

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUE CROSS & BLUE SHIELD	)	
OF NORTH DAKOTA,	)	
	)	
Plaintiff,	)	
	)	Case No. 18-1983 C
v.	)	(Judge Hertling)
	)	
THE UNITED STATES,	)	
	)	
Defendant.	)	

JOINT MOTION TO ENTER STIPULATED FINAL JUDGMENT

In this case, plaintiff Blue Cross & Blue Shield of North Dakota (BCBSND) seeks to recover unpaid cost-sharing reduction payments, known as CSR payments, for benefit years 2017 and 2018. For the reasons set forth below, the parties jointly request this Court to enter judgment under Rule 58 of the Rules of the Court of Federal Claims in favor of BCBSND in the amount of \$8,850,703.28, as reflected in the accompanying proposed final judgment. Entry of final judgment is without prejudice to the Government’s right to appeal.

Based on facts specific to BCBSND, the parties stipulate as follows:

1. As determined by the Centers for Medicare & Medicaid Services, the combined total amount of unpaid CSR payments due and owing from the Government to BCBSND for benefit years 2017 and 2018 is \$8,850,703.28.

2. Given the Federal Circuit’s August 14 rulings in *Sanford Health Plan v. United States*, 969 F.3d 1370 (Fed. Cir. 2020) and *Community Health Choice, Inc. v. United States*, 970 F.3d 1364 (Fed. Cir. 2020), and given that BCBSND did not silver-load, or otherwise obtain additional premium tax credits to offset the unpaid CSR payments for benefit years 2017 or 2018, the parties agree that it is appropriate at this time for this Court to enter final judgment in favor of BCBSND in the amount of \$8,850,703.28 (the Stipulated Amount).

3. BCBSND requests an award of costs pursuant to Rule 54(d).
4. Neither party requests an award of attorney fees.
5. The entry of final judgment by this Court shall not prejudice the Government's right to appeal that judgment.

6. The entry of final judgment by this Court shall not prejudice either party's right to litigate future claims that may exist or arise from the Government's failure to make payments under Section 1402 of the ACA, including for benefit years 2019 and 2020.

Accordingly, the parties jointly request that this Court enter final judgment in the Stipulated Amount and consistent with these stipulations. A proposed final judgment is attached to this filing.

Respectfully submitted,

s/Lawrence S. Sher  
Lawrence S. Sher (D.C. Bar No. 430469)  
**REED SMITH LLP**  
1301 K Street NW  
Suite 1000-East Tower  
Washington, DC 20005  
Telephone: 202.414.9200  
Facsimile: 202.414.9299  
Email: lsher@reedsmith.com

*Of Counsel:*

Gregory Vose (PA Bar No. 324912)  
**REED SMITH LLP**  
Reed Smith Centre  
225 Fifth Avenue, Suite 1200  
Pittsburgh, PA 15222  
Telephone: 412.288.3131  
Facsimile: 412.288.3063  
Email: gvose@reedsmith.com

*Counsel for Plaintiff*

JEFFREY BOSSERT CLARK  
Acting Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.  
Director

CHRISTOPHER J. CARNEY  
Senior Litigation Counsel

s/Claudia Burke  
CLAUDIA BURKE  
Assistant Director

s/Eric E. Laufgraben  
ERIC E. LAUFGRABEN  
Senior Trial Counsel  
ALBERT S. IAROSI  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 480  
Ben Franklin Station  
Washington, DC 20044  
Telephone: (202) 353-7995  
Facsimile: (202) 353-0461  
Email: Eric.E.Laufgraben@usdoj.gov

October 9, 2020

Attorneys for Defendant

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	)	
THE UNITED STATES,	)	
	)	
Defendant.	)	

[PROPOSED] FINAL JUDGMENT

Based on the Joint Motion to Enter Stipulated Final Judgment submitted by the parties on October 9, 2020, and pursuant to Rule 58 of the Rules of the Court of Federal Claims, final judgment is hereby awarded to plaintiff Blue Cross & Blue Shield of North Dakota in the amount of \$8,850,703.28 for cost-sharing reduction payments for benefit years 2017 and 2018. The Clerk is directed to enter final judgment for plaintiff in the amount of \$8,850,703.28.

Plaintiff may request an award of costs. Entry of final judgment shall not prejudice defendant’s right to appeal this final judgment.

IT IS SO ORDERED.

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Richard A. Hertling  
Judge