

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

RAYMOND G. FARMER, in his capacity	:	
As Liquidator of Consumers' Choice	:	No. 18-1484C
Health Insurance Company, et al.,	:	
	:	Judge Campbell-Smith
Plaintiffs,	:	
	:	
v.	:	
	:	
THE UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

JOINT STATUS REPORT

The parties submit this Joint Status Report pursuant to the Court's October 31, 2019 Opinion, Docket No. 14, staying the pending claims and ordering the parties to report to the Court within 45 days of the issuance of a decision by the Supreme Court in *Land of Lincoln Mutual Insurance Co. v. United States*, No. 18-1038 and *Moda Health Plan, Inc. v. United States*, No. 18-1028, consolidated under *Maine Community Health Options v. United States*, No. 18-1023.¹ On April 27, 2020, the Supreme Court issued its decision. *Maine Community Health Options*, 140 S. Ct. 1308 (2020). The Supreme Court held that the risk corridors statute, section 1342 of the Patient Protection and Affordable Care Act, "created an obligation neither contingent on nor limited by the availability of appropriations or other funds," that the obligation was not affected by subsequently enacted legislation, and that the "petitioners may seek to collect payment through a damages action in the Court of Federal Claims." *Maine Community Health Options*, 140 S. Ct. 1308, 1331-23 (2020).

¹ The Court previously dismissed claims VII-IX, Docket No. 14, and the Plaintiffs have appealed that dismissal to the Court of Appeals for the Federal Circuit, *Farmer v. United States*, Case No. 20-1359.

The Supreme Court decision has prompted the parties to engage in discussions to consensually resolve this case, as well as Plaintiffs' separate suit asserting claims under section 1342, *Farmer v. United States*, Case No. 17-363C. Accordingly, the parties request that the Court permit an additional 60 days to continue these discussions. Within the requested 60 days, the Court could allow the Plaintiffs the opportunity to refine or update their claim for damages whether through formal amendment of their complaint or through less formal means.

The United States also requests that, in the interest of efficiency, the Court defer any obligations of the government to respond to the Complaint or an amended complaint until the end of the requested 60-day period. Plaintiffs do not oppose this request.

Respectfully submitted,

JOSEPH H. HUNT
Assistant Attorney General

RUTH A. HARVEY
Director, Commercial Litigation Branch

KIRK T. MANHARDT
Deputy Director

/s/ Thad H. Westbrook
C. Mitchell Brown
Thad H. Westbrook
Miles Coleman
NELSON MULLINS RILEY &
SCARBOROUGH LLP
1320 Main Street, 17th Floor
Post Office Box 11070 (29211-1070)
Columbia, SC 29201
Telephone: (803) 799-2000
Mitch.Brown@nelsonmullins.com
Thad.Westbrook@nelsonmullins.com

*Counsel for Plaintiff Raymond G. Farmer, in
his capacity as Liquidator of Consumers'
Choice Health Insurance Company*

/s/ Terrance A. Mebane
TERRANCE A. MEBANE
CHRISTOPHER VANDEUSEN
United States Department of Justice
Civil Division, Commercial Litigation Branch
Telephone: (202) 307-0493
Terrance.A.Mebane@usdoj.gov

Counsel for the United States of America