

See Affordable Care Act Provision 9010 – Health Insurance Providers Fee, <https://www.irs.gov/businesses/corporations/affordable-care-act-provision-9010>.¹

2. Specifically, Plaintiffs are seeking declaratory and injunctive relief aimed at preventing the collection of the 2018 HIPF from Plaintiffs' Medicaid and Children's Health Insurance Program ("CHIP") managed care organizations ("MCOs").

3. Only days ago, Plaintiffs received confirmation from their Medicaid and CHIP MCOs that, over Plaintiffs' protests, Defendants are demanding that Plaintiffs' Medicaid and CHIP MCOs pay 2018 HIPF liability premised on capitation rates for Medicaid and CHIP. Even though this Court ordered equitable disgorgement as a remedy for Plaintiffs to recoup the HIPF payments for 2014, 2015, and 2016, the money spent for the 2018 HIPF will be forever lost if an appellate decision invalidates this Court's order of equitable disgorgement or otherwise sustains the merits of Plaintiffs' claims regarding the incurrance of HIPF liability, but forecloses a remedial path for Plaintiffs to get their taxpayers' money back. Plaintiffs seek leave to amend their complaint at the present time because their claims related to the 2018 HIPF are now ripe, and the threat of an irreparable injury is imminent.

4. Plaintiffs ask this Court to grant Plaintiffs' Motion for Expedited Consideration of the Motion for Leave in light of the fast approaching September 30, 2018 deadline and because Plaintiffs intend to file a motion for temporary restraining order and preliminary injunction the week of

¹ These payments are normally due on September 30. Since September 30, 2018 falls on a Sunday, the IRS has moved the deadline to October 1, 2018.

September 10, 2018 to stop Defendants from collecting the 2018 HIPF from Plaintiffs' Medicaid and CHIP MCOs. Though the Court ruled the Certification Rule unlawful, Plaintiffs can demonstrate to the Court that permitting 2018 HIPF liability on Plaintiffs' MCOs still results in HIPF liability for Plaintiffs.

Accordingly, Plaintiffs respectfully request that the Court enter an order granting expedited consideration of Plaintiff's Motion for Leave to File a Second Amended Complaint, requiring Defendants to response to Plaintiffs' Motion for Leave no later than 5:00 p.m. CDT on Monday, September 10, 2018, and issuing an order on the Motion for Leave as soon as possible thereafter.

Respectfully submitted this 7th day of September, 2018.

DEREK SCHMIDT
Attorney General of Kansas

JEFF LANDRY
Attorney General of Louisiana

CURTIS HILL
Attorney General of Indiana

BRAD SCHIMEL
Attorney General of Wisconsin

DOUG PETERSON
Attorney General of Nebraska

KEN PAXTON
Attorney General of Texas

JEFFREY C. MATEER
First Assistant Attorney General

BRANTLEY D. STARR
Deputy First Assistant Attorney General

JAMES E. DAVIS
Deputy Attorney General for Civil
Litigation

/s/ Austin R. Nimocks
AUSTIN R. NIMOCKS
Special Counsel for Civil Litigation
Texas Bar No. 24002695
austin.nimocks@oag.texas.gov

DAVID J. HACKER
Special Counsel for Civil Litigation
Texas Bar No. 24103323
david.hacker@oag.texas.gov

RANDALL MILLER
Assistant Attorney General
Texas Bar No. 24092838
randall.miller@oag.texas.gov

OFFICE OF THE ATTORNEY GENERAL
P.O. Box 12548, Mail Code 001
Austin, Texas 78711-2548

Tel: 512-936-1414

ATTORNEYS FOR PLAINTIFFS

CERTIFICATE OF CONFERENCE

I hereby certify that, on September 6, 2018, I conferred with counsel for Defendants concerning this Motion. Defendants oppose it.

/s/ David J. Hacker
DAVID J. HACKER

CERTIFICATE OF SERVICE

I hereby certify that on September 7, 2018, I electronically filed the foregoing document through the Court's ECF system, which automatically serves notification of the filing on counsel for all parties.

/s/ Austin R. Nimocks
AUSTIN R. NIMOCKS

Accordingly, it is ORDERED, ADJUDGED and DECREED that the Court will consider the merits of Plaintiffs' Motion for Leave to File a Second Amended Complaint in an expedited manner. Any response that Defendants intend to file to Plaintiffs' Motion for Leave to File a Second Amended Complaint shall be filed no later than 5:00 p.m. CDT on Monday, September 10, 2018.

SO ORDERED this the _____ day of _____, 2018

HON. REED O'CONNOR
UNITED STATES DISTRICT JUDGE