

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

MODA HEALTH PLAN, INC.)	
)	
Plaintiff,)	
)	Case No. 16-649C
v.)	Judge Thomas C. Wheeler
)	
)	
THE UNITED STATES OF)	
AMERICA,)	
)	
Defendant.)	

STIPULATION FOR ENTRY OF JUDGMENT

To finally resolve the risk corridors claims of Plaintiff Moda Health Plan, Inc. (“Moda”) against the United States, and to permit the entry of a consolidated 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 June 1, 2016, Moda filed its Complaint in this matter seeking risk corridors damages under section 1342 of the ACA for benefit years 2014 and 2015. On July 2, 2020, Moda filed its Amended Complaint in this matter asserting two counts, each raising a separate theory for risk corridors damages under section 1342 of the ACA for benefit years 2014, 2015 and 2016.

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 Moda 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 \$248,945,078.91 (“Stipulated Damages Amount”). The Parties further agree that this payment resolves entirely the Amended Complaint 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 Moda in the total damages amount of \$248,945,078.91 on Count I of the Amended Complaint.

7. 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 Moda of the Stipulated Damages Amount above, Moda (HIOS nos. 39424, 65907 and 73836), and any and all of Moda’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 Moda (HIOS nos. 39424, 65907 and 73836), and any and all of Moda’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: July 2, 2020

Respectfully submitted,

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