

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

ASTRAZENECA)	
PHARMACEUTICALS LP, et al.,)	
)	
<i>Plaintiffs,</i>)	
)	
v.)	No. 1:23-cv-00931-CFC
)	
XAVIER BECERRA, <i>et al.</i> ,)	
)	
<i>Defendants.</i>)	

**MEMORANDUM IN SUPPORT OF MOTION OF
AARP, AARP FOUNDATION, CENTER FOR MEDICARE ADVOCACY,
JUSTICE IN AGING, AND THE MEDICARE RIGHTS CENTER
FOR LEAVE TO FILE MEMORANDUM OF AMICI CURIAE
IN SUPPORT OF DEFENDANTS’ CROSS-MOTION FOR SUMMARY
JUDGMENT AND OPPOSITION TO PLAINTIFFS’ MOTION FOR
SUMMARY JUDGMENT**

I. Statements of Interest of Proposed Amici Curiae

AARP is the nation’s largest nonprofit, nonpartisan organization dedicated to empowering Americans 50 and older to choose how they live as they age. With a nationwide presence, AARP strengthens communities and advocates for what matters most to the more than 100 million Americans 50 years old and older and their families: health security, financial stability, and personal fulfillment. AARP’s charitable affiliate, AARP Foundation, works to end senior poverty by helping vulnerable older adults build economic opportunity and social connectedness.

Among other things, AARP and AARP Foundation advocate for access to affordable prescription drugs and health care, including through participation as amici curiae in federal and state federal courts. *See, e.g.*, Br. of AARP and AARP Foundation as Amici Curiae in Support of Defendants, *Janssen Pharmaceuticals, Inc. v. Becerra*, No. 23-cv-03818-ZNQ, and *Bristol Myers Squibb, Co. v. Becerra*, No. 23-cv-03335-ZNQ (D.N.J. Oct. 23, 2023); Br. of AARP and AARP Foundation as Amici Curiae in Support of Defendants, *Dayton Area Chamber of Com. v. Becerra*, No. 3:23-cv-156, 2023 WL 6378423 (S.D. Ohio Sept. 29, 2023); Br. of AARP and AARP Foundation as Amici Curiae in Support of Defendants, *Merck & Co. v. Becerra*, No. 1:23-cv-01615 (D.D.C. Sept. 18, 2023); Br. of AARP, et al., as Amici Curiae in Support of Petitioners, *California v. Texas*, 593 U.S. __ (2021) (No. 19-840) (Affordable Care Act).

The Center for Medicare Advocacy is a national, nonprofit law organization that works to advance access to comprehensive Medicare coverage, health equity, and quality health care for older adults and people with disabilities. Founded in 1986, the Center advocates on behalf of beneficiaries in administrative and legislative forums and serves as legal counsel in litigation of importance to Medicare beneficiaries and others seeking health care coverage. The Center has addressed prescription drug affordability issues on behalf of beneficiaries for decades. It advocates for Medicare coverage of necessary medications and other

health care, with a focus on the needs of beneficiaries with longer-term and chronic conditions. The Center provides training regarding Medicare and health care rights throughout the country. Its systemic advocacy is based on the experiences of the real people who contact the Center every day.

Justice in Aging is a national non-profit legal advocacy organization that fights senior poverty through law. Justice in Aging was founded in 1972 (originally under the name “National Senior Citizens Law Center”) and maintains offices in Washington, D.C. and Los Angeles, California. Justice in Aging advocates for affordable health care and economic security for older adults with limited resources, focusing especially on populations that have traditionally lacked legal protection. Justice in Aging’s work includes substantial advocacy on behalf of nursing facility residents, including federal administrative and legislative advocacy.

The Medicare Rights Center is a national, nonprofit organization that works to ensure access to affordable and equitable health care for older adults and people with disabilities through counseling and casework, educational programs, and legislative and administrative advocacy. Medicare Rights was founded in 1989 to provide information and support to beneficiaries, caregivers, advocates, and professionals. Our National Helpline receives thousands of calls each year from

people struggling to afford their care, including the prescription medications they need to maintain their health and well-being.

Argument

The motion of proposed amici should be granted because their memorandum will provide unique information to assist the Court in deciding whether to grant the parties' cross-motions for summary judgment. "A district court has inherent authority to allow amic[i] curiae to participate" in trial court proceedings. *Avellino v. Herron*, 991 F. Supp. 730, 732 (E.D. Pa. 1998). Moreover, "[t]he Third Circuit has said that 'permitting persons to appear in court ... as friends of the court ... may be advisable where third parties can contribute to a court's understanding.'" *Id.* (citing *Harris v. Pernsley*, 820 F.2d 592, 603 (3d Cir.1987)). Thus, this Court may grant leave to proposed amici to appear if—as they respectfully submit is so—the information they offer is deemed "timely and useful[.]," *Id.*; see. *Yip v. Pagano*, 606 F. Supp. 1566, 1568 (D. N.J. 1985), *aff'd*, 782 F.2d 1033 (3d Cir. 1986).

Proposed amici have an important interest and a valuable perspective on the issues presented in this case because this litigation concerns both the ability of millions of older adults to access affordable prescription drugs and the integrity of the Medicare program. Consideration of proposed amici's memorandum is desirable and relevant to the disposition of this case because it addresses important factors indicating that halting or restricting implementation of Medicare drug price

negotiations authorized by the Inflation Reduction Act (“IRA”) is not in the public interest and will substantially harm older adults, the Medicare program, and American taxpayers. The memorandum of proposed amici will provide pertinent information regarding the challenges that millions of older adults face because they cannot afford prescription drugs and why proceeding with the statutorily-mandated drug price negotiations schedule is crucial to Medicare participants’ health and financial stability. Proposed amici also will explain how a delay in implementing the IRA drug negotiations program will threaten the financial sustainability of Medicare and deprive taxpayers of billions of dollars in savings.

For these reasons, Movants request leave to file the attached memorandum of amici curiae to facilitate the full consideration by the Court of the important legal and public policy issues presented in this case.

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Respectfully submitted,

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