

CLIENT ALERT

Supreme Court Grants Certiorari in Tucker Act Case Regarding ACA Payments

June 24, 2019

On June 24, the U.S. Supreme Court granted certiorari in *Maine Cmty. Health Options v. United States* (a C&M case), on appeal from the U.S. Court of Appeals for the Federal Circuit. *Maine*, along with two companion cases, seeks review of the Federal Circuit's opinion in the Affordable Care Act "risk corridors" cases, in which the Court held that while the ACA's risk corridors program contained a mandatory payment obligation on the part of the Government, that payment obligation was suspended by appropriations riders that restricted HHS funds available to satisfy the obligation. The Federal Circuit reached this conclusion notwithstanding the fact that 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 sought review of the Federal Circuit's opinion on several grounds, including (i) that the restriction of funds to an agency via appropriations rider does not extinguish a statutory payment obligation of the United States, and (ii) that 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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