motions for summary judgment by July 1, the day Kentucky's waiver is scheduled to take effect.

The plaintiffs have challenged five specific aspects of HHS's approval:

- work requirements;
- high and mandatory premiums on very low income people;
- lock outs;
- elimination of non-emergency medical transportation; and
- elimination of retroactive coverage.

The judge could rule on each issue separately so a range of decisions is possible. For example, the judge could prevent the entire waiver from going into effect or allow parts of the waiver to go into effect while vacating other parts.

What happens after July 1?

Depending on the judge's initial rulings, Kentucky's waiver could go into effect in whole, in part, or not at all. Whichever party "loses" on the motion for summary judgment is likely to appeal to the U.S. Court of Appeals for the District of Columbia. That party may also request a "stay" of the ruling which, if granted, means the ruling will not go into immediate effect and will be on hold until an appeal is heard.

In addition to the case in D.C., Kentucky Governor Matt Bevin filed a separate lawsuit in a federal court in Kentucky. He named the 16 Kentucky plaintiffs in *Stewart v. Azar* as the defendants. The *Stewart* plaintiffs have filed a motion to dismiss the case. We are awaiting a decision.

What about other states with section 1115 approved waivers?

So far, HHS has approved waivers similar to Kentucky (including work requirements, lockouts, etc.) in Arkansas, Indiana, and New Hampshire. NHeLP and our state-based Health Law Partnerships continue to explore options for enforcement and litigation in these states. A number of other states have pending waivers. To track developments on waivers, NHeLP has developed a "[Section 1115 Waiver Request Tracker](#)."

Where can I direct additional questions?

If you have further questions, please contact the National Health Law Program's D.C. office, at (202) 289-7661, or the NC office, at (919) 968-6308.

Additional Resources:

- [Summary of Lawsuit Filed Against HHS Approval of Kentucky Waivers](#)
- [Stewart v. Hargan, Lawsuit Challenging Kentucky Medicaid Waiver Project](#)
- [Stewart v. Azar, Summary Judgement Motion In HHS KY Medicaid Waiver Case](#)
- [Stewart v. Azar. Plaintiffs Reply to Government Motions to Dismiss](#)
- [HHS Approves Harmful 1115 Waivers in Kentucky – Including Work Requirements, Lockouts, and Waiting Periods](#)
- [HHS Approves 1115 Waiver in Kentucky – Harming Medicaid Enrollees Who Need Reproductive Health Services](#)
- [Kentucky’s Section 1115 Medicaid Waiver & Its Impact on Health Equity](#)
- [HHS Approves Harmful Section 1115 Waiver in Kentucky: Effects on People with Disabilities](#)
- [NHeLP Letter to CMS Regarding Work Requirements](#)
- [NHeLP Comments on Kentucky’s Modified Sec. 1115 Waiver](#)
- [Sec. 1115 Demonstration Authority: Medicaid Provisions That Prohibit a Waiver](#)
- [Waivers of Medicaid Requirements - A Quick Review](#)
- [Background to Medicaid and Section 1115 of the Social Security Act](#)
- [Medicaid Work Requirements - Legally Suspect](#)