

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

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THE AMERICAN HOSPITAL)	
ASSOCIATION, <u>et. al.</u> ,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No. 14-609 (RBW)
)	
SYLVIA M. BURWELL, in her official)	
capacity as Secretary of Health and Human)	
Services,)	
)	
Defendant.)	
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ORDER

The plaintiffs in this civil matter allege that the defendant violated the Administrative Procedure Act (“APA”) and the Medicare Act when, in August 2013, the defendant “adopted a new test for determining when a patient is an ‘inpatient’ for purposes of Medicare reimbursement” and otherwise amended rules governing the circumstances under which the government will reimburse hospitals for inpatient treatment under Medicare. Complaint at ¶ 3-7, 101, 109, 113, 117, 122. On July 16, 2014, the defendant moved to dismiss the Complaint in its entirety for lack of jurisdiction, asserting that the plaintiffs lack standing, failed to exhaust their administrative remedies, and have brought claims that are not ripe. Memorandum in Support of Defendant’s Motion to Dismiss at 3. On August 4, 2014, the plaintiffs filed a combined motion for summary judgment and opposition to the defendant’s motion to dismiss. See Plaintiffs’ Memorandum of Points and Authorities in Support of Plaintiff’s Motion for Summary Judgment and in Opposition to Defendant’s Motion to Dismiss. The defendant moved to stay summary judgment briefing pending resolution of its motion to dismiss or, in the alternative, to grant the

defendant a 45-day extension of time to compile and certify an administrative record and oppose the plaintiffs' motion for summary judgment. Motion to Stay Summary Judgment Briefing Pending Resolution of Defendant's Motion to Dismiss at 9. The plaintiffs oppose both requests. Opposition to Defendant's Motion to Stay Summary Judgment Briefing at 8.

A motion to dismiss pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure "presents a threshold challenge to the Court's jurisdiction ... [and] the Court is obligated to determine whether it has subject-matter jurisdiction in the first instance." Curran v. Holder, 626 F. Supp. 2d 30, 31 (D.D.C.2009) (citation omitted). In the interest of judicial economy, Courts will stay summary judgment briefing pending the resolution of a motion to dismiss. See e.g., Freedom Watch, Inc. v. Dep't of State, 925 F. Supp. 2d 55, 59 (D.D.C. 2013) ("Not needing more lawyers to spend more time on more briefs on more subjects in order to decide the motion to dismiss, the Court granted the motion to stay . . ."). "Because the Court must necessarily resolve the motions to dismiss before considering plaintiff's summary judgment motion, suspending briefing of the summary judgment motion pending the Court's resolution of the motions to dismiss will not prejudice plaintiff; staying further briefing of the plaintiff's summary judgment motion will allow the parties to avoid the unnecessary expense, the undue burden, and the expenditure of time to brief a motion that the Court may not decide." Furniture Brands Int'l Inc. v. U.S. Int'l Trade Comm'n, No., 11-202, 2011 WL 10959877, at *1 (D.D.C. Apr. 8, 2011) (also noting that "suspending briefing of the summary judgment motion will allow the Court to manage the orderly disposition of this case"). The plaintiffs do not articulate in their opposition how they may otherwise experience prejudice if the Court were to stay further summary judgment briefing, pending review of the jurisdictional issues raised by the defendant. Therefore, the Court finds it appropriate to grant the defendant's motion to stay.

Moreover, the defendant has not yet compiled and submitted the administrative record in this matter. And “judicial review under the APA is confined to the ‘full administrative record that was before the Secretary at the time he made his decision.’” Styrene Info. & Research Ctr. v. Sebelius, 851 F. Supp. 2d 57, 67 (D.D.C. 2012) (quoting Citizens to Preserve Overton Park, Inc. v. Volpe, 401 U.S. 402, 420 (1971), abrogated on other grounds by Califano v. Sanders, 430 U.S. 99 (1977)). Thus, absent the production of the administrative record, further summary judgment briefing in this matter would be premature. Accordingly, it is hereby

ORDERED that the defendant’s motion to stay summary judgment briefing in this case is **GRANTED** nunc pro tunc to August 21, 2014, and further briefing for the plaintiffs’ motion for summary judgment is **STAYED** pending the Court’s ruling on the defendant’s motion to dismiss and issuance of a schedule for further briefing, if necessary.

SO ORDERED this 14th day of October, 2014.

REGGIE B. WALTON
United States District Judge