

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUECROSS AND BLUESHIELD)	
OF TENNESSEE, INC.)	
)	
Plaintiff,)	No. 17-348-MBH
)	
v.)	
)	Judge Marian B. Horn
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
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JOINT STATUS REPORT AND REQUEST TO CONTINUE STAY OF PROCEEDINGS

On May 1, 2018, the Court stayed this case pending the Federal Circuit’s decisions in *Land of Lincoln Mutual Health Insurance Company v. United States*, No. 17-1224, and *Moda Health Plan, Inc. v. United States*, No. 17-1994. Dkt. 16. The Court required the parties to submit a status report no later than October 1, 2018. Dkt. 16. 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.

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. It is defendant’s position that the Federal Circuit’s rulings govern this case and warrant judgment for the United States. However, plaintiffs have requested that the United States consent to the continuation of the stay now in effect through the time provided in the appellate court’s rules for the filing of a petition for rehearing and/or rehearing en banc, Fed. Cir. R. 35, 40, and through the resolution of any petition for a writ of certiorari.

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 non-appealable.

Dated: June 26, 2018

Respectfully submitted,

CHAD A. READLER
Acting Assistant Attorney General

RUTH A. HARVEY
Director
Commercial Litigation Branch

KIRK T. MANHARDT
Deputy Director

/s/ Phillip M. Seligman
PHILLIP M. SELIGMAN
MARC S. SACKS
FRANCES M. MCLAUGHLIN
L. MISHA PREHEIM
TERRANCE A. MEBANE
SHANE HUANG
Commercial Litigation Branch
Civil Division
United States Department of Justice
P.O. Box 875
Ben Franklin Station
Washington D.C. 20044
Tel. (202) 307-1105
Fax (202) 307-0494
Phillip.seligman@udoj.gov

ATTORNEYS FOR THE UNITED
STATES

Of Counsel:

Robert K. Huffman
AKIN GUMP STRAUSS HAUER & FELD
LLP
1333 New Hampshire Avenue, NW
Washington, D.C. 20036
Email: rhuffman@akingump.com
Tel: (202) 887-4000
Fax: (202) 887-4288

/s/ Leslie B. Kiernan
Leslie B. Kiernan
AKIN GUMP STRAUSS HAUER &
FELD LLP
1333 New Hampshire Avenue, NW
Washington, D.C. 20036
Email: lkiernan@akingump.com
Tel: (202) 887-4000
Fax: (202) 887-4288

*Counsel for BlueCross BlueShield of
Tennessee, Inc.*