

In the United States Court of Federal Claims

_____)	
BLUE CROSS AND BLUE SHIELD OF)	
NORTH CAROLINA,)	
)	
Plaintiff,)	No. 16-651C
)	
v.)	Filed: March 24, 2017
)	
THE UNITED STATES,)	
)	
Defendant.)	
_____)	

SCHEDULING ORDER

On February 22, 2017, the Court scheduled oral argument on the government’s motion to dismiss, to be held on **Tuesday, April 11, 2017, at 11:00 a.m. Eastern Time**, at the Howard T. Markey National Courts Building, 717 Madison Place, NW, Washington, DC. The parties shall adhere to the following time allocations for the oral argument:

1. Opening Arguments for plaintiff and defendant, 30 minutes each;
2. Responses for plaintiff and defendant, 20 minutes each; and
3. Rebuttal, if any, for plaintiff and defendant, 10 minutes each.

In addition, the parties shall be prepared to discuss the following issues in their presentations:

1. Whether pro rata Risk Corridors Program Payments are sufficient to satisfy the goals of the Risk Corridors Program described in 42 U.S.C. § 18062 (2010);
2. Whether the statements and conduct relied upon by plaintiff are sufficient to establish the formation of an implied-in-fact contract arising under 42 U.S.C. § 18062, in light of *Brooks v. Dunlop Mfg. Inc.*, 702 F.3d 624 (Fed. Cir. 2012), and *New York Airways, Inc. v. United States*, 369 F.2d 743 (Ct. Cl. 1966); and
3. Whether the Court must reach the question of whether the government may limit the Risk Corridors Program Payments to collections received under the program, if the

Court concludes that there is no obligation on the part of the government to make full, annual Risk Corridors Program Payments.

IT IS SO ORDERED.

s/ Lydia Kay Griggsby
LYDIA KAY GRIGGSBY
Judge