

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

|                               |   |                    |
|-------------------------------|---|--------------------|
| BLUE CROSS BLUE SHIELD OF     | ) |                    |
| NORTH DAKOTA,                 | ) |                    |
|                               | ) | Case No. 1:20-846C |
|                               | ) |                    |
| Plaintiff,                    | ) | Hon. Judge Horn    |
|                               | ) |                    |
| v.                            | ) |                    |
|                               | ) |                    |
| THE UNITED STATES OF AMERICA, | ) |                    |
|                               | ) |                    |
| Defendant.                    | ) |                    |
| _____                         | ) |                    |

**STIPULATION FOR ENTRY OF FINAL JUDGMENT**

To finally resolve the risk corridors claims of Plaintiff Blue Cross Blue Shield of North Dakota (“BCBSND”), 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 and Education 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 July 13, 2020, BCBSND filed a Complaint in this Court to recover risk corridors damages under section 1342 of the ACA for benefit year 2014. The Complaint asserts one count 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 BCBSND to receive payment of damages from the United States under ACA section 1342 for risk corridors benefit years 2014 in the total amount of \$381,620.63. (“Stipulated Damages Amount”). The Parties further agree that receipt of this full payment will resolve entirely the risk corridors Complaint filed in this case.

6. Accordingly, the Parties jointly request that the Court enter final judgment in favor of BCBSND in the total damages amount of \$381,620.63 on Count I of BCBSND’s Complaint.

7. Upon entry of final judgment and receipt of full payment by BCBSND of the Stipulated Damages Amount above, Blue Cross Blue Shield of North Dakota (HIOS no. 37160), 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 Blue Shield of North Dakota (HIOS no. 37160), 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. This release does not relate to BCBSND’s separate Complaint to recover damages for unpaid Cost Sharing Reduction payments under ACA Section 1402 in *Blue Cross Blue Shield of North Dakota v. United States*, Case. No. 18-1983C (Fed. Cl.).

Dated: September 1, 2020

Respectfully submitted,

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<sup>1</sup> Acting Assistant Attorney General Ethan P. Davis is recused from this matter.