

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

MAXWELL KADEL, *et al.*,

Plaintiffs,

v.

DALE FOLWELL, *in his official capacity as State Treasurer of North Carolina*; DEE JONES, *in her official capacity as Executive Administrator of the North Carolina State Health Plan for Teachers and State Employees*; and THE NORTH CAROLINA STATE HEALTH PLAN FOR TEACHERS AND STATE EMPLOYEES, *et al.*,

Defendants.

No. 1:19-cv-272-LCB

MOTION FOR STAY OF INJUNCTION PENDING APPEAL

Pursuant to Federal Rule of Civil Procedure 62(d), Defendants Dale Folwell (*in his official capacity as State Treasurer of North Carolina*), Dee Jones (*in her official capacity as Executive Administrator of the State Health Plan*), and the North Carolina State Health Plan for Teachers and State Employees, respectfully move this Court to promptly Stay the injunction entered against these Defendants in its Memorandum Opinion

and Order. Doc. No. 234.¹ A Memorandum in Support of this Motion to Stay has been contemporaneously filed.

Respectfully submitted, this the 27th day of July, 2022.

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¹ The State Health Plan filed a Motion to Correct the portions of this Court's Memorandum Opinion and Order that could be read to subject it this injunction. Doc. Nos. 247, 248. This Court has indicated its intent to make these corrections, should the Fourth Circuit grant leave to do so. Doc. No. 255; *see Kadel v. North Carolina State Health Plan for Teachers*, No. 22-1730 (ECF No. 10) (4th Cir. July 18, 2022). As of the filing of this Motion to Stay, the Memorandum Opinion and Order has not yet been corrected. Thus the State Health Plan also seeks a stay of the injunction issued by this Court's Memorandum Opinion and Order.

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will provide electronic notification to all counsel of record in this matter.

This the 27th day of July, 2022.

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DALE FOLWELL, *et al.*

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O R D E R

This Matter is before the Court on the Motion of Defendants Dale Folwell (*in his official capacity as State Treasurer of North Carolina*), Dee Jones (*in her official capacity as Executive Administrator of the State Health Plan*), and the North Carolina State Health Plan for Teachers and State Employees, (Doc. No. ____), to Stay—pursuant to Rule 62(d) of the Federal Rules of Civil Procedure—the injunction entered against them by this Court’s Memorandum Opinion and Order. (Doc. No. 234).

It appearing to the Court, for the reasons detailed in Defendants’ Memorandum in Support of their Motion to Stay, (Doc. No. ____), that a Stay should issue pursuant to Federal Rules of Civil Procedure 62(d) because Defendants are likely to succeed on the merits, because they will

be irreparably harmed by the injunction, and because a stay would benefit the public interest without substantially harming other parties to the case.

IT IS THEREFORE ORDERED that the Defendants' Motion to Stay is GRANTED and the permanent injunction announced in this Court's Memorandum Order and Opinion, (Doc. No. 234), is hereby STAYED pending the resolution of the appeals in 22-1721 (L); 22-1730(Cons.).

SO ORDERED, this the ___ day of July, 2022