



U.S. Department of Justice
Civil Division
950 Pennsylvania Ave. NW, Rm. 7214
Washington, DC 20530

VIA CM/ECF

July 24, 2023

Catherine O'Hagan Wolfe, Clerk of Court
U.S. Court of Appeals for the Second Circuit
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

Re: *Family Equality v. Becerra*, No. 22-1174 (argument held March 22, 2023 before Judges Parker, Lynch, and Lohier)

Dear Ms. O'Hagan Wolfe:

We write to inform the Court that the Department of Health and Human Services (HHS) has issued a notice of proposed rulemaking (NPRM) to repromulgate and revise certain provisions of the Uniform Administrative Rule Requirements, Cost Principles, and Audit Requirements for HHS Awards. *See* 88 Fed. Reg. 44,750 (July 13, 2023). As relevant here, the NPRM proposes to amend the provisions of the 2016 Rule that are at issue in this litigation and currently the subject of the 2019 Notice of Nonenforcement. *See id.* at 44,753, 44,759. The agency has invited public comment for a 60-day period ending September 11, 2023. *Id.* at 44,750.

The NPRM states that “[w]hile this rulemaking process is ongoing, the 2019 Notice of Nonenforcement remains in effect.” *Id.* at 44,757. If the proposed revisions become final, however, they will likely have the effect of superseding both the 2016 Rule and the 2019 Notice of Nonenforcement.

Sincerely,

Michael S. Raab
/s/ Jeffrey E. Sandberg
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