

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

)
BLUE CROSS AND BLUE SHIELD OF)
ARIZONA, INC.,)
)
Plaintiff,)
)
v.)
)
JUDGE ELAINE D. KAPLAN
)
THE UNITED STATES OF AMERICA,)
)
Defendant.)

STIPULATION FOR ENTRY OF JUDGMENT

To resolve the risk corridors claims of Plaintiff Blue Cross and Blue Shield of Arizona, Inc. (“BCBS-AZ”) against the United States, and to permit the entry of final judgment on those claims, it is stipulated between the Parties:

1. Section 1342 (42 U.S.C. § 18062) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (2010), 124 Stat. 119 *et seq.* (the “ACA”), created the risk corridors program.
2. On February 23, 2018, BCBS-AZ filed the Complaint in this Court pursuant to the Tucker Act, 28 U.S.C. § 1491, seeking damages for failure to make payments required under section 1342 of the ACA.
3. On June 27, 2018, the Court entered an order that stayed this case. ECF No. 11.
4. On April 27, 2020, the Supreme Court held that section 1342 “created an obligation neither contingent on nor limited by the availability of appropriations or other funds,” that the obligation was not affected by subsequently-enacted legislation, and that the “petitioners may seek to collect payment through a damages action in the Court of Federal Claims.” *Maine Community Health Options v. United States*, 140 S. Ct. 1308, 1323, 1331 (2020).

5. On May 15, 2020, BCBS-AZ filed the First Amended Complaint. The First Amended Complaint asserts two counts, each raising a separate theory for damages arising under section 1342 of the ACA.

6. The Parties agree that *Maine Community Health Options* entitles BCBS-AZ to damages for non-payment under section 1342 for benefit years 2014, 2015, and 2016 in the amount of \$72,567,005.93 (the “Stipulated Amount”) and that payment in that amount resolves entirely the Amended Complaint for all counts seeking damages arising under section 1342 of the ACA.

7. Accordingly, the Parties jointly request that the Court enter judgment in favor of BCBS-AZ in the amount of \$72,567,005.93 on Count I of the First Amended Complaint (risk corridors benefit years 2014, 2015, and 2016).

8. The Parties further request that the Court dismiss Count II of the First Amended Complaint with prejudice.

9. Upon payment of judgment in the Stipulated Amount, BCBS-AZ (HIOS No. 53901), and any and all of BCBS-AZ’s affiliated entities, release the United States, its agencies, instrumentalities, officers, agents, employees, and servants, from all claims (including attorney fees, costs, and expenses of every kind and however denominated) that BCBS-AZ (HIOS No. 53901) and any and all of BCBS-AZ’s affiliated entities, has asserted, could have asserted, or may assert in the future against the United States, its agencies, instrumentalities, officers, agents, employees, and servants, arising under or related to Section 1342 of the ACA.

Dated: June 26, 2020

Respectfully Submitted:

/s/ Robert K. Huffman

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