

## CLIENT ALERT

### COFC Grants Summary Judgment on Statutory and Implied-in-Fact Contract Claims in ACA Litigation

February 20, 2019

On February 15, the COFC granted summary judgment in *Maine Community Health Options v. United States* (a C&M case), in which the Plaintiff sought to recover “cost-sharing reduction” (CSR) payments pursuant to Section 1402 of the Affordable Care Act. Under the CSR program, health insurers providing insurance on the exchanges are required to reduce certain individuals’ cost-sharing obligations, and the government is required to reimburse the insurer for the cost-sharing reductions. The health plan argued that the government’s payment obligation was mandatory under the terms of statute and moved for summary judgment. The government, cross-moving to dismiss, argued that the government did not have a mandatory payment obligation because Congress did not specify a source of appropriations. Following COFC precedent including *Montana Health* (discussed [here](#)), the court granted the health plan’s motion and denied the government’s cross-motion, holding that the obligation to make payment under a money-mandating statute is distinct from the appropriation used to fund it, and that the lack of an appropriation merely restricts the government’s agents (here, HHS), but does not negate the United States’ statutory payment obligation. The court also found in favor of the plaintiff under a breach of implied-in-fact contract theory, finding significant the quid-pro-quo nature of the CSR program, where health plans are reimbursed by the government for cost-sharing reductions they are statutorily required to make.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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