

Attachment 1

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

MODA HEALTH PLAN, INC.)	
)	
Plaintiff,)	
)	Case No. 1:16-cv-00649-TCW
v.)	Judge Thomas C. Wheeler
)	
)	
THE UNITED STATES OF)	
AMERICA,)	
Defendant.)	

SECOND DECLARATION OF JAMES FRANCESCONI

1. My names is James Francesconi. I am the Vice President of Public Policy for Moda Health Plan, Inc. (“Moda”). I make this declaration based upon my personal knowledge.

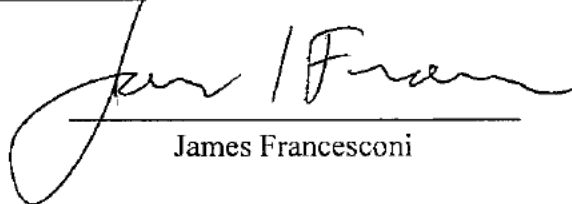
2. In November 2015, CMS publicly announced that the Government would pay only 12.6 percent of the 2014 Risk Corridor payments in Alaska and Oregon. Immediately following this announcement, Oregon insurance regulators required Moda to limit its Oregon enrollment, limit its premium payment option on the 2016 Oregon Individual Marketplace, and raise private capital.

3. In January 2016, Oregon insurance regulators issued an Order of Immediate Supervision of Moda Health, citing concerns about the adequacy of Moda Health’s capital reserves in light of the Government’s failure to fulfill its Risk Corridor obligation. The Order required Moda to obtain sufficient capital through other sources, and prohibited Moda from issuing new policies or renewing current policies in Oregon. Alaskan state regulators similarly prohibited Moda from issuing new policies or renewing existing policies in Alaska.

4. Moda reached an agreement with Oregon and Alaska state regulators to allow Moda to continue to issue policies in those states in 2016, but it was contingent on Moda's ability to raise private capital to replace the loss of risk corridor payments owed by the Government in 2014 and 2015.

5. Despite reaching this agreement with state regulators, Moda has had to remove a large health care system from its network in Oregon and to withdraw from the California and Washington medical markets and the Alaskan individual marketplace, as a result of the difficulties in raising sufficient capital to cover the \$208 million in Risk Corridor payments it is owed. Although Moda has been able to continue to offer Qualified Health Plans on Oregon's Marketplace in 2016 and 2017, Moda has been forced to limit its provider networks, geographic service areas, and enrollment. Moda would not have needed to take these steps if it had been timely paid the entirety of the 2014 and 2015 Risk Corridors payments. Until the Government fulfills its Risk Corridor obligations, Moda cannot expand its operations or otherwise conduct business as in the past and as planned.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
AND CORRECT. EXECUTED ON November 22, 2016


James Francesconi