

EXHIBIT C

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14 UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
15 SAN FRANCISCO DIVISION

16 STATE OF CALIFORNIA, *et al.*,

17
18 Plaintiffs,

19 v.

20 DONALD J. TRUMP, President of the United
States, *et al.*,

21 Defendants.
22

No. 3:17-cv-5895 (VC)

**DECLARATION OF ELIZABETH PARISH
IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFFS' MOTION
FOR A TEMPORARY RESTRAINING
ORDER**

23 Pursuant to 28 U.S.C. § 1746, I, Elizabeth Parish, declare under penalty of perjury that the
24 following is true and correct:
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1 1. I am the Acting Director of the Payment Policy and Financial Management Group
2 (“PPFMG”) for the Center for Consumer Information and Insurance Oversight (“CCIIO”), one of the
3 centers in the Centers for Medicare & Medicaid Services (“CMS”), a component agency within the U.S.
4 Department of Health and Human Services (“HHS”). I make this declaration based on my own personal
5 knowledge, on information contained in the records of CMS or HHS, or on information provided to me
6 by CMS or HHS employees.
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8 2. CCIIO oversees implementation of major provisions of the Patient Protection and
9 Affordable Care Act (“ACA”), including administration of the federally facilitated Exchanges (including
10 collection of user fees), the advance payments for the premium tax credit and cost-sharing reduction
11 (“CSR”) programs, the Consumer Operated and Oriented Plan (“CO-OP”) program, and the risk
12 adjustment, reinsurance, and risk corridors programs (collectively the “3Rs” or “premium stabilization”
13 programs). CCIIO also coordinates with other CMS divisions, notably the Office of Financial
14 Management (“OFM”) and the U.S. Department of the Treasury, to make payments to insurance
15 companies (“issuers”) that offer Qualified Health Plans (“QHPs”) on the Exchanges.
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18 3. I have served in this capacity and/or as Deputy Director of PPFMG since 2015. I oversee
19 CCIIO’s policy development and implementation activities related to federal payment programs that
20 impact issuers (QHP and non-QHP).
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22 4. CMS has advance payments made to and collects charges from issuers under the premium
23 tax credit and CSR programs, along with payments to and from issuers for other ACA programs, as part of
24 a monthly payment cycle.

25 5. The statute allows CMS flexibility in determining the timing of the payments, *see* 42
26 U.S.C. §18082(c), and neither regulations nor guidance require specific timing. It has been CMS’s
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1 practice to run a fixed payment cycle each month with specified activities for each date. These activities
2 include controls to validate data throughout the cycle, with monthly payments scheduled for a pre-
3 established date between the nineteenth and twenty-second of each month. October payments are being
4 made without CSR payments according to this schedule on October 20, 2017.
5

6 6. Future payment cycles will not include payments to issuers of advance CSRs or reconciled
7 CSR payment amounts for prior benefit years.

8 7. Payment for the November monthly payment cycle is scheduled for November 21, 2017. If
9 the Court were to order CMS to make CSR payments, under typical operations CMS could include in
10 that monthly cycle payments of advance CSRs and CSR reconciliations for the months of October and
11 November. CMS would need to be notified of the Court's order by November 6, 2017, in order to
12 include these payments in the November payment cycle.
13

14 8. If ordered to make payment before November 21, it will take CMS a minimum of eight
15 business days to facilitate CSR payments to issuers outside of this cycle. The payment process involves
16 coordinated activities initiated or completed by CCIIO, OFM, and the Treasury Department. In general,
17 if the aggregate amount of a payment is over \$50 million, then Treasury requires that CMS provide
18 Treasury with two business days' notice of the amount of a payment before Treasury can send the
19 payment. If the aggregate amount of the payment is over \$500 million, then Treasury requires five
20 business days' notice. CMS operational processes typically require additional notice to change the amount
21 of a previously noticed payment, depending on the nature of the change.
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24 9. If the Court were to order CMS to make an off-cycle payment of October advance CSRs
25 and CSR reconciliation, CMS would go through the following steps, as set forth in paragraphs 10 through
26 13, below. Depending on the date of such an order, it is possible that payments previously scheduled for
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1 other CMS programs could require CMS to add an additional day of processing to the schedule below to
2 make an off-cycle payment.

3 10. Business Day One. On the first business day of this process, CCIIO needs approximately
4 seven hours to process, validate, approve, and create a file detailing the payments to be made, in order to
5 initiate payment to issuers. This first step can be taken in advance of setting a payment date that would be
6 more than seven business days later.

7
8 11. Business Days Two and Three. On the second business day, CCIIO sends a total payment
9 amount to OFM to start the Treasury process for a payment over \$500 million—and OFM notifies
10 Treasury of the greater-than-\$500 million payment—by 9:00 a.m. Eastern time. During the second and
11 third business days, CCIIO transmits the file of payment data to the Exchange section of CMS's payment
12 system and begins its process of file reconciliation, transfer into the central section of CMS's accounting
13 system, reconciliation of that data, and funds certification. CCIIOO conducts its funds certification
14 briefing and transmits a Funds Certification Memo to OFM by the end of business day three.

15
16 12. Business Days Four and Five. By the morning of business day four, OFM has the validated
17 payment file and will hold a Funds Certification Briefing. OFM needs forty-eight hours to process the
18 payment certified by CCIIO. The payment processing includes an accounting process, an internal fund
19 certification process, the creating of payment transactions, and the creating of payment file(s)
20 electronically sent to Treasury.

21
22 13. Business Days Six through Eight. On business day six, OFM sends the payment file(s) to
23 Treasury. On business day seven, Treasury certifies the funds; and on business day eight, the funds are
24 sent to issuers via electronic fund transfers.
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