

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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|---|---|------------------------------|
| BLUE CROSS BLUE SHIELD OF WYOMING, |) | |
| |) | |
| Plaintiff, |) | No. 20-892C |
| |) | |
| v. |) | |
| |) | Senior Judge Bruggink |
| THE UNITED STATES OF AMERICA, |) | |
| |) | |
| Defendant. |) | |
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STIPULATION FOR ENTRY OF JUDGMENT

To resolve the risk corridors claims of Plaintiff Blue Cross Blue Shield of Wyoming (“BCBS-WY”), and to permit the entry of final judgment on those claims, it is stipulated between the Parties:

1. Section 1342 (42 U.S.C. § 18062) of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (2010), 124 Stat. 119 *et seq.* (the “ACA”), created the risk corridors program.

2. On April 27, 2020, the Supreme Court held that section 1342 “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).

3. On July 23, 2020, BCBS-WY filed the Complaint in this case (ECF No. 1), asserting two counts, each raising a separate theory for damages arising under section 1342 of the ACA.

4. The Parties agree that *Maine Community Health Options* entitles BCBS-

WY to payment under section 1342 for benefit years 2014, 2015, and 2016 in the amount of \$10,304,821.63 (the “Stipulated Amount”) and that this payment resolves entirely the Complaint for all counts seeking damages arising under section 1342 of the ACA.

5. Accordingly, the Parties jointly request that the Court enter judgment in favor of BCBS-WY in the amount of \$10,304,821.63 on Count I of the Complaint (risk corridors benefit years 2014, 2015, and 2016).

6. The Parties further request that the Court dismiss Count II of the Complaint with prejudice.

7. Upon entry of judgment in the Stipulated Amount, BCBS-WY (HIOS No. 11269), and any and all of BCBS-WY’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 BCBS-WY (HIOS No. 11269) and any and all of BCBS-WY’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 or related to Section 1342 of the ACA.

Dated: August 11, 2020

Respectfully submitted,

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¹ Acting Assistant Attorney General Ethan P. Davis is recused from this matter.