18-1028 MODA HEALTH PLAN, INC. V. UNITED STATES

DECISION BELOW: 892 F.3d 1311

LOWER COURT CASE NUMBER: 2017-1994

QUESTION PRESENTED:

To encourage health insurers to offer insurance on newly created health benefit exchanges, and to keep premiums low, the federal government made an unambiguous statutory commitment: If the costs of claims under these new health insurance policies exceeded the premiums charged in the first three years, the government would reimburse insurers a specified percentage of the difference. Numerous health insurers, including petitioners, relied on that promise, joined the exchanges, set their premiums, and incurred significant losses in providing health coverage. Congress later enacted a series of appropriations riders restricting the sources of funds available to the Department of Health and Human Services ("HHS") to pay insurers what was owed, but never amended the underlying statute. A divided Federal Circuit panel agreed that the government's initial statutory commitment was unambiguous, but relied on legislative history to hold the appropriations riders had repealed the statutory guarantee. The net effect was a bait-and-switch of staggering dimensions in which the government has paid insurers $12 billion less than what was promised.

The question presented is:

Whether Congress can evade its unambiguous statutory promise to pay health insurers for losses already incurred simply by enacting appropriations riders restricting the sources of funds available to satisfy the government's obligation.

CONSOLIDATED WITH 18-1023 AND 18-1038, AND A TOTAL OF ONE HOUR IS ALLOTTED FOR ORAL ARGUMENT.

CERT. GRANTED 6/24/2019