

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

OREGON’S HEALTH CO-OP, an)	
Oregon nonprofit corporation,)	
)	
Plaintiff,)	No. 18-94C
)	
v.)	
)	Judge Elaine D. Kaplan
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

UNITED STATES’ UNOPPOSED MOTION TO STAY PROCEEDINGS

The United States respectfully moves the Court to stay this action until the Court of Appeals for the Federal Circuit issues a decision in *Land of Lincoln Mutual Health Insurance Company v. United States*, No. 17-1224 (Fed. Cir.), or *Moda Health Plan, Inc. v. United States*, No. 17-1994 (Fed. Cir.). The court of appeals heard argument in both cases on January 10, 2018. The parties will file a joint status report within 14 days of a decision in *Land of Lincoln* or *Moda*, advising the Court whether the parties contend that the stay should be lifted or continued. Plaintiff, Oregon’s Health Co-op, does not oppose this motion.

On January 19, 2018, plaintiff filed suit seeking approximately \$25 million in money damages under the risk corridors program, 42 U.S.C. § 18062, created by the Patient Protection and Affordable Care Act. Dkt. 1. The United States’ response to the complaint is currently due March 20, 2018.

As this Court is aware, the issues presented in the complaint substantially overlap and, in many respects, are identical to the issues raised in 47 other risk corridors cases filed with the Court. Four cases have been decided and are under review in the court of appeals. A panel of the court of appeals heard argument in both *Land of Lincoln* and *Moda* on January 10, 2018. Two other

appeals, *Blue Cross & Blue Shield of N.C. v. United States*, No. 17-2154 (Fed. Cir.); and *Maine Community Health Options v. United States*, No. 17-2395 (Fed. Cir.), are fully briefed in the court of appeals.

As with the other risk corridors cases, efficiency and judicial economy weigh in favor of a stay. A decision by the court of appeals in *Land of Lincoln* or *Moda* would likely resolve or simplify the legal issues remaining in this case. As this Court recently observed in another risk corridors case, “review of the legal issues presented in this case simultaneously with the court of appeals’ review of the identical issues” would not represent an efficient use of the parties’ or the Court’s resources. *Atkins v. United States*, No. 17-906C, slip op. at 1 (Fed. Cl. Dec. 1, 2017). Accordingly, the Court has entered stays or extended deadlines in the majority of other risk corridors cases. The same considerations justify a stay in this case, as well.

For these reasons, the United States respectfully moves the Court to stay this case until the court of appeals issues a decision in *Land of Lincoln* or *Moda*.

Dated: January 30, 2018

Respectfully submitted,

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