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8
 9 IN THE UNITED STATES DISTRICT COURT
 10 FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 **THE STATE OF CALIFORNIA; THE**
 12 **STATE OF CONNECTICUT; THE STATE**
 13 **OF DELAWARE; THE DISTRICT OF**
 14 **COLUMBIA; THE STATE OF ILLINOIS;**
 15 **THE STATE OF IOWA; THE**
 16 **COMMONWEALTH OF KENTUCKY;**
 17 **THE STATE OF MARYLAND; THE**
 18 **COMMONWEALTH OF**
 19 **MASSACHUSETTS; THE STATE OF**
 20 **MINNESOTA; THE STATE OF NEW**
 21 **MEXICO; THE STATE OF NEW YORK;**
 22 **THE STATE OF NORTH CAROLINA; THE**
 23 **STATE OF OREGON; THE**
 24 **COMMONWEALTH OF PENNSYLVANIA;**
 25 **THE STATE OF RHODE ISLAND; THE**
 26 **STATE OF VERMONT; THE**
 27 **COMMONWEALTH OF VIRGINIA; and**
 28 **THE STATE OF WASHINGTON,**

Plaintiffs,

v.

22 **DONALD J. TRUMP, President of the United**
 23 **States; ERIC D. HARGAN, Acting Secretary**
 24 **of the United States Department of Health**
 25 **and Human Services; UNITED STATES**
 26 **DEPARTMENT OF HEALTH AND**
 27 **HUMAN SERVICES; STEVEN T.**
 28 **MNUCHIN, Secretary of the United States**
Department of the Treasury; UNITED
STATES DEPARTMENT OF THE
TREASURY; and DOES 1-20,

Defendants.

Case No. 4:17-cv-05895-KAW

DECLARATION OF ALLISON
O'TOOLE, CEO, MNSURE, ISO
PLAINTIFFS' APPLICATION FOR A
TEMPORARY RESTRAINING ORDER
AND ORDER TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION SHOULD
NOT ISSUE

1 Allison O'Toole declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the
2 following is true and correct:

3 1. I make the following declaration based on first hand personal knowledge and am
4 competent to testify to the facts set forth herein.

5 2. I am the chief executive officer of MNsure, Minnesota's health insurance
6 marketplace established pursuant to the Patient Protection and Affordable Care Act ("ACA"), 42
7 U.S.C. §§ 18031, 18041, and Minnesota law, Minnesota Statutes chapter 62V. I have held this
8 position since November 18, 2015. Before that I served as both MNsure's interim CEO and deputy
9 director for external affairs.

10 3. MNsure was enacted by the Minnesota legislature in 2013, pursuant to the ACA.
11 MNsure allows Minnesota residents to shop and compare health plans, get free in-person
12 enrollment help, find out if they qualify for tax credits or public health programs, and enroll in a
13 health insurance plan. MNsure is governed by a seven-member board of directors.

14 4. As of October 15, 2017, 130,272 Minnesota residents had enrolled in private health
15 plans offered in MNsure's marketplace for coverage in 2017.

16 5. The ACA contains provisions designed to make health insurance coverage
17 purchased through state exchanges, like MNsure, more affordable for enrollees. Primarily this is
18 accomplished by the federal government providing advanced premium tax credits to reduce
19 premiums and payments to insurers equal to the value of cost-sharing reductions provided to
20 enrollees in state exchanges like MNsure's marketplace.

21 6. Cost-sharing reductions help reduce eligible MNsure enrollees' out-of-pocket costs
22 associated with their private health insurance, such as deductibles, co-payments, and co-insurance.
23 For a MNsure enrollee to be eligible for cost-sharing reductions, he or she must have an income
24 within 201 to 250 percent of the federal poverty guidelines and be enrolled in a MNsure silver-level
25 plan. MNsure enrollees who are members of a federally recognized American Indian tribe may
26 qualify for additional cost-sharing reductions and do not need to enroll in a silver-level plan in order
27 to receive these reductions.


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1 7. Enrollees eligible for cost-sharing reductions automatically receive reduced cost-
2 sharing charges from their insurer, such as lower deductibles or co-payments. 42 U.S.C. §
3 18071(a)(2). The ACA then requires the Secretary of Health and Human Services to “make
4 periodic and timely payments to the [insurer] equal to the value of the reductions.” §
5 18071(c)(3)(A).

6 8. MNSure enrollment data shows that in 2016, more than 9,200 enrollees received
7 cost-sharing reductions. MNSure enrollment data also shows that, as of October 15, 2017, 10,917
8 Minnesota residents were enrolled in a MNSure private health plan (for coverage in 2017) with
9 cost-sharing reductions.

10 9. Minnesota residents will begin enrolling in health insurance coverage through
11 MNSure beginning November 1, 2017, for Plan Year 2018. The Administration’s actions to
12 terminate cost-sharing reduction payments adversely affect Minnesota residents who enroll in an
13 individual market health plan for 2018 through MNSure. The Administration’s announcement that
14 it will cease paying cost-sharing reduction payments to insurers, as well as the timing of the
15 decision, also undermines individual market stability and hinders enrollment.

16 Dated: October 17, 2017



Allison O’Toole, MNSure CEO