

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HEALTHNOW NEW YORK INC.,)	
)	
Plaintiff,)	
)	No. 17-1090C
v.)	
)	Judge David A. Tapp
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
_____)	

STIPULATION FOR ENTRY OF JUDGMENT

To finally resolve the risk corridors claims of Plaintiff HealthNow New York Inc. (“HealthNow”), against the United States, and to permit the entry of a consolidated final judgment on those claims in this case, 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 August 11, 2017, HealthNow filed a Complaint in this Court seeking risk corridors damages under section 1342 of the ACA for benefit years 2015 and 2016. The Complaint asserts two risk corridors 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 HealthNow to receive payment of damages from the United States under ACA section 1342 for risk corridors benefit years 2015 and 2016 in the total amount of \$38,738,940.38 (“Stipulated Damages Amount”). The Parties further agree that this payment resolves entirely the Complaint in this case for all risk corridors counts seeking damages under section 1342 of the ACA.

6. Accordingly, the Parties jointly request that the Court enter final judgment in favor of HealthNow in the total damages amount of \$38,738,940.38 on Count I of the Complaint in this case.

7. Upon the Court’s entry of judgment as requested above, the Parties further jointly request that the Court dismiss Count II of the Complaint in this case with prejudice.

8. Upon entry of final judgment and receipt of full payment by HealthNow of the Stipulated Damages Amount above, HealthNow New York (HIOS no. 40064) and any and all of HealthNow’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 HealthNow New York (HIOS no. 40064) and any and all of HealthNow’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 26, 2020

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Respectfully submitted,

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