

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MEMO ENDORSED

* * * * *

UNITEDHEALTHCARE OF
NEW YORK, INC.,

and

OXFORD HEALTH INSURANCE, INC.,

Plaintiffs,

v.

MARIA T. VULLO, in her official capacity as
Superintendent of Financial Services of the
State of New York,

Defendant.

* * * * *

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED
DOC #: _____
DATE FILED: 8/27/18

Civil Action
No. 1:17-cv-07694-JGK

**MOTION TO EXPEDITE BRIEFING AND DECISION ON
PLAINTIFFS’ MOTION FOR INJUNCTION PENDING APPEAL**

Plaintiffs UnitedHealthcare of New York, Inc. and Oxford Health Insurance, Inc. (hereinafter, “Plaintiffs”) respectfully request that the Court expedite briefing and, if held, oral argument on their Motion for Injunction Pending Appeal, filed concurrently herewith. Specifically, the Plaintiffs request that the Defendant’s Opposition to the motion be due in 12 days, on September 4, 2018, and that Plaintiffs reply be due 3 days later, on September 7, 2018. Plaintiffs further request that the Court issue a decision on Plaintiffs’ Motion for Injunction Pending Appeal (“Motion”) no later than September 15, 2018, and that if oral argument is to be held on the Motion, it be held on a date that would accommodate a decision by September 15, 2018.

In support of their request, Plaintiffs conferred with counsel for the Defendant, who do not consent to this motion

The standard briefing schedule for Plaintiffs' Motion would take over 3 weeks to complete, with the Defendant allowed 14 days to oppose the motion and the Plaintiffs permitted 7 days to submit their reply. Thus, briefing on the Motion would not be complete before September 14, 2018. Further, a standard schedule would require additional time for oral argument, if the Court elects to hold a hearing, and still more time for a decision.

Here, the parties require certainty on the Motion no later than September 15, 2018. A decision by September 15, 2018, will provide Plaintiffs with sufficient time, should the Court deny the Motion, to seek an injunction pending appeal from the Second Circuit, in advance of Plaintiffs' anticipated obligation to make payment on a risk adjustment invoice from Defendant. As discussed in Plaintiffs' July 25, 2018 letter to the Court, *see* Dkt. 64, and in their Motion for Injunction Pending Appeal, it is likely that, absent an injunction pending appeal, Plaintiffs will be obliged to make a \$65 million payment to the New York Department of Financial Services sometime in October, and that they would suffer irreparable injury because they would be unable to pursue in federal court an action to recover those moneys. Thus, if a decision on Plaintiffs' Motion by this Court were not forthcoming by the middle of September, there could well be insufficient time to move the Second Circuit for relief.

The Defendant is in no way prejudiced by the proposed schedule, as her opposing brief on the Motion would become due only 2 days earlier than the due date that would otherwise apply. For these reasons, Plaintiffs respectfully request that the Court grant their motion to expedite briefing and decision on the Motion. A proposed order is submitted herewith.

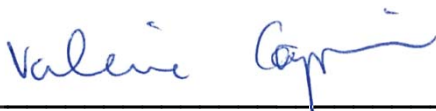
Dated: August 23, 2018

/s/ Steven J. Rosenbaum

Steven J. Rosenbaum
Jon-Michael Dougherty

COVINGTON & BURLING LLP
One City Center
850 Tenth Street N.W.
Washington, DC 20001-4956
Tel: (202) 662-6000
Fax: (202) 662-6291
srosenbaum@cov.com
jdougherty@cov.com
Attorneys for Plaintiffs

APPLICATION DENIED. The Court
will decide the motion for a
stay promptly after being
fully briefed. SO ORDERED.



Hon. Valerie E. Caproni
United States District Judge
Part I
August 27, 2018