

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HEALTH NET, LLC; CELTIC GROUP, INC.;)	
and WELLCARE HEALTH PLANS, INC.)	
)	
Plaintiffs,)	
)	No. 16-1722C
v.)	
)	Judge Ryan T. Holte
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
_____)	

STIPULATION FOR ENTRY OF JUDGMENT

To finally resolve the risk corridors claims of Plaintiffs against the United States, and to permit the entry of a final judgment on those 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 December 30, 2016, Plaintiff Health Net, Inc. filed a Complaint in this Court seeking damages under Section 1342 of the ACA for benefit years 2014 and 2015. On June 3, 2020, Plaintiffs filed an Amended Complaint in this Court seeking damages under Section 1342 of the ACA for benefit years 2014, 2015, and 2016. The Amended Complaint asserts two 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 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 \$435,856,060.45 (“Stipulated Damages Amount”). The Parties further agree that receipt of this payment will resolve entirely the Amended Complaint in this case.

6. Accordingly, the Parties jointly request that the Court enter final judgment in favor of Plaintiffs in the total damages amount of \$435,856,060.45 on Count I of the Amended Complaint.

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

8. Upon entry of final judgment and receipt of full payment by Plaintiffs of the Stipulated Damages Amount, Health Net Life Insurance Company (HIOS no. 51485), Health Net of Arizona, Inc. (HIOS no. 91450), Health Net Life Insurance Company (HIOS no. 99110), Health Net of California, Inc. (HIOS no. 67138), Health Net Health Plan of Oregon, Inc. (HIOS no. 10940), Celtic Insurance Company (HIOS no. 62141), CeltiCare Health Plan of MA (HIOS no. 31234), Celtic Insurance Company (HIOS no. 27833), WellCare Health Plans of Kentucky, Inc. (HIOS no. 72001), and WellCare of New York (HIOS no. 39595), and any and all of Plaintiffs’ 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 Health Net Life Insurance Company (HIOS no. 51485), Health Net of Arizona, Inc. (HIOS no. 91450), Health Net Life Insurance Company (HIOS no. 99110), Health Net of California, Inc. (HIOS no. 67138), Health Net Health Plan of Oregon, Inc. (HIOS no. 10940), Celtic Insurance Company (HIOS no. 62141), CeltiCare Health Plan of MA (HIOS no. 31234), Celtic Insurance Company (HIOS no. 27833), WellCare Health Plans of Kentucky, Inc. (HIOS no. 72001), and WellCare of New York (HIOS no. 39595), 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.¹

Dated: July 27, 2020

OF COUNSEL:

Daniel Wolff
Charles Baek

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

Respectfully submitted,

/s/ Christopher Flynn

Christopher Flynn
Stephen McBrady
Xavier Baker

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

Counsel for Plaintiffs

MICHAEL D. GRANSTON
Deputy Assistant Attorney General

RUTH A. HARVEY
Director

¹ This release does not apply to QualChoice Life & Health Insurance Company, Inc. (HIOS no. 37903) and QCA Health Plan, Inc. (HIOS no. 70525), whose risk corridors claims have been brought as part of class actions before this Court in Case Nos. 16-259 and 17-877.

Commercial Litigation Branch

KIRK T. MANHARDT
Deputy Director

/s/ Marc S. Sacks

MARC S. SACKS

FRANCES M. MCLAUGHLIN

PHILLIP M. SELIGMAN

TERRANCE A. MEBANE

L. MISHA PREHEIM

Commercial Litigation Branch
Civil Division

United States Department of Justice

P.O. Box 875

Ben Franklin Station

Washington D.C. 20044

Tel. (202) 307-1104

Fax (202) 514-9163

marcus.s.sacks@usdoj.gov

ATTORNEYS FOR THE UNITED
STATES