

FOR IMMEDIATE RELEASE

LITIGATION NOTE: Crowell & Moring Succeeds in First Affordable Care Act Cost Sharing Reduction Case

Montana Health Co-Op secures summary judgment at U.S. Court of Federal Claims

Washington – September 7, 2018: The U.S. Court of Federal Claims ruled earlier this week in favor of Montana Health Co-Op, granting its cross motion for summary judgment and denying the U.S. government’s motion to dismiss in the first Cost-Sharing Reduction (CSR) case under the Affordable Care Act (ACA). CSR is a provision under the ACA which offers a discount to qualifying individuals to lower the cost of deductibles, copayments, and coinsurance through tax credits.

After making CSR payments from 2014 to 2017, the U.S. Department of Health and Human Services stopped making CSR payments in October 2017, asserting that it lacked a valid appropriation to make such payments, based upon newly issued legal guidance from the Department of Justice. Montana Health and other issuers sued the U.S. government, seeking the CSR payments owed for the fourth quarter of 2017. The Justice Department moved to dismiss the suit, and Montana Health cross-moved for summary judgment.

The Court agreed on Tuesday with Montana Health that the intent of Section 1402 of the ACA should be read from the plain language in the statute requiring payment, and that a mere lack of appropriations did not negate the government’s payment obligation.

“This decision is an important win for Montana Health and the healthcare industry, generally, which has a significant stake in the CSR cases,” said Crowell & Moring partner Stephen J. McBrady, who served as lead counsel to Montana Health Co-Op.

The Crowell & Moring litigation team also included partners A. Xavier Baker and Daniel W. Wolff; counsel Skye Mathieson; and associates Charles Baek, Sharmistha Das, Christopher Pinto, and Monica DiFonzo Sterling.

The case is *Montana Health Co-Op v. The United States of America*. A copy of the decision is available [here](#).

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