

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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HPHC INSURANCE COMPANY, INC.,)		
)		
Plaintiff,)	No. 17-87	
v.)		
)	Judge Lydia Kay Griggsby	
THE UNITED STATES OF AMERICA,)		
)		
Defendant.)		
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HARVARD PILGRIM HEALTH CARE,)		
INC., HPHC INSURANCE COMPANY, INC.,)		
AND HARVARD PILGRIM HEALTH CARE)	No. 17-1350	
OF NEW ENGLAND, INC.,)		
)	Judge Lydia Kay Griggsby	
Plaintiffs,)		
v.)		
)		
THE UNITED STATES OF AMERICA,)		
)		
Defendant.)		
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STIPULATION FOR ENTRY OF JUDGMENT

To finally resolve the risk corridors claims of Plaintiffs Harvard Pilgrim Health Care, Inc. (“HPHC”), HPHC Insurance Company, Inc. (“HPIC”), and Harvard Pilgrim Health Care of New England, Inc. (“HPNE”) (collectively, “Plaintiffs”) against the United States, and to permit the entry of a consolidated final judgment on those claims in Case No. 17-87 and Case No. 17-1350, 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. In Case No. 17-87, on January 18, 2017, HPIC filed the Complaint in this Court seeking damages under section 1342 of the ACA for benefit years 2014 and 2015.

4. Thereafter, on March 8, 2017, HPIC filed the Amended Complaint. The Amended Complaint asserts two counts, each raising a separate theory for damages arising under section 1342 of the ACA.

5. On July 11, 2017, the Court entered an order that stayed Case No. 17-87. ECF No. 19.

6. In Case No. 17-1350, on September 27, 2017, Plaintiffs filed the Complaint in this Court seeking damages under section 1342 of the ACA for benefit year 2016. The Complaint asserts two counts, each raising a separate theory for damages arising under section 1342 of the ACA.

7. On September 29, 2017, the Court entered an order that stayed Case No. 17-1350. ECF No. 6.

8. 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).

9. The Parties agree that the Supreme Court's decision in *Maine Community Health Options* entitles Plaintiffs 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 \$47,514,607.08 ("Stipulated Damages Amount"). The Parties further agree that this payment resolves entirely the Amended Complaint in Case No. 17-87 and the Complaint in Case No. 17-1350.

10. Accordingly, the Parties jointly request that the Court enter final judgment in favor of HPHC in the amount of \$9,883,052.61, for HPIC in the amount of \$37,340,113.73, and for HPNE in the amount of \$291,440.74, on Count I of the Amended Complaint in Case No. 17-87 (damages for risk corridors benefit years 2014 and 2015) and on Count I of the Complaint in Case No. 17-1350 (damages for risk corridors benefit year 2016).

11. Upon the Court's entry of judgment as requested above, the Parties further jointly request that the Court dismiss Count II of the Amended Complaint in Case No. 17-87 and Count II of the Complaint in Case No. 17-1350 with prejudice.

12. Upon entry of final judgment and receipt of full payment by Plaintiffs of the Stipulated Damages Amount above, Plaintiffs HPHC (HIOS Nos. 36046 and 96667), HPIC (HIOS No. 95878), and HPNE (HIOS No. 59025), and any and all of Plaintiff'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 HPHC (HIOS Nos. 36046 and 96667), HPIC (HIOS No. 95878), and HPNE (HIOS No. 59025), and any and all of Plaintiffs' 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

OF COUNSEL:

Daniel Wolff
Skye Mathieson
Charles Baek

CROWELL & MORING LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Respectfully Submitted,

/s/ Stephen McBrady

Stephen McBrady
CROWELL & MORING LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004
Tel: (202) 624-2500
Fax: (202) 628-5116
SMcBrady@crowell.com

Counsel for Plaintiffs

JOSEPH H. HUNT
Assistant Attorney General

RUTH A. HARVEY
Director
Commercial Litigation Branch

KIRK T. MANHARDT
Deputy Director

/s/ Shane Huang

PHILLIP M. SELIGMAN
MARC S. SACKS
FRANCES M. MCLAUGHLIN
L. MISHA PREHEIM
TERRANCE A. MEBANE
SHANE HUANG
Commercial Litigation Branch
Civil Division
United States Department of Justice
P.O. Box 875
Ben Franklin Station
Washington D.C. 20044
Tel. (202) 616-0341
Fax (202) 514-9163
shane.huang@usdoj.gov

ATTORNEYS FOR THE UNITED
STATES