

# In the United States Court of Federal Claims

No. 18-5C  
(Filed: March 7, 2019)

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COMMUNITY HEALTH CHOICE, INC., \*  
\*  
Plaintiff, \*  
\*  
v. \*  
\*  
THE UNITED STATES, \*  
\*  
Defendant. \*  
\*\*\*\*\*

## ORDER

In a February 15, 2019 Opinion and Order, the court concluded that the government’s failure to make cost-sharing reduction payments to plaintiff violates 42 U.S.C. § 18071 and constitutes a breach of an implied-in-fact contract. It therefore directed the parties to file a joint status report indicating the amount due to plaintiff for its unpaid cost-sharing reduction reimbursements for 2017 and 2018, and indicated that upon being informed of the amounts, it would direct the entry of judgment on plaintiff’s cost-sharing reduction claims pursuant to Rule 54(b) of the Rules of the United States Court of Federal Claims (“RCFC”).<sup>1</sup>

The parties filed the requested joint status report on March 5, 2019. They stipulate that the court should enter partial final judgment for plaintiff in the amount of \$71,561,271.36, which represents \$11,174,299.10 in unpaid cost-sharing reduction reimbursements for 2017 and \$60,386,972.26 in unpaid cost-sharing reduction reimbursements for 2018. However, the parties state that this stipulation only applies to the amount of damages, and does not affect their “rights to make all other arguments related to liability and damages.” Joint Status Report 5. Specifically, with respect to the amount for 2018, plaintiff “does not waive and expressly reserves its right to make all other arguments for liability and damages, including all arguments against points that may be raised by the Government such as whether any premium increases in 2018 could properly relieve in whole or part the Government’s statutory and/or contractual obligations to make [cost-sharing reduction] payments in full.” *Id.* at 2. Similarly, “the Government does not waive and expressly reserves its right to make all other arguments against

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<sup>1</sup> A judgment disposing of the entire case is not appropriate at this time because plaintiff also asserts claims related to the government’s failure to make risk corridors payments, and proceedings on those claims are currently stayed pending final, nonappealable judgments in Moda Health Plan, Inc. v. United States, No. 16-649C, and Land of Lincoln Mutual Health Insurance Co. v. United States, No. 16-744C.

liability and damages, including the argument that any 2018 damages should be reduced by the amount that [plaintiff] received as a result of 2018 premium increases made in anticipation of [cost-sharing reduction] payments.” Id. at 4.

The court finds that there is no just reason for delaying the entry of judgment on plaintiff’s cost-sharing reduction claims. Thus, in accordance with its February 15, 2019 Opinion and Order, the court directs the clerk to enter judgment for plaintiff pursuant to RCFC 54(b) in the amount of \$71,561,271.36, which represents \$11,174,299.10 in unpaid cost-sharing reduction reimbursements for 2017 and \$60,386,972.26 in unpaid cost-sharing reduction reimbursements for 2018. The parties’ stipulation to the amount of damages does not preclude the parties from making all other arguments related to liability and damages.

**IT IS SO ORDERED.**

s/ Margaret M. Sweeney  
MARGARET M. SWEENEY  
Chief Judge