

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUE CARE NETWORK OF MICHIGAN :	
and BLUE CROSS BLUE SHIELD OF :	Case No. 20-1000 C
MICHIGAN MUTUAL INSURANCE :	
COMPANY, :	Judge Horn
	:
Plaintiffs, :	
	:
v. :	
	:
UNITED STATES OF AMERICA, :	
	:
Defendant. :	

STIPULATION FOR ENTRY OF PARTIAL JUDGMENT

To resolve the risk corridors claims of Plaintiffs, Blue Care Network of Michigan and Blue Cross Blue Shield of Michigan Mutual Insurance Company, and to permit the entry of final judgment on those claims, it is stipulated 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) created the risk corridors program. Section 1402 (42 U.S.C. § 18071) authorizes cost-sharing reductions (“CSRs”), and Section 1412 (42 U.S.C. § 18082) authorizes advance payment of CSRs.

3. 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).

4. On August 26, 2020, Plaintiffs filed the First Amended Complaint seeking damages under various sections of the ACA. The Complaint asserts four counts, each seeking risk corridors damages under section 1342 of the ACA or CSRs damages under sections 1402 and 1412 of the ACA.

5. On October 8, 2020, the Court entered an order staying Counts III and IV which seek CSRs damages.

6. The Parties agree that *Maine Community Health Options* entitles Plaintiffs to payment under section 1342 in the amount of \$66,596,926 and that these payments resolve entirely the Complaint for all counts seeking damages under section 1342.

7. Accordingly, the Parties request that the Court enter judgment under Rule 54(b) of the Rules of the Court of Federal Claims for Plaintiffs in the amount of \$66,596,926 on Count I of the Complaint (the “Stipulated Damages Amount”).

8. The Parties further request that the Court dismiss Count II with prejudice.

9. Upon entry of judgment and receipt of full payment of the Stipulated Damages Amount, Plaintiffs, Blue Care Network of Michigan (HIOS No. 98185) and Blue Cross Blue Shield of Michigan Mutual Insurance Company (HIOS No. 15560), and any and all of Plaintiffs’ 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 Plaintiffs, and any and all of Plaintiffs’ affiliated entities, have 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.

Respectfully submitted,

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