

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

SENDERO HEALTH PLANS, INC.)
Plaintiff,) No. 17-2048C
v.) Judge Griggsby
THE UNITED STATES,)
Defendant.)

)

PLAINTIFF'S MOTION FOR LEAVE TO FILE
FIRST AMENDED COMPLAINT

Pursuant to Rule 15(a) of the Rules of the United States Court of Federal Claims (“RCFC”), Plaintiff Sendero Health Plans, Inc. (“Sendero”) respectfully requests that the Court grant it leave to file a First Amended Complaint. Sendero has not previously amended its original Complaint. (Dkt. No. 1.) Defendant, the United States, does not take a position on this motion.

Sendero filed its original Complaint on December 27, 2017. The Court stayed this case on February 6, 2018, and the case remains stayed pending the Supreme Court of the United States’ decision in *Land of Lincoln Mutual Health Insurance Company v. United States*, No. 17-1224, and *Moda Health Plan, Inc. v. United States*, No. 17-1994. The Supreme Court has scheduled oral argument in those cases on December 10, 2019. In this case, the United States has not filed an answer or other responsive pleading.

RCFC 15(a)(1) states that a plaintiff may amend its Complaint as a matter of course within 21 days after service of a responsive pleading from the Government. Here, no

responsive pleading has yet been filed, and as a result, Sendero is entitled to amend at this time. Nevertheless, given the passage of time while this case has been stayed, Sendero respectfully requests the Court's leave to file the attached First Amended Complaint.

Further, RCFC 15(a)(2) states that the court should "freely give leave" to amend when justice so requires if amending before trial. Sendero's original Complaint includes claims for money damages arising out of the Government's failure make risk corridors payments to Sendero under Section 1342 of the Patient Protection and Affordable Care Act ("ACA"). The First Amended Complaint adds claims for money damages regarding the Government's failure to make cost-sharing reduction payments to Sendero under Section 1402 of the ACA. Said amendment is timely and will cause no prejudice to the Government, as it is being made before any response by the Government is due and while the case remains stayed.

Accordingly, Sendero respectfully requests that the Court grant it leave to file the attached First Amended Complaint. This case will remain stayed thereafter.

Dated: October 3, 2019

s/ William L. Roberts

William L. Roberts

william.roberts@FaegreBD.com

FAEGRE BAKER DANIELS LLP

2200 Wells Fargo Center

90 South Seventh Street

Minneapolis, MN 55402-3901

Telephone: (612) 766-7000

Fax: (612) 766-1600

*Counsel of Record for Plaintiff Sendero
Health Plans, Inc.*

Of Counsel

Jonathan W. Dettmann

jon.dettmann@FaegreBD.com

Nicholas J. Nelson

nicholas.nelson@FaegreBD.com

Evelyn Snyder

evelyn.snyder@FaegreBD.com

Elizabeth M.C. Scheibel

elizabeth.scheibel@faegrebd.com

FAEGRE BAKER DANIELS LLP

2200 Wells Fargo Center

90 South Seventh Street

Minneapolis, MN 55402-3901

Telephone: (612) 766-7000

Fax: (612) 766-1600

CERTIFICATE OF SERVICE

I hereby certify that on October 3, 2019, a copy of the foregoing Plaintiff's Motion for Leave to File First Amended Complaint was filed electronically with the Court's Electronic Case Filing (ECF) system. I understand that notice of this filing will be sent to all parties by operation of the Court's ECF system.

s/ William L. Roberts

William L. Roberts

Counsel for Plaintiff