



## SETTLEMENT AGREEMENT

This Settlement Agreement (the “Agreement”) is entered into by and between (a) the United States House of Representatives (the “House”); (b) the United States Department of Health and Human Services, the United States Department of the Treasury, and their respective Secretaries (the “Agencies”); and (c) the States of California, New York, Connecticut, Delaware, Hawaii, Illinois, Iowa, Kentucky, Maryland, Massachusetts, Minnesota, New Mexico, North Carolina, Pennsylvania, Vermont, Virginia, and Washington, and the District of Columbia (the “States”).

1. In light of changed circumstances, the House, the Agencies, and the States have determined to resolve the dispute that is pending before the U.S. Court of Appeals for the D.C. Circuit (“Court of Appeals”) in *United States House of Representatives v. Hargan, et. al*, No. 16-5202 (D.C. Cir.).

2. By no later than two business days after execution of this Agreement, the House and the Agencies (collectively, “the Parties”) will submit to the district court a request that the district court issue an indicative ruling pursuant to Rule 62.1 of the Federal Rules of Civil Procedure stating that, if the case is remanded by the court of appeals, the district court will vacate the portion of its final order providing that “reimbursements paid to issuers of qualified health plans for the cost-sharing reductions mandated by Section 1402 of the Affordable Care Act, Pub. L. 111-148, are ENJOINED pending an appropriation for such payments.” ECF No. 74, *United States House of Representatives v. Burwell, et al.*, No. 1:14-cv-01967-RMC (D.D.C.). If the district court grants that motion, the Parties and the States will file a motion that asks the court of appeals to remand the case to allow the district court to grant the motion as provided in its indicative ruling.

3. The Parties recognize that the Executive Branch of the United States Government (“Executive Branch”) continues to disagree with the district court’s non-merits holdings, including its conclusion that the House had standing and a cause of action to bring this suit. The Parties agree that because subsequent developments have obviated the need to resolve those issues in an appeal in this case, the district court’s holdings on those issues should not in any way control the resolution of the same or similar issues should they arise in other litigation between the House and the Executive Branch. The Parties also recognize that the States continue to disagree with the district court’s merits holding. Accordingly, if the court of appeals grants the Joint Motion, the Parties agree that the district court’s holding on the merits should not in any way control the resolution of the same or similar issues should they arise in other litigation, and hereby waive any right to argue that the judgment of the district court or any of the district court’s orders or opinions in this case have any preclusive effect in any other litigation.

4. If the district court grants the motion described in paragraph 2 above and, following remand from the D.C. Circuit, the district court vacates its injunction in accordance with its indicative ruling, the Parties and the States agree that this litigation will have been resolved. The Parties and the States will bear their own fees and costs.

5. If the district court declines to grant the motion described in paragraph 2 above, or indicates that it would enter other relief not jointly supported by the Parties, this Agreement shall be of no force and effect and the Parties and the States shall be returned to their respective positions prior to execution of this Agreement.

6. **FULL AUTHORITY TO SIGN.** Each person signing this Agreement represents and warrants that he or she has full authority to execute the Agreement on behalf of himself or herself, or on behalf of the party or entity on whose behalf he or she signs this Agreement.

7. EXECUTION IN COUNTERPARTS AND ELECTRONIC SIGNATURES. This Agreement may be executed and delivered in counterparts, and may be executed by electronic signature, and if so, shall be considered an original. Each counterpart, when executed, shall be considered one and the same instrument, which shall comprise the Agreement, which takes effect on the date of execution by all parties to the Agreement.

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