

In the United States Court of Federal Claims

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NANCY G. ATKINS, in her capacity as)		
Liquidator of Kentucky Health Cooperative,)		
Inc.)		
)		
Plaintiff,)	No. 17-906C	
)	(Filed: September 11, 2017)	
v.)		
)		
THE UNITED STATES OF AMERICA,)		
)		
Defendant.)		
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ORDER

Plaintiff Nancy G. Atkins, in her capacity as Liquidator of Kentucky Health Cooperative, Inc. (Kentucky Health), filed this action on July 6, 2017. Compl., ECF No. 1. Kentucky Health seeks damages based on the government’s alleged breach of its obligations under the Affordable Care Act’s risk corridors program. See id. at 1.

More than twenty similar cases have already been filed in the Court of Federal Claims. See The United States’ Mot. to Stay Proceedings or In the Alternative, For and Enlargement of Time (Def.’s Mot.) at 2–3 (listing cases). Several decisions have been rendered in these cases, and a number of appeals have been taken. See id. at 3–4. The Federal Circuit has decided to treat two of these appeals as companion cases. See Order at 3, Land of Lincoln Mutual Health Ins. Co. v. United States, No. 2017-1224 (Fed. Cir. May 30, 2017), ECF No. 140; see also Order, Moda Health Plan, Inc. v. United States, No. 2017-1994 (Fed. Cir. May 30, 2017), ECF No. 13. Briefing in the companion cases was set to be completed by September 5, 2017. See Def.’s Mot. at 3.

The government has moved to stay this case pending the Federal Circuit’s decision in Land of Lincoln. Id. at 1. It claims that Land of Lincoln “will likely . . . dispose of all issues in this case” and therefore that a stay “will conserve judicial resources and streamline consideration of any issues that might remain to be decided here.” Id. In the alternative, the government requests an enlargement of time through December 20, 2017, in which to respond to Kentucky Health’s motion for summary judgment, filed July 26, 2017. Id. at 2. Kentucky Health opposes the motion. ECF No. 9.

The Court’s power to stay a case “springs from [its] the inherent authority . . . to control the disposition of its cases,” and “[w]hen and how to stay proceedings is within the sound

discretion of the trial court.” Cherokee Nation of Okla. v. United States, 124 F.3d 1413, 1416 (Fed. Cir. 1997). Having carefully considered this parties’ positions, the Court concludes that a stay is unwarranted here. Further, the Court deems the government’s request for an enlargement of time until December 20, 2017 excessive under the circumstances. Accordingly the government shall file its response to Kentucky Health’s motion for summary judgment by **October 10, 2017**.

IT IS SO ORDERED.

s/ Elaine D. Kaplan

ELAINE D. KAPLAN
Judge