

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 14-cv-02787-KLM

LAURAL O'DOWD, for herself and all others similarly situated,

Plaintiff,

v.

ANTHEM HEALTH PLANS, INC., doing business as Anthem Blue Cross and Blue Shield,
ROCKY MOUNTAIN HOSPITAL AND MEDICAL SERVICE, INC., doing business as
Anthem Blue Cross and Blue Shield, and
WELLPOINT, INC.,

Defendants.

MINUTE ORDER

ENTERED BY MAGISTRATE JUDGE KRISTEN L. MIX

This matter is before the Court on Defendant Rocky Mountain Hospital and Medical Service, Inc.'s **Motion to Dismiss** [#15]¹ (the "Motion"). On January 21, 2015, the Court granted in part Plaintiff's Unopposed Motion For Leave to Amend Complaint [#23] and ordered Plaintiff to "file a new version of her proposed Amended Complaint that complies with Local Rule 10.1(e) on the docket." *Minute Order* [#26] at 1-2. The Court further ordered that after filing, the "Amended Complaint will become the operative pleading in this case without further order of the Court." *Id.* at 2. As a result of the filing of the Amended Complaint [#27], the Motion is moot. See, e.g., *Strich v. United States*, No. 09-cv-01913-REB-KLM, 2010 WL 14826, at *1 (D. Colo. Jan. 11, 2010) (citations omitted) ("The filing of an amended complaint moots a motion to dismiss directed at the complaint that is supplanted and superseded.").

In addition, at the Scheduling Conference, the Court ordered that in the event Plaintiff amended her Complaint, any response to such a motion would be due on or before February 12, 2015. *Courtroom Minutes* [#20] at 1. Because the Amended Complaint was filed nine days after the original deadline for Plaintiff to file any motion to amend, the Court will sua sponte extend Defendants' deadline to file their responses to the Amended

¹ "[#15]" is an example of the convention I use to identify the docket number assigned to a specific paper by the Court's case management and electronic case filing system (CM/ECF). I use this convention throughout this Minute Order.

Complaint.

The Court also stayed discovery in this case pending resolution of the Motion, which was pending at the time of the Scheduling Conference. *Id.* The Court will sua sponte extend the existing stay pending Defendants' responses to the Amended Complaint. If Defendants file answers to the Amended Complaint, the Court will order the parties to file a proposed scheduling order. If Defendants file motions to dismiss in response to the Amended Complaint, the Court will extend the stay pending resolution of any such dispositive motions. Accordingly,

IT IS HEREBY ORDERED that the Motion [#15] is **DENIED as moot**. See, e.g., *Strich*, 2010 WL 14826, at *1; *AJB Props., Ltd. v. Zarda Bar-B-Q of Lenexa, LLC*, No. 09-2021-JWL, 2009 WL 1140185, at *1 (D. Kan. Apr. 28, 2009) (finding that amended complaint superseded original complaint and “accordingly, defendant’s motion to dismiss the original complaint is denied as moot”); *Gotfredson v. Larsen LP*, 432 F. Supp. 2d 1163, 1172 (D. Colo. 2006) (noting that defendants’ motions to dismiss are “technically moot because they are directed at a pleading that is no longer operative”).

IT IS FURTHER ORDERED that Defendants shall respond to the Amended Complaint [#27] on or before **February 23, 2015**.

IT IS FURTHER ORDERED that the existing stay is extended until further order of the Court.

Dated: January 26, 2015