

In the United States Court of Federal Claims

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HARVARD PILGRIM HEALTH CARE,))	
INC., ET. AL.,))	
))	
Plaintiff,))	No. 17-1350C
))	
v.))	Filed: September 29, 2017
))	
THE UNITED STATES,))	
))	
Defendant.))	
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STAY ORDER

The above-captioned matter is one of several cases currently pending before this Court, and the United States Court of Appeals for the Federal Circuit, in which a plaintiff seeks to recover monies allegedly due from the United States for violation of the Patient Protection and Affordable Care Act, Pub. L. 111-148, 124 Stat. 119 (Mar. 23, 2010) (the “ACA”), breach of contract, and takings. In this particular action, plaintiffs allege that they are entitled to recover damages and other relief from the United States for violation of Section 1342 of the ACA and its implementing regulations, and for breach of the government’s risk corridors payment obligations, under an alleged implied-in-fact contract, for benefit year 2016. *See generally* Compl. The plaintiffs represent to the Court that this matter is also directly related to *HPHC Ins. Co. v. United States*, No. 17-87C (Fed. Cl. filed Jan. 18, 2017)—another case that is currently pending before the Court—and that both of these cases are based upon the same, or similar, legal claims involving the ACA. Pl. Notice at 1.

On July 11, 2017, the Court stayed further proceedings in *HPHC Ins. Co. v. United States* until the United States Court of Appeals for the Federal Circuit issues decisions in *Land of Lincoln Mut. Health Ins. Co. v. United States*, 129 Fed. Cl. 81 (2016), *appeal docketed*, No. 17-1224 (Fed. Cir. Nov. 16, 2016) (“*Land of Lincoln*”), and *Moda Health Plan, Inc. v. United States*, 130 Fed. Cl. 436 (2017), *appeal docketed*, No. 17-1994 (Fed. Cir. May 9, 2017) (“*Moda*”). *See HPHC Ins. Co. v. United States*, No. 17-87C (Fed. Cl. July 11, 2017) (order staying proceedings). *Land of Lincoln* and *Moda* are two companion cases in which the Federal

Circuit will consider whether the United States is obligated to pay certain sums for alleged violation of Section 1342 of the ACA.¹ Because the legal and factual issues to be resolved in this matter are substantively identical to those presented in *Land of Lincoln* and *Moda*, a stay of this action is also warranted and in the interest of justice.

And so, the Court:

1. **STAYS** further proceedings in this matter pending decisions by the Federal Circuit in *Land of Lincoln* and *Moda*; and
2. **ORDERS** the parties to **FILE** a Joint Status Report within fourteen days after the Federal Circuit issues decisions in *Land of Lincoln* and *Moda* stating their respective views on:
 - (a) Whether the Court should continue the stay of this matter; and
 - (b) How this matter should proceed.

IT IS SO ORDERED.

s/ Lydia Kay Griggsby
LYDIA KAY GRIGGSBY
Judge

¹ On May 30, 2017, the Federal Circuit issued an order indicating that *Land of Lincoln* and *Moda* “are companion cases and will be assigned to the same merits panel.” *See Moda Health Plan, Inc. v. United States*, No. 17-1994 (Fed. Cir. May 30, 2017) (order indicating, among other things, that cases will be considered companion cases).