

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

QCC INSURANCE COMPANY,)
KEYSTONE HEALTH PLAN EAST, INC.,)
AMERIHEALTH INSURANCE COMPANY)
OF NEW JERSEY, & AMERIHEALTH)
HMO, INC.,)
Plaintiffs)
v.)
THE UNITED STATES OF AMERICA,)
Defendant.)
No. 17-1312C
Judge Mary Ellen Coster
Williams

Defendant.

**UNOPPOSED MOTION TO ESTABLISH CERTAIN DEADLINES AND TO
CONFIRM THAT THE STAY IMPOSED IN THIS MATTER IS NO LONGER IN
EFFECT**

Plaintiffs QCC Insurance Company, Keystone Health Plan East, Inc., AmeriHealth Insurance Company of New Jersey, and AmeriHealth HMO, Inc. (“Plaintiffs”) respectfully request the Court to enter an Order suspending the date by which the United States Government (“United States” or “Defendant”) is required to answer or otherwise respond to the First Amended Complaint to be filed by Plaintiffs, and to extend the deadline for filing of the parties’ joint status report until May 29, 2020. Plaintiffs also request that this Order also confirm that the stay imposed in this matter by the Court’s Order dated June 26, 2018 is no longer in effect. The reasons for the granting of this motion are set forth below. Counsel for Defendant has authorized counsel for Plaintiffs to state that the United States does not oppose the grant of this motion.

By Order dated June 26, 2018, the Court stayed this matter until “the Federal Circuit has issued its mandates in *Moda Health Plan, Inc. v. United States*, No. 17-1994, and *Land of Lincoln Mutual Health Insurance Company v. United States*, No. 17-1224, and through the time

for the disposition of any petition for a writ of certiorari that may be filed before the United States Supreme Court.” The June 26 Order also directed the parties to file a joint status report within 30 days “after the judgments in *Moda* and *Land of Lincoln* have become final.” ECF No. 14, at 1.

On April 27, 2020, the Supreme Court of the United States issued its decision in *Maine Community Health Options v. United States*, No. 18-1023, which reversed and vacated the judgments of the United States Court of Appeals for the Federal Circuit in *Maine Community Health Options* and three other cases involving claims under the risk corridor stabilization program established by the Affordable Care Act, including *Moda Health Plan, Inc. v. United States*, No. 18-1028, and *Land of Lincoln Mutual Health Insurance Co. v. United States*, No. 18-1038. Under the terms of this Court’s June 26, 2018 Order, the parties are required to submit a joint status report within 30 days of the Supreme Court’s decision, or by May 27, 2020. Plaintiffs request that the Court extend the deadline for filing this joint status report until May 29, 2020, the date established by Judge Richard Hertling for filing the joint status report in another risk corridor case pending in the Court of Federal Claims, *Blue Cross Blue Shield of Tennessee, Inc. v. United States*, No. 17-348, ECF No. 25, in which counsel of record for Plaintiffs is also counsel of record. Extending the date for filing the joint status report until May 29 in this case will make the filing of these reports congruent in these cases. Counsel for Defendant has advised counsel for Plaintiffs that by May 29, the United States may not have completed its internal analysis and may not have yet formulated a position on the proposed next steps to be taken in this case, but will be prepared to provide a status report at that time.

In addition, Plaintiffs intend shortly to file a First Amended Complaint in this matter that will update the damages claimed to reflect developments that occurred after the filing of

the original complaint. Counsel for Defendant has consented to the filing of Plaintiffs' First Amended Complaint. Under Rule 15(a)(3) of the Rules of the Court of Federal Claims, Defendant would be required to file its Answer or otherwise respond to Plaintiffs' First Amended Complaint within 14 days. Plaintiffs request that the date for Defendant's Answer or other response to the First Amended Complaint be suspended pending further order of the Court. This is also congruent with Judge Hertling's May 5 order in the *Blue Cross Blue Shield of Tennessee* case.

Finally, Plaintiffs request that the Order entered by the Court make clear that the stay imposed in this matter by its Order dated June 26, 2018, is no longer in effect.

Dated: May 8, 2020

Respectfully Submitted:

/s/ Robert K. Huffman
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