

UNITED STATES COURT OF APPEALS  
FOR THE FIRST CIRCUIT

MARY C. MAYHEW, in her capacity as  
Commissioner of Maine Department of  
Health and Human Services,

Petitioner

v.

KATHLEEN SEBELIUS, Secretary, in her  
capacity as Secretary of the U.S. Department  
of Health and Human Services, CYNTHIA R.  
MANN, in her capacity as Director, Center  
for Medicaid & CHIP Services, Centers for  
Medicare & Medicaid Service, U.S.  
Department of Health and Human Services,  
and RICHARD R. MCGREAL, in his  
capacity as Associate Regional Administrator  
of the U.S. Department of Health and Human  
Services

Respondents

Docket No.: 12-2059

FILED IN CLERK'S OFFICE  
U.S. COURT OF APPEALS  
FOR THE FIRST CIRCUIT

2012 SEP -5 A 10: 13

**PETITION FOR REVIEW**

Pursuant to 42 U.S.C. § 1316, the Administrative Procedure Act, 5 U.S.C. §§ 701-706, and Rule 15(a) of the Federal Rules of Appellate Procedure, the State of Maine ("Maine") hereby petitions the Court to review the failure of Kathleen Sebelius, in her capacity as Secretary of the United States Department of Health

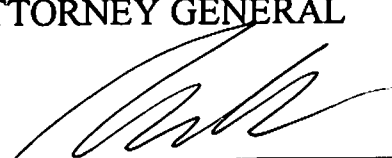
and Human Services; Cynthia R. Mann, in her capacity as Director, Center for Medicaid & CHIP Services, Centers for Medicare & Medicaid Service, United States Department of Health and Human Services; and Richard R. McGreal, in his capacity as Associate Regional Administrator of the United States Department of Health and Human Services to act upon Maine's request for a State Plan Amendment , filed on August 1, 2012. This amendment is designed to save the State of Maine \$19.93 million on its Medicaid expenses beginning on October 1, 2012. This failure to act effectively denies Maine's application. Exhaustion of administrative remedies here would be futile for several reasons, as set forth in the accompanying Motion for Injunctive Relief.

Date: September 4, 2012

Respectfully submitted,

WILLIAM J. SCHNEIDER  
ATTORNEY GENERAL

By:

  
\_\_\_\_\_  
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Attorney for Petitioner

**CERTIFICATE OF SERVICE**

I hereby certify that on September 4, 2012, a copy of the foregoing Petition for Review was sent by U.S. Mail, postage prepaid and via facsimile to:

Hon. Eric H. Holder, Jr., Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001  
FAX 202.307.6777

and

I hereby certify that on September 4, 2012, a copy of the foregoing Petition for Review was sent by U.S. Mail, postage prepaid and via electronic mail to:

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September 4, 2012

Margaret Carter, Clerk  
United States Court of Appeals for the First Circuit  
John Joseph Moakley U.S. Courthouse  
One Courthouse Way, Suite 2500  
Boston MA 02210

Re: *Mayhew v. Sebelius, et al.*

Dear Ms. Carter:

This office represents Mary C. Mayhew, Commissioner of the Maine Department of Health and Human Services. Enclosed for filing please find the State of Maine's Petition for Review, and the original and three copies of Petitioner's Motion for Injunctive Relief and Petitioner's Exhibits. Also enclosed please find a check in the amount of \$450 for the filing fee.

In view of the request for injunctive relief, we would appreciate your presenting this to the Court as soon as practicable. Copies of the enclosed documents have been sent to counsel who have been identified by the Respondents.

As the motion makes clear, Petitioner has an October 1, 2012 deadline that drives this matter.

Thank you for your time and attention to this matter.

Sincerely,

PAUL STERN  
Deputy Attorney General

2012 SEP -5 A 10:13  
FOLLOW UP BY FAX TO  
US COURT OF APPEALS  
FOR THE FIRST CIRCUIT

**Enclosures**

**Cc: Hon. Eric H. Holder, Jr., Attorney General (w/enclosures)  
Channing D. Phillips, Counselor to the Attorney General (w/enclosures)  
Kathleen Sebelius, Secretary US DHHS (w/enclosures)  
Cynthia R. Mann, Director, US DHHS (w/enclosures)  
Richard R. McGreal, Associate Regional Administrator US DHHS (w/enclosures)  
Thomas E. Delahanty II, US Attorney District of Maine (w/enclosures)  
William C. Schultz, Esq, Acting General Counsel, US DHHS (w/enclosures)  
Nancy Nemon, Esq, Regional General Counsel, US DHHS (w/enclosures)  
Mary C. Mayhew, Commissioner Maine DHHS (w/enclosures)**