

CLIENT ALERT

Health Plans Seek Supreme Court Review in ACA "Risk Corridors" Cases

February 12, 2019

On February 4, several health plans (including C&M client Maine Community Health Options) filed petitions for certiorari at the U.S. Supreme Court, seeking review of the Federal Circuit's opinion in the ACA "risk corridors" cases, which held that while the risk corridors program contained a mandatory payment obligation on the part of the Government, that payment obligation was temporarily suspended by appropriations riders that restricted HHS funds available to satisfy the obligation, even though the riders did not amend or repeal the statutory payment obligation and even though the health plans had already performed their own reciprocal obligations under the statute. The petitioners are seeking review of the Federal Circuit's opinion on several grounds, including (i) the restriction of funds to an agency via appropriations rider does not extinguish a statutory payment obligation of the United States, (ii) a rider that does not by its terms repeal or amend a money-mandating statute cannot impliedly and retroactively extinguish the Government's payment obligation. The *Maine* petition is linked here.

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

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