

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUE CROSS AND BLUE SHIELD OF)
NORTH CAROLINA,)
)
Plaintiff,)
)
v.) No. 16-651 C
) Judge Griggsby
THE UNITED STATES OF AMERICA,)
)
Defendant.)
)

JOINT STATUS REPORT

The parties respectfully submit the following Joint Status Report. On April 27, 2020, the Supreme Court issued its decision in favor of Plaintiff and three other appellee-health insurers in *Maine Community Health Options v. United States*, No. 18-1023, 140 S. Ct. 1308 (2020). Following the Supreme Court's decision, on June 24, 2020, the Federal Circuit vacated the April 18, 2017 judgment of this Court (Doc. No. 36), which had dismissed Plaintiff's Complaint, and remanded to this Court "for further proceedings consistent with the U.S. Supreme Court's opinion in *Maine Community Health Options v. United States*, 140 S. Ct. 1308 (2020)."

The parties have consulted and reached agreement and propose the following further proceedings in this Court.

First, Plaintiff will file by July 10, 2020 an Amended Complaint adding to Count I claims for risk corridors damages under section 1342 of the ACA for benefit years 2015 and 2016. Plaintiff's Amended Complaint will remove all other previously-asserted counts. Pending review of the draft Amended Complaint, the United States expects to consent to the amendment.

Second, the parties expect to file a joint Stipulation for Entry of Judgment by July 21, 2020 requesting that the Court enter Final Judgment in favor of the Plaintiff for damages for risk corridors benefit years 2014, 2015, and 2016.

Should the parties subsequently fail to agree upon these proposed proceedings, they will inform the Court expeditiously.

Dated: July 6, 2020

Respectfully submitted,

MICHAEL GRANSTON
Deputy Assistant Attorney General

RUTH A. HARVEY
Director
Commercial Litigation Branch

KIRK T. MANHARDT
Deputy Director

/s/ Marc S. Sacks
MARC S. SACKS
FRANCES M. MC LAUGHLIN
PHILLIP M. SELIGMAN
TERRANCE A. MEBANE
L. MISHA PREHEIM
Commercial Litigation Branch
Civil Division
United States Department of Justice
P.O. Box 875
Ben Franklin Station
Washington D.C. 20044
Tel. (202) 307-1104
Fax (202) 514-9163
marcus.s.sacks@usdoj.gov

ATTORNEYS FOR THE UNITED STATES

s/ Lawrence S. Sher
Lawrence S. Sher (D.C. Bar No. 430469)
REED SMITH LLP

1301 K Street NW
Suite 1000-East Tower
Washington, DC 20005
Telephone: 202.414.9200
Facsimile: 202.414.9299
Email: lshe@reedsmit.com

Of Counsel:

Conor M. Shaffer (PA Bar No. 314474)
REED SMITH LLP
Reed Smith Centre
225 Fifth Avenue, Suite 1200
Pittsburgh, PA 15222
Telephone: 412.288.3131
Facsimile: 412.288.3063
Email: cshaffer@reedsmit.com

Counsel for Plaintiff