

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

EMBLEMHEALTH, INC., <i>et al.</i> ,)	
)	
Plaintiffs,)	No. 17-703C
)	
v.)	
)	Judge Wheeler
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	

STIPULATION FOR ENTRY OF JUDGMENT

To resolve the risk corridors claims of Plaintiffs, EmblemHealth, Inc., and its subsidiaries, Health Insurance Plan of Greater New York, Inc. (“HIP”) and ConnectiCare Benefits, Inc. (“ConnectiCare”) (collectively, “EmblemHealth”), 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 May 26, 2017, EmblemHealth filed the Complaint in this Court seeking damages under section 1342 of the ACA.
3. On July 16, 2018, the Court entered an order that stayed this case. ECF No. 9.
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. The Parties agree that *Maine Community Health Options* entitles EmblemHealth to payments under section 1342 for benefit years 2014, 2015, and 2016 totaling \$41,616,646.37 (the “Stipulated Amount”) and that this payment resolves entirely the Complaint for all counts seeking damages arising under section 1342 of the ACA.

6. Accordingly, the Parties jointly request that the Court enter judgment in favor of HIP in the amount of \$31,506,428.59 on Count I of the Complaint (risk corridors benefit years 2014, 2015, and 2016), and in favor of ConnectiCare in the amount of \$10,110,217.78 on Count I of the Complaint (risk corridors benefit years 2014, 2015, and 2016).

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

8. Upon payment of the Stipulated Amount, EmblemHealth, HIP (HIOS Number 88582), and ConnectiCare (HIOS Number 76962), and any and all of EmblemHealth’s and HIP’s and Connecticare’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 EmblemHealth, HIP (HIOS Number 88582), and ConnectiCare (HIOS Number 76962), and any and all of EmblemHealth’s and HIP’s and Connecticare’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: July 10, 2020

Respectfully submitted,

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¹ Acting Assistant Attorney General Ethan P. Davis is recused from this matter.

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