

**UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Lina M. Khan, Chair**
 Noah Joshua Phillips
 Rohit Chopra
 Rebecca Kelly Slaughter
 Christine S. Wilson

In the Matter of

**Hackensack Meridian Health, Inc.,
a corporation,**

and

**Englewood Healthcare Foundation,
a corporation.**

DOCKET NO. 9399

ORDER GRANTING THIRD CONTINUANCE

On July 20, 2021, Complaint Counsel and Respondents Hackensack Meridian Health, Inc. (“HMH”) and Englewood Healthcare Foundation (“Englewood”) jointly moved to postpone commencement of the evidentiary hearing in this proceeding by thirty days, until September 15, 2021 or such later date as may be convenient for the Chief Administrative Law Judge and the Commission. Joint Expedited Motion for a Continuance of Administrative Proceedings (“Joint Motion”). This represents the parties’ third request for continuance of the evidentiary hearing. On May 25, 2021 and July 1, 2021, we granted similar requests to continue the commencement of the hearing from June 15, 2021, to July 15, 2021, and then to August 16, 2021. Order Granting Continuance (“May 25 Order”); Order Granting Further Continuance (“July 1 Order”). For reasons similar to those expressed in our May 25 and July 1 Orders, we have determined to grant a further continuance of the hearing to October 12, 2021.

On December 3, 2020, the Commission issued an administrative complaint challenging a proposed transaction whereby HMH would acquire Englewood (“the Proposed Transaction”). The Commission at that time also filed a complaint in the U.S. District Court for the District of New Jersey seeking a preliminary injunction barring the Proposed Transaction until completion of the administrative proceeding. The preliminary injunction hearing concluded on May 18, 2021, and the district court heard closing arguments on June 2, 2021. The parties anticipate receiving a decision in that action within the next several months. Joint Motion at 2. The parties state that “[i]t is highly likely that [the preliminary injunction] ruling will cause these administrative proceedings to be suspended or rendered moot.” *Id.* at 4.

The parties argue that granting the requested continuance and extending pre-hearing deadlines would protect the parties and third parties and their witnesses from unnecessary burdens and expense, without prejudicing the Commission. *Id.* at 1-4; *see* May 25 Order at 1-2. We found these arguments persuasive in granting prior continuances of similar duration. *See* May 25 Order; July 1 Order.

Commission Rule 3.41(f) provides that a pending “collateral federal court action that relates to the administrative adjudication shall not stay the proceeding [u]nless a court of competent jurisdiction, or the Commission for good cause, so directs.” 16 C.F.R. § 3.41(f). This reflects the Commission’s commitment to move forward as expeditiously as possible with its administrative proceedings. *See, e.g.*, 16 C.F.R. §§ 3.1, 3.11(b)(4), 3.41(b). Nonetheless, the public interest is not ideally served if litigants and third parties bear expenditures that later prove unnecessary. May 25 Order at 2. For the reasons stated in our May 25 and July 1 Orders, and based on the authorities cited therein, we find that there is good cause to continue the commencement of the evidentiary hearing in order to protect the parties and third parties from likely unnecessary burden and expense.

Another Commission matter is currently set for hearing before the Chief Administrative Law Judge beginning one day before the parties’ proposed date of September 15, 2021. To avoid a potential schedule conflict with that matter, we will re-set the hearing in this proceeding to begin on October 12, 2021.


Accordingly,

IT IS HEREBY ORDERED that the Joint Expedited Motion for a Continuance of Administrative Proceedings is **GRANTED**; and

IT IS FURTHER ORDERED that the evidentiary hearing in this proceeding shall commence at 10:00 a.m. on October 12, 2021, and that, unless modified by the Chief Administrative Law Judge, all related pre-hearing deadlines shall be extended by fifty-seven (57) days.

By the Commission.




April J. Tabor
Secretary