

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUE CROSS OF IDAHO HEALTH )  
SERVICE, INC. )  
 )  
Plaintiff, )  
 )  
v. )  
 )  
THE UNITED STATES OF AMERICA, )  
 )  
Defendant. )  
\_\_\_\_\_ )

No. 16-1384 C  
Judge Holte

**STIPULATION FOR ENTRY OF FINAL JUDGMENT**

To finally resolve the claims of Plaintiff Blue Cross of Idaho Health Service, Inc. (“BCI”), 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 October 24, 2016, BCI filed a Complaint in this Court seeking risk corridors damages under section 1342 of the ACA.. The Complaint asserts six counts, each asserting a separate theory for damages arising under section 1342 of the ACA.

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 BCI 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 \$90,925,091.05 (“Stipulated Damages Amount”). The Parties further agree that receipt of this full payment will resolve entirely the Complaint in this case.

6. Accordingly, the Parties jointly request that the Court enter final judgment in favor of BCI in the total damages amount of \$90,925,091.05 on Count I of the Complaint.

7. Upon the Court’s entry of final judgment as requested above, the Parties further jointly request that the Court dismiss Counts II, III, IV, V, and VI of the Complaint with prejudice.

8. Upon entry of final judgment and receipt of full payment by Blue Cross of Idaho Health Service, Inc. of the Stipulated Damages Amount above, Blue Cross of Idaho Health Service, Inc. (HIOS no. 61589), 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 attorney fees, costs, and expenses of every kind and however denominated) that Blue Cross of Idaho Health Service, Inc. (HIOS no. 61589), 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: June 29, 2020

JOSEPH H. HUNT  
Assistant Attorney General

RUTH A. HARVEY  
Director  
Commercial Litigation Branch

KIRK T. MANHARDT  
Deputy Director

/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: lsher@reedsmith.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@reedsmith.com

*Counsel for Plaintiff*

/s/ Terrance A. Mebane

TERRANCE A. MEBANE  
FRANCES M. MCLAUGHLIN  
MARC S. SACKS  
PHILLIP M. SELIGMAN  
L. MISHA PREHEIM  
United States Department of Justice  
Civil Division  
Commercial Litigation Branch  
Telephone: (202) 307-0493  
Terrance.A.Mebane@usdoj.gov

*Counsel for the United States*