

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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

**STIPULATION FOR ENTRY OF FINAL JUDGMENT**

To finally resolve the claims of Plaintiff Blue Cross and Blue Shield of North Carolina (“BCBSNC”), against the United States, and to permit the entry of final judgment on Plaintiff’s claims, it is hereby stipulated and agreed between the Parties:

1. The Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (2010), 124 Stat. 119, and the Health Care Reconciliation Act of 2010, Pub. L. No. 111-152 (2010), 124 Stat. 1029 (collectively, the “ACA”) created several interrelated programs to expand access to affordable health insurance coverage.
2. Section 1342 (42 U.S.C. § 18062) of the ACA created the risk corridors program.
3. On June 2, 2016, BCBSNC filed a Complaint in this Court seeking risk corridors damages under section 1342 of the ACA for benefit year 2014. The Complaint asserts five counts, each asserting a separate theory for damages arising under section 1342 of the ACA. On July 8, 2020, BCBSNC filed an Amended Complaint seeking risk corridors damages for benefit years 2014, 2015, and 2016 under section 1342 of the ACA and under no other causes of action.
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 the Supreme Court’s decision in *Maine Community Health Options* entitles BCBSNC to receive payment of damages from the United States under ACA section 1342 for risk corridors benefit years 2014, 2015, and 2016 in the total amount of \$356,251,839.67 (“Stipulated Damages Amount”). The Parties further agree that receipt of this full payment will resolve entirely the Amended Complaint in this case.

6. Accordingly, the Parties jointly request that the Court enter final judgment in favor of BCBSNC in the total damages amount of \$356,251,839.67 on Count I of the Amended Complaint.

7. Upon entry of final judgment and receipt of full payment by BCBSNC of the Stipulated Damages Amount above, Blue Cross and Blue Shield of North Carolina (HIOS no. 11512), and any and all of the Plaintiff’s affiliated entities, release the United States, its agencies, instrumentalities, officers, agents, employees, and servants, from all claims (including attorneys’ fees, costs, and expenses of every kind and however denominated) that Blue Cross and Blue Shield of North Carolina (HIOS no. 11512), and any and all of the Plaintiff’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 Section 1342 of the ACA.

Dated: July 20, 2020

Respectfully submitted,

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/s/ Marc S. Sacks  
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