

**In the United States Court of Federal Claims**

No. 18-334C

(E-Filed: March 14, 2019)

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HEALTH ALLIANCE MEDICAL	)
PLANS, INC.,	)
	)
Plaintiff,	)
	)
v.	)
	)
THE UNITED STATES,	)
	)
Defendant.	)
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ORDER

The court has before it the parties’ dispositive motions, which are fully briefed. Plaintiff filed its summary judgment motion on July 13, 2018, see ECF No. 10, along with its statement of uncontroverted facts, see ECF No. 11. The government filed its cross-motion to dismiss and response brief on September 14, 2018, see ECF No. 13, along with its response to plaintiff’s statement of proposed uncontroverted facts, see ECF No. 14. Plaintiff filed its response/reply brief on October 12, 2018, see ECF No. 15, which was followed by the filing of defendant’s reply brief on October 26, 2018, see ECF No. 16.

Earlier in this litigation, the government notified the court that a number of similar cases were pending before other judges of this court. See ECF No. 6 at 2-3 (motion for a stay or an enlargement of time). The common issue in these cases, according to defendant, is the plaintiffs’ assertion that they are due “cost-sharing reduction [CSR] payments despite a lack of appropriations by Congress.” Id. at 2. According to defendant’s reckoning, there were nine CSR matters pending before the court as of April 24, 2018. Id. at 5.

Six opinions have now issued in CSR matters before this court. See Cmty. Health Choice, Inc. v. United States, No. 18-5C, 2019 WL 643011 (Fed. Cl. Feb. 15, 2019), appeal docketed, No. 19-1633 (Fed. Cir. Mar. 8, 2019); Maine Cmty. Health Options v.

United States, No. 17-2057C, 2019 WL 642968 (Fed. Cl. Feb. 15, 2019); Common Ground Healthcare Coop. v. United States, No. 17-877C, 2019 WL 642892 (Fed. Cl. Feb. 15, 2019); Local Initiative Health Auth. for L.A. Cty. v. United States, No. 17-1542C, 2019 WL 625446 (Fed. Cl. Feb. 14, 2019); Sanford Health Plan v. United States, 139 Fed. Cl. 701 (2018), appeal docketed, No. 19-1290 (Fed. Cir. Dec. 11, 2018); Montana Health Co-op v. United States, 139 Fed. Cl. 213 (2018), appeal docketed, No. 19-1302 (Fed. Cir. Dec. 12, 2018). The court cannot ignore the body of precedent that these other CSR decisions provide.

In the four briefs currently before the court, the reasoning of the decisions in these other six CSR matters is not addressed except in the most minimal fashion. Because a substantial body of supplemental authority is now available to the parties, the court views the briefs before it as incomplete. Before the court can rule on the issues presented in the parties' dispositive motions, the court requires supplemental briefing to address the supplemental authority cited in this order.

The court is also mindful of the appeals currently before the Federal Circuit and does not wish the parties to expend resources unnecessarily. The court notes, in this regard, that the Federal Circuit's decision in Land of Lincoln Mutual Health Insurance Co. v. United States, 892 F.3d 1184 (Fed. Cir. 2018), petition for cert. filed, 87 U.S.L.W. 3332 (U.S. Feb. 4, 2019), is the subject of a petition for certiorari. In these circumstances, should the parties agree that a stay of proceedings might conserve their resources, the court would consider a stay as an alternative to supplemental briefing, but only if the parties were in agreement as to this alternative.

Accordingly, on or before **March 28, 2019**, the parties shall **FILE a joint status report** setting forth either a proposed schedule for supplemental briefing regarding the supplemental authority provided by the six CSR decisions cited in this order, or a joint request for a stay of proceedings in this matter.

IT IS SO ORDERED.

s/Patricia E. Campbell-Smith

PATRICIA E. CAMPBELL-SMITH

Judge