

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUE CROSS AND BLUE SHIELD)	
OF VERMONT,)	
)	No. 18-241C
Plaintiff,)	
)	
v.)	Judge Victor J. Wolski
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

UNITED STATES' UNOPPOSED MOTION TO STAY PROCEEDINGS

The United States respectfully moves the Court to stay this action until the Federal Circuit issues a decision in *Land of Lincoln Mutual Health Insurance Company v. United States*, No. 17-1224, or *Moda Health Plan, Inc. v. United States*, No. 17-1994, which concern similar legal issues to those presented in this case. The court of appeals heard argument in both cases on January 10, 2018. The parties further request that the Court order the parties to file a joint status report within 14 days of a decision in *Land of Lincoln* or *Moda* advising the Court whether the parties contend that the stay should be lifted or continued. Blue Cross and Blue Shield of Vermont (BCBSVT) does not oppose this motion.

On February 15, 2018, BCBSVT filed suit seeking approximately \$11 million in money damages for benefit years 2015 and 2016 under the risk corridors program, 42 U.S.C. § 18062, created by the Patient Protection and Affordable Care Act. Dkt. 1. The United States' response to the Complaint is currently due April 16, 2018.

“It is well established that every trial court has the power to stay its proceedings, which is ‘incidental to the power inherent in every court to control the disposition of the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.’” *Freeman v.*

United States, 83 Fed. Cl. 530, 532 (2008) (citing *Landis v. North American Co.*, 299 U.S. 248, 254 (1936)). “Moreover, when and how to stay proceedings is within the sound discretion of the trial court.” *Id.* (citation and internal punctuation omitted).

Because this case raises similar legal issues to those before the Federal Circuit in *Land of Lincoln* and *Moda* and those raised in the other 40+ risk corridors cases before the Federal Circuit and the Court, the United States requests that this Court stay proceedings in this case.

Dated: March 1, 2018

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

RUTH A. HARVEY
Director
Commercial Litigation Branch

KIRK T. MANHARDT
Deputy Director

/s/ Marc S. Sacks
MARC S. SACKS
PHILLIP M. SELIGMAN
FRANCES M. MC LAUGHLIN
TERRANCE A. MEBANE
Commercial Litigation Branch
Civil Division
United States Department of Justice
P.O. Box 875
Ben Franklin Station
Washington D.C. 20044
Tel. (202) 307-1104
Fax (202) 514-9163
marcus.s.sacks@usdoj.gov

ATTORNEYS FOR THE UNITED
STATES