

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUE CROSS AND BLUE SHIELD OF)	
ALABAMA,)	
)	No. 17-347C
Plaintiff,)	
v.)	Judge Ryan T. Holte
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

UNOPPOSED MOTION TO LIFT STAY AND ESTABLISH CERTAIN DEADLINES

Plaintiff Blue Cross and Blue Shield of Alabama (“BCBS-AL”) respectfully moves the Court to lift the stay in this case, suspend 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 BCBS-AL, and to extend the deadline for filing of the parties’ joint status report until May 29, 2020. The reasons for the granting of this motion are set forth below. Counsel for Defendant has authorized counsel for BCBS-AL to state that the United States does not oppose the grant of this motion.

By Order dated July 2, 2018, the Court stayed this matter until further order of the Court. The July 2 Order also directed the parties to file a joint status report within 30 days “after the judgments that issued in *Moda* and *Land of Lincoln* have become final and non-appealable.” ECF No. 20, 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 July 2 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. Plaintiff requests 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 BCBS-AL 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 Plaintiff 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, BCBS-AL intends to shortly 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 BCBS-AL's 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 BCBS-AL's First Amended Complaint within 14 days. Plaintiff requests 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, plaintiff requests that the Court lift the stay imposed in this matter by its Order dated July 2, 2018.

Dated: May 8, 2020

Respectfully Submitted:

/s/ Robert K. Huffman

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