

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

ALLIANT HEALTH PLANS, INC.)	
)	
)	
Plaintiff,)	
)	
v.)	No. 16-1491 C
)	Judge Braden
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
_____)	

**JOINT STATUS REPORT AND REQUEST TO CONTINUE
STAY OF PROCEEDINGS**

On December 14, 2016, the Court stayed this case pending the resolution of the appeal in *Land of Lincoln Mutual Health Insurance Company v. United States*, No. 17-1224. Dkt. 7. Since the Court’s stay order, the Federal Circuit ordered Land of Lincoln’s appeal to be considered a companion case to *Moda Health Plan, Inc. v. United States*, No. 17-1994, and that the two cases be assigned the same merits panel. *See Land of Lincoln Mut. Health Ins. Co. v. United States*, No. 17-1224 (Fed. Cir.) [ECF No. 140]. On June 14, 2018, the Federal Circuit decided *Land of Lincoln* and *Moda*. No. 17-1224, Dkt. 166-1; No. 17-1994, Dkt. 87-1. Pursuant to this Court’s September 4, 2018 Order (Dkt. 8), the parties submit this report to ensure the Court is informed of these developments and the parties’ desire to continue the stay in this case until the decisions in *Land of Lincoln* and *Moda* are no longer reviewable.

The Federal Circuit reversed the judgment in the insurer’s favor in *Moda* and affirmed the judgment in favor of the United States in *Land of Lincoln*. The Federal Circuit rejected the insurers’ claims for additional payments under the risk corridors program based upon statutory, contract, and takings theories. *Moda*, No. 17-1994, Dkt. 87-1 at 35;

Land of Lincoln, No. 17-1224, Dkt. 166-1 at 3. Plaintiff's Complaint asserts theories similar to those considered in the *Land of Lincoln* and *Moda* appeals. Plaintiff's Complaint also asserts an alternative claim, for violation of a statutory and regulatory mandate by using calendar year 2015 funds to pay calendar year 2014 obligations, which, in Plaintiff's view, is not similar to those considered in the *Land of Lincoln* and *Moda* appeals.

Both *Moda* and *Land of Lincoln* have filed petitions for rehearing en banc. Two additional insurers maintaining companion cases, which were assigned to the same merits panel as *Moda* and *Land of Lincoln*, have also filed for rehearing en banc after they moved for and consented to the entry of judgments pursuant to *Land of Lincoln* and *Moda*. The Government responded to these en banc petitions on August 31, 2018. In light of these developments, approximately fifty related cases remain stayed in the Court of Federal Claims.

In order to conserve the resources of the parties and this Court, the parties respectfully request that the Court continue the stay in this case until the Federal Circuit has issued its mandates in *Moda* and *Land of Lincoln* and through the time for the disposition of any petition for a writ of certiorari that may be filed before the United States Supreme Court. The parties propose that they be required to file a status report with this Court within 30 days after the judgments in *Moda* and *Land of Lincoln* have become final and no further review is available.

Dated: September 19, 2018

Respectfully submitted,

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