

**IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF NEW MEXICO**

NEW MEXICO HEALTH )  
CONNECTIONS, )  
 )  
 Plaintiff, )  
 )  
 v. ) No. 1:18-cv-00773 JB/KBM  
 )  
 UNITED STATES DEPARTMENT OF )  
 HEALTH AND HUMAN SERVICES, )  
 *et al.*, )  
 )  
 Defendants. )

**JOINT STATUS REPORT**

---

Plaintiff New Mexico Health Connections (“NMHC”) and Defendants (collectively “HHS”), by and through their undersigned counsel, respectfully file this Joint Status Report pursuant to the Court’s October 9, 2018 Order, ECF No. 25, and state as follows:

1. On the joint motion of the parties, the Court stayed this case pending further proceedings in *New Mexico Health Connections v. U.S. Dep’t of Health & Human Services*, No. 1:16-cv-878 JB/JHR (D.N.M.) (“NMHC v. HHS I”), and ordered the parties to file a joint status report to propose a schedule for further proceedings in this case within 14 days of the Court’s ruling on Defendants’ Rule 59(e) motion in *NMHC v. HHS I*. The Court denied Defendants’ Rule 59(e) motion on October 19, 2018. *See* Mem. Op. and Order, *NMHC v. HHS I*, ECF No. 90.

2. Separately, as part of the rulemaking regarding *Adoption of the Methodology for the HHS-Operated Risk Adjustment Program for the 2018 Benefit Year Proposed Rule*, NMHC has submitted a comment to HHS that, among other things, asks HHS to reopen the rulemaking with respect to the 2017 benefit year rule at issue in this litigation. HHS has acknowledged receipt of that request, which remains pending. *See* Ex. A.

3. Because HHS's disposition of NMHC's request could narrow or eliminate the dispute in this case, the parties agree that it would conserve judicial resources to provide HHS an opportunity to respond to NMHC's request before taking further action in this case.

4. Accordingly, the parties respectfully propose that the Court maintain the stay of proceedings in this case and that the parties file a joint status report by January 4, 2019 to provide the Court with additional information regarding the status of NMHC's request and a proposed schedule for further proceedings in this case.

Dated: November 2, 2018

Respectfully submitted,

JOSEPH H. HUNT  
Assistant Attorney General

DIANE KELLEHER  
Assistant Branch Director

*/s/ James Powers*  
\_\_\_\_\_  
JAMES R. POWERS (TX Bar No. 24092989)  
SERENA M. ORLOFF  
Trial Attorneys  
U.S. Department of Justice,  
Civil Division, Federal Programs Branch  
1100 L Street, N.W., Room 11218  
Washington, D.C. 20005  
Telephone: (202) 353-0543  
james.r.powers@usdoj.gov

*Counsel for Defendants*

*/s/ Nancy R. Long*

---

Nancy R. Long  
LONG, KOMER & ASSOCIATES, PA  
2200 Brothers Road/PO Box 5098  
Santa Fe, NM 87502  
(505) 982-8405  
nancy@longkomer.com  
email@longkomer.com  
vmarco@longkomer.com

Barak A. Bassman  
Sara B. Richman  
Leah Greenberg Katz  
PEPPER HAMILTON LLP  
3000 Two Logan Square  
Eighteenth and Arch Streets  
Philadelphia, PA 19103-2799  
215-981-4000  
bassmanb@pepperlaw.com  
richmans@pepperlaw.com  
katzl@pepperlaw.com

Marc D. Machlin  
PEPPER HAMILTON LLP  
Hamilton Square  
600 Fourteenth Street, N.W.  
Washington, D.C. 20005-2004  
202-220-1200  
machlinm@pepperlaw.com

*Attorneys for Plaintiff*

**CERTIFICATE OF SERVICE**

I hereby certify that on November 2, 2018, I caused the foregoing document to be served on counsel for plaintiff by filing with the court's electronic case filing system.

*/s/ James Powers*  
James R. Powers