

In the United States Court of Federal Claims

No. 17-1157
(Filed: August 17, 2020)

**JEFF RUDE, WYOMING STATE
INSURANCE COMMISSIONER,**

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

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ORDER

On August 25, 2017, Tom Glause, the former Wyoming State Insurance Commissioner, filed the Complaint on behalf of WINhealth’s liquidation estate in this Court seeking damages under section 1342 of the ACA for benefit years 2014, 2015, and 2016.

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). The Parties agree that *Maine Community Health Options* entitles WINhealth to payment under section 1342.

The United States asserts its right of offset to collect (or net) debts arising under other ACA programs. Jeff Rude, on behalf of WINhealth’s liquidation estate, agrees that amounts WINhealth owes to the United States under other ACA programs shall be offset against payments made under section 1342 to WINhealth.

The Parties stipulate that WINhealth is entitled to payment from the United States under the risk corridors program (section 1342 of the ACA) in the amount of \$17,854,774.09.

The Parties further stipulate that the United States is entitled to payment from WINhealth under the reinsurance program in the amount of \$238,716.56; and that the United States is entitled to payment of interest on this claim in the amount of \$60,141.67.

Accordingly, the Court awards WINhealth the amount of \$17,854,774.09, and awards the United States the amount of \$298,858.23. The judgment in favor of the United States shall be paid through deduction from the amount owed under this judgment to WINhealth upon submission of the

judgments to the Judgment Fund. The net amount payable by the United States to WINhealth is \$17,555,915.86.

The Court further dismisses Count II of the Complaint with prejudice.

And upon entry of judgment, Jeff Rude, on behalf of WINhealth's (HIOS Number 53189) liquidation estate, and any and all of WINhealth'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 Jeff Rude, on behalf of WINhealth's (HIOS Number 53189) liquidation estate, 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 the ACA programs.

Upon entry of judgment, the United States releases WINhealth from all claims (including attorney fees, costs, and expenses of every kind and however denominated) that the United States could have asserted against WINhealth arising out of or related to the ACA programs.

The Clerk is directed to enter judgment accordingly.

IT IS SO ORDERED.

s/ Edward J. Damich
EDWARD J. DAMICH
Senior Judge