

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

WISCONSIN PHYSICIANS SERVICE	:	
INSURANCE CORPORATION, et al.,	:	Case No. 17-1070C
	:	
Plaintiffs,	:	Judge Damich
	:	
v.	:	
	:	
THE UNITED STATES OF AMERICA,	:	
	:	
Defendant.	:	

STIPULATION FOR ENTRY OF JUDGMENT

To resolve the risk corridors claims of Plaintiffs, Wisconsin Physicians Service Insurance Corporation and WPS Health Plan, Inc., doing business as Arise Health Plan (collectively, “WPS”), and to permit the entry of final judgment on those claims, it is stipulated between the Parties:

1. The Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (2010), 124 Stat. 119 *et seq.* (the “ACA”), specifically, section 1342 (42 U.S.C. § 18062), created the risk corridors program.
2. On August 7, 2017, WPS filed the Complaint in this Court seeking damages under section 1342 of the ACA. The Complaint asserts three counts, each asserting a separate theory for damages arising under section 1342.
3. On August 23, 2017, the Court entered an order staying WPS’s claims relating to section 1342.
4. On April 27, 2020, the United States Supreme Court held that section 1342 of the ACA “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. The Parties agree that *Maine Community Health Options* entitles WPS to payment under section 1342 and that WPS is entitled to payment from the United States under section 1342 of the ACA for risk corridors benefit years 2014, 2015, and 2016 in the amount totaling \$28,513,173.61 (the “Stipulated Amount”).

6. Accordingly, the Parties jointly request that the Court enter judgment in favor of WPS in the amount of \$28,513,173.61 on Count I.

7. The Parties further jointly request that the Court dismiss Counts II and III with prejudice.

8. The Parties agree that payment of the full judgment in the Stipulated Amount shall be made to WPS Health Plan, Inc., doing business as Arise Health Plan.

9. Upon payment of the full judgment in the Stipulated Amount to WPS Health Plan, Inc., doing business as Arise Health Plan, Wisconsin Physicians Service Insurance Corporation (HIOS Number 81974) and WPS Health Plan, Inc., doing business as Arise Health Plan (HIOS Number 84670), and any and all of their 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 Wisconsin Physicians Service Insurance Corporation and WPS Health Plan, Inc., doing business as Arise Health Plan, and any and all of their affiliated entities, have asserted, could have asserted, or may assert in the future against the United States, its agencies, instrumentalities, officers, agents, employees, and servants, arising under section 1342 of the ACA.

JOSEPH H. HUNT
Assistant Attorney General

RUTH A. HARVEY
Director
Commercial Litigation Branch

KIRK T. MANHARDT
Deputy Director

/s/ Daniel P. Graham
Daniel P. Graham
Joshua S. Johnson (Of Counsel)
VINSON & ELKINS LLP
2200 Pennsylvania Avenue, N.W.
Suite 500 West
Washington, D.C. 20037
Telephone: (202) 639-6652
Facsimile: (202) 318-8462
danielgraham@velaw.com

*Counsel for Wisconsin Physicians Service
Insurance Corporation and WPS Health Plan,
Inc.*

/s/ Terrance A. Mebane
TERRANCE A. MEBANE
FRANCES M. MCLAUGHLIN
MARC S. SACKS
PHILLIP M. SELIGMAN
L. MISHA PREHEIM
United States Department of Justice
Civil Division
Commercial Litigation Branch
Telephone: (202) 307-0493
Terrance.A.Mebane@usdoj.gov

Counsel for the United States