

**In the United States District Court
for the District of Kansas**

Case No. 20-cv-02624-TC-ADM

UNITED STATES DEPARTMENT OF LABOR

Plaintiff

v.

DANIEL L. WHITNEY, ET AL.,

Defendants

ORDER

Medova Healthcare Financial Group, LLC is “a third-party administrator of employer-sponsored healthcare plans” with “discretionary authority over approximately 2,600 separate self-funded ERISA-covered plans.” Doc. 1 at ¶ 2. It and the other defendants allegedly mismanaged healthcare plan asserts. *Id.* at ¶ 3. Defendants were sued by the Secretary of Labor¹ who sought, among other things, “the immediate appointment of an independent fiduciary.” *Id.* at ¶ 13. That independent fiduciary was appointed by way of a consent order in March 2021. Doc. 32. The Secretary also moved to “stay all litigation and collection actions arising from healthcare benefit claims.” Doc. 45 at 1–2. An Order then entered enjoining most actions against Defendants related to the Medova dispute. Doc. 58 at 2–4 (relying on the All Writs Act, found at 28 U.S.C. § 1651). All of this occurred more than three years ago.

With no perceptible end in sight, an Order was entered requiring the parties to show cause “why the All Writs Act stay should not be dissolved, and the independent fiduciary terminated, by August 31, 2024.” Doc. 183 at 3. The Secretary responded, Doc. 186, as did

¹ The Secretary has turned over several times during this litigation. Currently, that role is filled by Julie A. Su, Acting Secretary of Labor.

Defendants, Doc. 187. Neither of them has shown good cause, so the All Writs Act stay will dissolve and the independent fiduciary's oversight will terminate on August 31, 2024.

The Secretary argues that both the independent fiduciary and the stay remain necessary. The independent fiduciary must ultimately address some 3000 plans. Doc. 186 at 3. And while more than 1500 of the plans have been successfully liquidated, more work remains. *Id.* As part of that work, the independent fiduciary has sued a plan sponsor—Magnolia Health Systems, Inc.—and that suit likely depends on the independent fiduciary's continued existence. *Id.* at 4. These concerns are shared by Defendants. *See* Doc. 187 at 2. It follows, in the Secretary's view, that the stay should remain in place. *See* Doc. 186 at 6. The stay prevents the plans from becoming subject to separate litigation, permits the independent fiduciary to continue its work, and so forth. *Id.* Defendants again concur in pertinent part. Doc. 187 at 2.

These concerns do not override the need to move this litigation forward, or the importance of re-enabling plan participants' right to sue. *See* Doc. 186 at 6 (describing consequences that may flow if the stay is lifted). As has been noted, the preliminary relief provided in this case is unusual. Doc. 183 at 3 (citing *Pennsylvania Bureau of Correction v. U.S. Marshals Serv.*, 474 U.S. 34, 43 (1985)). It imposes on courts and litigants—litigants who have both an interest in an efficient resolution, *see* Doc. 186 at 2, and an interest in pursuing their claims, *see* Doc. 183 at 3 (citing *In re Jimmy John's Overtime Litig.*, 877 F.3d 756, 763 (7th Cir. 2017)). In short, neither the stay nor the independent fiduciary may persist indefinitely. And since the independent fiduciary's work is rapidly winding down, setting a concrete deadline will not be unnecessarily disruptive. Doc. 186 at 4 (explaining that “the Administrative Services Agreement between [the independent fiduciary] and its current third-party administrator will not be renewed as of July 31, 2024”); Doc. 185 at 3–4 (recounting the independent fiduciary's efforts to terminate its project). Moreover, the independent fiduciary will have a notably reduced capacity to act after July 31, 2024, in part because the “funds that constitute the principal source of funding for [its] activities” have been depleted. Doc. 185 at 4. This, too, counsels in favor of fixing an end date for the independent fiduciary and the stay. *Cf. Salven v. Glacier Ins. Administrators, Inc.*, No. 102CV06213, 2015 WL 8479318, at *2 (E.D. Cal. Dec. 9, 2015) (discharging an independent fiduciary who successfully “distributed all funds of the plan and trust” and “received ... the remaining balance of Plan and Trust Funds”).

IT IS THEREFORE ORDERED BY THE COURT THAT
the All Writs Act stay will dissolve, and the independent fiduciary will
be discharged, on August 31, 2024.

IT IS SO ORDERED.

Date: June 6, 2024

s/ Toby Crouse
Toby Crouse
United States District Judge