

In the United States Court of Federal Claims

)	
MONTANA HEALTH CO-OP,)	No. 18-143C
)	(Filed: March 27, 2018)
Plaintiff,)	
)	
v.)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

ORDER

In this case, Plaintiff alleges, inter alia, that the government has failed to comply with a mandatory payment obligation as set out in § 1402 of the Patient Protection and Affordable Care Act (ACA), known as a cost sharing reduction payment. Compl. at 1, ECF No. 1. On March 22, 2018, the government moved to stay proceedings in this case pending a decision by the Court of Appeals for the Federal Circuit in either Land of Lincoln Mutual Health Insurance Company v. United States or Moda Health Plan, Inc. v. United States. ECF No. 6. Alternatively, the government requested a sixty day enlargement of time to answer Plaintiff’s complaint. On March 23, 2018, the Court issued an order granting the government’s motion, but it was unfortunately unclear as to which of the government’s requested alternatives was being granted. ECF No. 7. The government has now filed a motion for clarification. ECF No. 8.

Section 1402 cost sharing reduction payments are not at issue in either Land of Lincoln or Moda Health Plan; rather, both of those cases involve risk corridor payments under § 1342 of the ACA. See Moda Health Plan, Inc., 130 Fed. Cl. 436, 441–42, appeal docketed, No. 17-1994

(Fed. Cir. May 9, 2017).¹ The government nevertheless argues that the proceedings in this case should be stayed because there are similar legal issues and any decision from the Federal Circuit will provide guidance here. Plaintiff opposes a stay in this case but does not oppose the government's alternative request for an extension of time in which to answer the complaint.

After further review and consideration of the government's motion, the Court concludes that because of the different legal issues in the cases and the length of time since the court of appeals heard oral argument, a stay is not warranted. Accordingly, the Court **VACATES** its March 23, 2018 Order and the stay in this case. The government's motion for a stay or in the alternative for an extension of time in which to answer the complaint (ECF No. 6) is **DENIED-IN-PART** and **GRANTED-IN-PART** and the government shall file its answer to Plaintiff's complaint on or before **June 1, 2018**. The government's motion for clarification is **DENIED** as moot.

IT IS SO ORDERED.

s/ Elaine D. Kaplan
ELAINE D. KAPLAN
Judge

¹ Oral argument before the Federal Circuit took place in both cases on January 10, 2018. See Docket, Moda Health Plan, Inc., No. 17-1994; Docket, Land of Lincoln Mutual Health Ins. Co., No. 17-1224.