

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUE CROSS AND BLUE SHIELD OF)
KANSAS CITY,)
)
Plaintiff,)
)
v.)
)
THE UNITED STATES OF AMERICA,)
)
Defendant.)
_____)

No. 17-95 C
Judge Damich

STIPULATION FOR ENTRY OF FINAL JUDGMENT

To finally resolve the claims of Blue Cross and Blue Shield of Kansas City (“BCBSKC”), 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 January 23, 2017, BCBSKC filed a Complaint in this Court seeking risk corridors damages under section 1342 of the ACA. The Complaint asserts five 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 BCBSKC 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 \$56,835,703.83 (“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 BCBSKC in the total damages amount of \$56,835,703.83 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, and V of the Complaint with prejudice.

8. Upon entry of final judgment and receipt of full payment by Blue Cross and Blue Shield of Kansas City of the Stipulated Damages Amount above, Blue Cross and Blue Shield of Kansas City, including its plans in Kansas (HIOS no. 94248) and Missouri (HIOS no. 34762), 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 and Blue Shield of Kansas City, including its plans in Kansas (HIOS no. 94248) and Missouri (HIOS no. 34762), 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

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