

ARKANSAS INSURANCE DEPARTMENT

IN RE WHITE RIVER MEDICAL CENTER COMPLAINT VS. NOVO NORDISK

AID ORDER #2023-17

ORDER ON PROCEEDING

Comes now the Arkansas Insurance Department (“Department”), by and through its attorney, Booth Rand, and, for its Order, states the following findings:

1. On January 13, 2023, White River Medical Center (“White River”) filed an Amended Complaint alleging that Novo Nordisk Inc. and Novo Nordisk Pharma, Inc. (collectively “Novo”) have violated Arkansas Act 1103 and its implementing regulations by limiting the circumstances under which Novo will accept requests under the federal 340B drug pricing program to transfer its drugs at discounted 340B prices to commercial pharmacies.


2. On February 7, 2023, Novo responded to White River’s Amended Complaint denying the allegations in the Amended Complaint, and requesting that the Department stay this proceeding until the conclusion of the U.S. Court of Appeals for the Eighth Circuit’s review of the legality of Arkansas Act 1103 in *Pharmaceutical Research & Manufacturers of America v. McClain*, No. 22-3675, on appeal from the United States District Court, for the Eastern District of Arkansas, Central Division, 4:21-CV-864-LPR.

3. The Arkansas Insurance Commissioner (“Commissioner”) finds that an administrative proceeding, rulings, discovery and other potential administrative penalties or enforcement derived from this action is not immediately administratively practical given a pending Eighth Circuit review of Act 1103 is imminent on the federal preemption claim, in *Pharmaceutical Research & Manufacturers of America v. McClain*, No. 22-367. The Commissioner therefore finds that good cause exists to delay this proceeding temporarily until the Eighth Circuit concludes its review on the legality of Act 1103 on the appeal of the preemption ruling.

WHEREFORE, the Commissioner shall stay the Department proceeding with respect to White River’s amended complaint until the U.S. Court of Appeals for the Eighth Circuit completes its review of the federal preemption claim in *Pharmaceutical Research & Manufacturers of America v. McClain*, No. 22-367.

3/2/23

DATE

  
ALAN MCCLAIN  
Insurance Commissioner  
State of Arkansas