

## In the United States Court of Federal Claims

No. 20-179C  
(Filed: May 27, 2020)

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HEALTHFIRST PHSP, INC., \*  
\*  
Plaintiff, \*  
\*  
v. \*  
\*  
THE UNITED STATES, \*  
\*  
Defendant. \*  
\*\*\*\*\*

### ORDER

Plaintiff filed the above-captioned risk corridors case on February 20, 2020. Shortly thereafter, on March 16, 2020, the court stayed proceedings in the case pending a decision by the United States Supreme Court (“Supreme Court”) in the four risk corridors cases consolidated under Maine Community Health Options v. United States, No. 18-1023, and directed the parties to file a joint status report within thirty days of the Supreme Court’s decision. The Supreme Court issued its decision on April 27, 2020, concluding that insurers, pursuant to § 1342 of the Affordable Care Act (“ACA”), have both the right to risk corridors payments and a damages remedy in this court for unpaid amounts. See generally Me. Cmty. Health Options v. United States, 140 S. Ct. 1308 (2020).

In accordance with the court’s March 16, 2020 order, the parties filed a joint status report on May 27, 2020, setting forth their positions regarding further proceedings. Plaintiff requests that the court enter judgment in its favor. Defendant requests an additional thirty days to “consider its position” and “propose, jointly with the plaintiff to the extent possible, a course to govern proceedings moving forward.” Defendant represents that this additional time is necessary for several reasons: (1) to continue “to review the Supreme Court’s decision”; (2) to ensure that it can resolve the claims of every insurer who participated on an Exchange during 2014, 2015, and 2016 “in a similar manner”; (3) to determine “the precise amount of risk corridors payments paid to and remaining for each” insurer by reviewing “the record of payments and charges and the history of distributions made”; and (4) to determine whether plaintiffs “have outstanding debts owed to [the United States Department of Health and Human Services] under other ACA programs,” provide the opportunity to resolve debt-related issues, and, because it has not yet filed an answer, “consider whether it would be appropriate to raise defenses not previously considered and whether to counterclaim.” Plaintiff rejects defendant’s rationales, remarking that liability is undisputed, that the amount of damages it seeks is derived from the government’s own calculations, and that it is unaware of any debt it owes to the government under another ACA program.

The court has reviewed the parties' positions and their stated rationales, and finds that it is in the interest of justice to allow defendant an additional thirty days to consider how it would like to proceed and to work with plaintiff to propose a plan for further proceedings. Defendant shall make every effort to use the thirty days to confirm the full amount of risk corridor payments due to plaintiff. In addition, in light of the clear holding of the Supreme Court in Maine Community Health Options regarding the government's liability for unpaid risk corridors payments and the ease of determining the amount of risk corridors payments due to plaintiff, the parties shall be prepared for an expeditious resolution of this case once the thirty days have passed.

The court **LIFTS** the stay of proceedings. The parties shall file a joint status report proposing a schedule for further proceedings **no later than Friday, June 26, 2020**.

**IT IS SO ORDERED.**

s/ Margaret M. Sweeney  
MARGARET M. SWEENEY  
Chief Judge