

In the United States Court of Federal Claims

BLUE CROSS AND BLUE SHIELD OF NORTH CAROLINA,)	
)	
Plaintiff,)	No. 16-651C
)	Filed: February 13, 2017
v.)	
)	
THE UNITED STATES,)	
)	
Defendant.)	

SCHEDULING ORDER

The Court has determined that supplemental briefing on the government’s motion to dismiss is warranted in the above-captioned matter. The parties shall **FILE** supplemental briefs that state their views on the following issues:

1. Whether the purpose of the risk corridor program may only be fulfilled by the full, annual payment of risk corridor payments;
2. Whether the United States Department of Health and Human Service’s (“HHS”) proposed rule dated March 23, 2012, at 77 Fed. Reg. 17220-01, 17238, 2012 WL 959270 (Mar. 23, 2012), requires that HHS provide full, annual payment of the risk corridor payments;
3. Whether the Court should dismiss Count I of the complaint pursuant to Rule 12(b)(6) of the Rules of the United States Court of Federal Claims (“RCFC”), if the Court concludes that plaintiff is not entitled to “presently due money damages” under Section 1342 of the Patient Protection and Affordable Care Act (“ACA”); and
4. Whether the Court should dismiss Counts II-IV of the complaint, pursuant to RCFC 12(b)(6), if the Court concludes that plaintiff is not entitled to “presently due money damages” under Section 1342 of the ACA.

It is further **ORDERED** that:

1. The parties shall **FILE** their initial supplemental briefs on or before **March 3, 2017**;

2. The parties shall **FILE** their responsive supplemental briefs on or before **March 17, 2017**; and
3. The parties shall **FILE** a joint status report, on or before **March 3, 2017**, stating whether they are available to participate in oral argument on the government's motion to dismiss on **April 3-5**, or **April 10-13, 2017**.

IT IS SO ORDERED.

s/ Lydia Kay Griggsby _____
LYDIA KAY GRIGGSBY
Judge