

FIRST JUDICIAL DISTRICT COURT
COUNTY OF SANTA FE
STATE OF NEW MEXICO

MOLINA HEALTHCARE OF NEW MEXICO, INC.,

Plaintiff,

v.

Case No. D-101-CV-2018-00356

NEW MEXICO HUMAN SERVICES DEPARTMENT,
and BRENT EARNEST,
as Cabinet Secretary of the New Mexico
Human Services Department,

Defendants.

**APPLICATION FOR TEMPORARY RESTRAINING ORDER, OR
PRELIMINARY INJUNCTION**

Pursuant to Rule 1-066, Plaintiff Molina Healthcare of New Mexico, Inc. (“Molina”), by and through its attorneys, respectfully moves the Court for the immediate entry of a Temporary Restraining Order or a Preliminary Injunction, for the reasons set forth in the Molina’s Memorandum of Law, attached as Attachment 2 to Molina’s Motion for an Extension of Page Limits, filed contemporaneously herewith.

WHEREFORE, Molina respectfully requests the entry of Injunctive Relief, a Temporary Restraining Order or Preliminary Injunction, from the Court, restraining Defendants from:

- (a) taking any further steps or actions in the procurement process, including enjoining Defendants from negotiating, executing, seeking approval for, or implementing any of the contracts proposed or awarded pursuant to RFP #18-630-8000-0001 pending resolution of Molina’s statutorily-authorized bid protest and judicial review; and

(b) denying Molina a full, complete and fair bid protest hearing guaranteed under New Mexico law.

Plaintiff also requests that the Court waive the requirement of security, because the Temporary Restraining Order is sought merely for purposes of maintaining the status quo; entry of the Temporary Restraining Order sought by Plaintiff will have minimal prejudicial impact on Defendants, and Plaintiff has an office with substantial assets in New Mexico and accordingly appears to be able to satisfy any judgment which might be entered against Plaintiff for wrongfully obtaining the Temporary Restraining Order.

Plaintiff also requests that the Court set such Hearings as it deems warranted related to injunctive relief, and for such other and further relief as this Court deems just and proper.

MODRALL, SPERLING, ROEHL,
HARRIS & SISK, P.A.

By: /s/ Brian K. Nichols
Michelle A. Hernandez
Brian K. Nichols
Jeremy K. Harrison
Attorneys for Plaintiff
Post Office Box 2168
500 Fourth Street, N.W. Suite 1000
Albuquerque, New Mexico 87103-2168
Telephone: (505) 848-1800

Certificate of Service

I hereby certify that on February 2, 2018, a courtesy copy of the foregoing was delivered to the following via hand-delivery and e-mail:

Brent Earnest
Cabinet Secretary
New Mexico Human Services Dep't
2009 S. Pacheco Street
Pollon Plaza
Santa Fe, NM 87505
Brent.Earnest@state.nm.us

Christopher Collins
Office of General Counsel: NMHSD
2009 S. Pacheco Street
Pollon Plaza
Santa Fe, NM 87505
Christopher.Collins@state.nm.us

By: /s/ Brian K. Nichols