

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

**NEW MEXICO HEALTH CONNECTIONS, a New Mexico Non-Profit Corporation** )  
Plaintiff, ) Case No. 1:16-cv-01199  
v. ) (Judge Eric G. Bruggink)  
**UNITED STATES OF AMERICA** )  
Defendant. )

**UNOPPOSED MOTION OF NEW MEXICO HEALTH CONNECTIONS FOR STAY OF PROCEEDINGS**

Plaintiff New Mexico Health Connections (“NMHC”) submits this unopposed motion for a stay of proceedings until at least March 1, 2017 pending the outcome of dispositive motions filed in several related cases before the Court of Federal Claims. In support of its unopposed motion, NMHC states the following:

On September 26, 2016, NMHC filed a complaint in the Court of Federal Claims against the United States of America seeking monetary damages for the government’s failure to make full and timely risk corridors payments to NMHC under Section 1342 of the Affordable Care Act for benefit years 2014 and 2015. NMHC asserts five claims against the government: (1) violation of federal statutory and regulatory mandate to make payments; (2) breach of express contract – 2014 QHP Agreement; (3) breach of implied covenant of good faith and fair dealing – 2014 QHP agreement; (4) breach of implied covenant of good faith and fair dealing – loan agreement; and (5) taking without just compensation in violation of the Fifth Amendment to the U.S. Constitution. As a result of the government’s failure to make the mandatory risk corridors payments, NMHC is seeking damages of \$23,084,748.00 plus available interest, fees, and costs.

The following already-filed cases involve similar (but not identical) issues to the case at hand: *Health Republic Ins. Co. v. USA*, No. 1:16-cv-00259 (Fed. Cl. Feb. 24, 2016); *First Priority Life Ins. Co., Inc. et al. v. USA*, No. 1:16-cv-00587 (Fed. Cl. May 17, 2016); *Moda Health Plan, Inc. v. USA*, No. 1:16-cv-000649 (Fed. Cl. June 1, 2016); *Blue Cross and Blue Shield of North Carolina v. USA*, No. 1:16-cv-00651 (Fed. Cl. June 2, 2016); *Land of Lincoln Mutual Health Ins. Co. v. USA*, No. 1:16-cv-00744 (Fed. Cl. June 23, 2016); *Maine Comm. Health Options v. USA*, No. 1:16-cv-00967 (Fed. Cl. Aug. 9, 2016); *BCBSM, Inc. v. USA*, No. 1:16-cv-01253 (Fed. Cl. Oct. 3, 2016). Each of these cases disputes the government's failure to make risk corridors payments under the Affordable Care Act.

Dispositive motions have now been filed and are pending in all but two of the above-listed related cases. The outcome of these motions would potentially clarify and refine the issues in this case. For this reason, NMHC respectfully requests that this Court stay the proceedings until at least March 1, 2017 pending the outcome of dispositive motions in the above cases. NMHC has conferred with the United States Department of Justice, which does not oppose this motion. If this motion is granted, the parties will report to the Court 14 days in advance of the March 1, 2017 deadline and propose next steps, including whether to continue or lift the stay.

**WHEREFORE**, NMHC respectfully requests that the Court grant its unopposed motion to stay this action.

Dated: October 24, 2016

Respectfully submitted:

/s/ Barak A. Bassman

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**CERTIFICATE OF SERVICE**

I, Barak A. Bassman, hereby certify that on October 24, 2016, I caused a true and correct copy of the foregoing Unopposed Motion for Stay of Proceedings to be served via the Court's electronic filing system on Defendant's counsel, Serena M. Orloff.

*/s/ Barak A. Bassman* \_\_\_\_\_

Barak A. Bassman