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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION**

THE STATE OF CALIFORNIA; THE STATE OF CONNECTICUT; THE STATE OF DELAWARE; THE DISTRICT OF COLUMBIA; THE STATE OF ILLINOIS; THE STATE OF IOWA; THE COMMONWEALTH OF KENTUCKY; THE STATE OF MARYLAND; THE COMMONWEALTH OF MASSACHUSETTS; THE STATE OF MINNESOTA; THE STATE OF NEW MEXICO; THE STATE OF NEW YORK; THE STATE OF NORTH CAROLINA; THE STATE OF OREGON; THE COMMONWEALTH OF PENNSYLVANIA; THE STATE OF RHODE ISLAND; THE STATE OF VERMONT; THE COMMONWEALTH OF VIRGINIA; and THE STATE OF WASHINGTON,

Plaintiffs,

v.

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

Defendants.

NO. 4:17-cv-05895-KEW

DECLARATION OF SHEILA A. SCHROER, Executive Director, Actuarial Services, Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.

1 I, Sheila A. Schroer, declare as follows:

- 2 1. I am over the age of 18 years of age, have personal knowledge of all facts and
3 matters herein, and am competent to testify to the matters below.
- 4 2. I am the Executive Director, Actuarial Services for Kaiser Foundation Health
5 Plan of the Mid-Atlantic States, Inc. (“KPMAS”), where my responsibilities
6 include decision-making regarding KPMAS’ rate filings with the Maryland
7 Office of the Insurance Commissioner and the incorporation of Cost-Sharing
8 Reduction (CSR) payments into rate-setting.
- 9 3. Kaiser Permanente is an integrated health system that provides care and
10 coverage for nearly 12 million members in eight states and the District of
11 Columbia. Each day, more than 200,000 dedicated employees and
12 approximately 22,000 Permanente Medical Group physicians come to work at
13 Kaiser Permanente to care for our members and deliver on our commitment to
14 improving the health of the 65 million people living in the communities we
15 serve.
- 16 4. In the State of Maryland, KPMAS has approximately 389,000 members, who
17 are served by approximately 6,100 employees and physicians located in that
18 jurisdiction. KPMAS participated in the individual market before the
19 Affordable Care Act (“ACA”) took effect – and we continue to do so.
20 Approximately 92,000 of our over 700,000 members receive coverage and care
21 from Kaiser Permanente through the ACA’s health insurance exchanges, over
22 44,000 of them in the State of Maryland.
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1 5. Political, regulatory, and financial uncertainty has driven higher premiums and
2 fewer choices for consumers. Kaiser Permanente expects the President's
3 decision to stop Cost-Sharing Reduction (CSR) payments will contribute to the
4 destabilization of the market, leading to higher premiums and further threaten or
5 impair consumer choice.

6
7 6. The ACA requires any health plan issuer that participates on the Exchange to
8 offer at least one Silver and one Gold plan. When an issuer offers a Silver plan,
9 the ACA also requires that three Silver plan variations also be offered. These are
10 the plans in which individuals entitled to a CSR subsidy are enrolled.
11 Consequently, any issuer that participates in the Exchange must offer at least one
12 set of these Silver plan variations for which CSR payments will be received.

13
14 7. CSR payments are an important subsidy, provided by the ACA, to help low-
15 income people manage deductibles and out-of-pocket costs. The law requires
16 health plans to offer Silver plan coverage to individuals with incomes up to
17 250% of the federal poverty level with discounted out-of-pocket costs (co-
18 payments and co-insurance) and deductibles. In turn, the ACA directs the
19 federal government to make CSR payments to the health plan issuers to support
20 the mandated reduced rates.

21
22 8. In the State of Maryland, KPMAS has over 36,000 members enrolled in on-
23 exchange Silver Plans and, of that number, over 31,000 members are enrolled in
24 on-exchange Silver Plans supported by CSR payments.

1 9. KPMAS estimated that it will receive CSR payments of \$24,000,000 in 2018
2 for members in the State of Maryland.

3 10. In the event the 2018 CSR payments are not made, KPMAS expects that it will
4 need to raise premiums to cover the expected payments from the federal
5 government to support low income members.

6 11. Because of the uncertainty over whether the federal government would make
7 CSR payments, KPMAS has identified two sets of rates for 2018 – what we
8 would charge consumers if the CSR payments are made and what we would
9 charge if the CSR payments are not made.

10 12. The average 2018 rate increase for a KPMAS member on a Silver Plan if CSR
11 payments are continued is 23%.

12 13. The average 2018 rate increase for a KPMAS member on a Silver Plan if CSR
13 payments are not made is 40%.

14 14. Prior to CMS' notice to issuers ceasing payment of CSR subsidies, we had been
15 directed to file rates reflecting CSR payments as described in paragraph 12.
16 After the announcement that CSR subsidies would not be provided, we received
17 regulatory permission to file the higher Silver Plan premium (as described in
18 paragraph 13), and we anticipate that those rates will be presented at Open
19 Enrollment for 2018.

20 15. The ACA requires that the same rates be charged for the same plans when they
21 are offered both through the Exchange and outside the Exchange. Raising the
22 rates for Silver plans offered through the Exchange, therefore, will increase the
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1 rates charged for individuals who are enrolled outside the Exchange in Silver
2 Plans and who do not receive any federal subsidy to defray the cost of their
3 coverage and/or care. In total, almost 39,000 members will be affected by the
4 rate increases due to lack of CSR payments.

5
6 16. Due to late timing of the events described above, we must manage considerable
7 administrative difficulties and expenses, including:

- 8 a. Developing and refiling rates to eliminate CSR payment assumptions;
- 9 b. Delaying renewal notices and/or having to send renewal notice corrections;
- 10 c. Updating multiple internal and external rating systems;
- 11 d. Updating materials with revised rates;
- 12 e. Potential delay for sales systems and a risk that systems will be unavailable
13 in time for the beginning of Open Enrollment on November 1, 2017; and
- 14 f. Preparing for expected challenges with high call volumes and upset
15 customers during the Open Enrollment due to confusion and high rate
16 increases.
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18 17. KPMAS will continue to work in partnership with the state legislature and
19 Insurance Commissioner Alfred W. Redmer, Jr. to find ways to provide high-
20 quality, affordable health care in the State of Maryland.
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1 I affirm under penalty of perjury that the foregoing is true and correct to the best of my
2 knowledge and belief.

3 DATED this 17th day of October 2017, at Rockville, Maryland.
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7 Sheila A. Schroer
8 Executive Director, Actuarial Services
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