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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. 3:17-cv-05895-KAW

**DECLARATION OF JAMES
DEBENEDETTI ISO PLAINTIFFS'
APPLICATION FOR A TEMPORARY
RESTRAINING ORDER AND ORDER
TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION SHOULD
NOT ISSUE**

1 I, James DeBenedetti, do hereby declare:

2 1. I am the Director of the Plan Management Division for Covered
3 California, California's Health Benefit Exchange. I have worked for Covered
4 California for two-and-a-half years. The facts stated herein are of my own personal
5 knowledge, and I could and would competently testify to them.

6 2. As Covered California's Director of the Plan Management Division, I
7 am responsible for overseeing all the work undertaken with Covered California's
8 contracted health plan issuers, including annual rate negotiations, patient centered
9 benefit design modeling, cost, quality, and accessibility of healthcare delivered to
10 Covered California's consumers.

11 3. On May 1, 2017, insurers filed their initial proposed Qualified Health
12 Plans for the 2018 Plan Year.

13 4. On June 6, 2017, given the uncertainty in federal policy regarding
14 funding of Cost Sharing Reduction payments, Covered California directed insurers
15 to submit an additional set of proposed premium rates prior to negotiations that
16 assumed Cost Sharing Reduction payments would not continue in the 2018 Plan
17 Year.

18 5. Covered California conducted rate negotiations from June 19 through
19 June 26, 2017.

20 6. Between July 5, and July 19, 2017, Covered California conducted its
21 rate review of both sets of post-negotiation premium rates

22 7. On August 1, 2017, Covered California publicly announced the
23 proposed rate increases for the 2018 plan year for both sets of rates.

24 8. On August 15, 2017, Covered California received Board approval to
25 amend its contracts with its health plans to permit rate adjustments in future years
26 to account for unanticipated losses or profits resulting from the uncertainty of cost-
27
28

1 sharing reduction payments.

2 9. On October 11, 2017, Covered California finalized the additional set
3 of rates that assumed the Cost Sharing Reduction payments would not be made in
4 the 2018 plan year.

5 10. Covered California's contracted health plan issuers, in keeping with
6 federal guidance and regulation on Cost Sharing reconciliation requirements,
7 receive monthly advance payment of Cost Sharing Reductions, which is subject to
8 reconciliation. Upon reconciliation, issuers that incur charges for excess amounts
9 paid to them are subject to netting as appropriate in the next closest monthly
10 payment cycle.

11 11. Covered California contracted health plan issuers would be subject to
12 the advance payment of Cost Sharing reductions and the subsequent reconciliation
13 of these payments, were Cost Sharing Reductions payments to be reinstated. In the
14 2018 plan year, were Covered California not able to reinstate the lower premium
15 rates initially proposed, issuers would be subject to reconciliation of Cost Sharing
16 Reduction payments that would cover all or most of the advance payment made.
17

18
19 I declare under the penalty of perjury under the law of the United States that
20 the foregoing is true and correct, and that this declaration was executed on October
21 20, 2017, at Sacramento, California.
22

23 
24 _____
James DeBenedetti