

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

COMMON GROUND HEALTHCARE
COOPERATIVE,

Plaintiff,
on behalf of itself and all others
similarly situated,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

Case No. 17-877C

Judge Sweeney

UNOPPOSED MOTION TO AMEND THE JUDGMENT

Pursuant to RCFC 59(e) and 60(b), Plaintiff moves to amend the judgment in this matter to rectify an error that resulted in inclusion of a single class member that separately obtained an individual judgment in another case in this Court. In addition, Plaintiff moves to amend the judgment to include four additional entities in the judgment for the Non-Dispute Subclass, whose inclusion in the amended judgment will obviate the need for separate lawsuits and thereby conserve the resources of the entities, the government, and the Court. The United States does not oppose these requests.

RCFC 59(e) provides that a “motion to alter or amend a judgment must be filed no later than 28 days after the entry of judgment.” The decision whether to grant a motion pursuant to Rule 59(e) “lies largely within the discretion of the trial court.” *IAP Worldwide Servs., Inc. v. United States*, 141 Fed. Cl. 788, 800–01 (2019). Moreover, under RCFC 60(b), the Court may “relieve a party . . . from a final judgment,” for “any . . . reason that justifies relief.”

First, Plaintiff requests that the Court amend the judgment for the Non-Dispute Subclass to exclude Celtic Insurance Company. A representative of Celtic Insurance Company (HIOS

No. 27833) opted in to this class action. However, that entity's claim for a 2016 risk corridors payment is the subject of a separate, individual action in this Court, Case No. 16-1722, and a judgment has been entered in that case which includes the full amount of that entity's claim of \$1,846,059.24. Accordingly, Plaintiff requests that the court amend the judgment in this case to exclude that entity and its claim amount. Class Counsel has reviewed the stipulated judgments (or, if no stipulated judgment, the operative complaints) in the individual risk corridor cases identified by the government, and represents that it is not aware of any class member other than Celtic Insurance Company that has asserted an individual risk corridors action for the 2016 benefit year.

Second, Plaintiff requests that the Court include the following entities' 2016 risk corridor claims in the amended judgment: CommunityCare Life and Health Insurance Company (HIOS ID 87698); MercyCare HMO, Inc. (HIOS ID 58326); MercyCare Insurance Company (HIOS ID 35334); and ZOOM+Care Health Insurance (HIOS ID 30969). The opt-in forms for these entities are attached to this motion as Exhibit B. Allowing these entities' claims to be included in the Non-Dispute Subclass's judgment in this case will conserve the resources of both the parties and the Court, as it would obviate the need for an additional series of individual lawsuits. While these efficiencies do not represent the change in controlling law or availability of new evidence that are typically raised as grounds for amending a judgment pursuant to RCFC 59(e), this case presents the "extraordinary circumstance" that the Supreme Court has effectively resolved the merits dispute between the parties, making efficient processing of QHP issuers' claims the paramount concern. *IAP*, 141 Fed. Cl. at 801. The amount due to each member of the proposed amended Non-Dispute Subclass is set forth in Exhibit A to this motion (as is a redline demonstrating the proposed changes).

For the foregoing reasons, Plaintiff requests that the Court grant the unopposed motion to amend the judgment to exclude Celtic Insurance Company and include the four identified entities. The total amount of the proposed amended judgment for the Non-Dispute Subclass is \$1,796,711,630.07.

DATED: August 18, 2020

Respectfully submitted,

QUINN EMANUEL URQUHART &
SULLIVAN, LLP

/s/ Stephen Wedlow

Stephen Wedlow
stephenswedlow@quinnemanuel.com
191 N. Wacker Drive, Suite 2700
Chicago, Illinois 60606
Telephone: (312) 705-7400
Facsimile: (312) 705-7401

J.D. Horton
jdhorton@quinnemanuel.com
Adam B. Wolfson
adamwolfson@quinnemanuel.com
865 S. Figueroa Street
Los Angeles, California 90017
Telephone: (213) 443-3000
Facsimile: (213) 443-3100

Attorneys for Plaintiff Common Ground
Healthcare Cooperative and the Classes

Exhibit A

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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THE UNITED STATES OF AMERICA,

Defendant.

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Judge Sweeney

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60536	Avera Health Plans, Inc.	\$14,067,742.19
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27811	BlueCross BlueShield Kansas Solutions, Inc.	\$28,596,175.72
40586	Bluegrass Family Health, Inc.	\$12,763,363.04
45127	Capital Advantage Assurance Company	\$12,584,816.88
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28137	CareFirst BlueChoice, Inc.	\$41,057,486.62
86052	CareFirst BlueChoice, Inc.	\$139,120.92
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77552	CareSource	\$32,086,445.80
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45636	CareSource Kentucky Co.	\$3,087,507.35
50328	CareSource West Virginia Co.	\$1,239,716.45
94788	CDPHP	\$1,128,625.43

92551	CDPHP Universal Benefits Inc.	\$10,440,924.71
47579	Chinese Community Health Plan	\$1,287,266.96
66252	CHRISTUS Health Plan	\$9,529,090.47
72034	CHRISTUS Health Plan	\$2,352,154.70
63312	Colorado Choice Health Plans	\$4,956,311.74
87416	Common Ground Healthcare Cooperative	\$27,657,256.98
18581	Community Health Plan of Washington	\$492,042.87
98905	CommunityCare HMO Inc.	\$677,742.83
87698	CommunityCare Life & Health Insurance Co.	\$1,522,505.85
38345	Dean Health Plan	\$5,406,793.42
78124	Excellus Health Plan, Inc.	\$23,595,031.50
88806	Fallon Community Health Plan, Inc.	\$1,935,393.50
22444	Geisinger Health Plan	\$13,244,631.61
75729	Geisinger Quality Options, Inc.	\$5,955,066.10
78079	GHMSI	\$434,190.13
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80473	Group Health Cooperative	\$21,043,260.92
34102	Group Health Plan, Inc.	\$14,052,643.55
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27651	Gundersen Health Plan, Inc.	\$81,427.05
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95852	Harken Health Insurance Company	\$12,210,414.34
70239	Health Choice Insurance Co.	\$12,591,097.47
27357	Health First Health Plans, Inc.	\$1,432,717.01
77150	Health First Insurance, Inc.	\$205,230.49
95865	Health Plan of Nevada, Inc.	\$3,326,339.65
47342	Health Tradition Health Plan	\$2,691,924.97
92036	HealthSpan, Inc.	\$1,546,837.99
20126	HealthSpan Integrated Care	\$4,471,693.71
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89942	Kaiser Foundation Health Plan of Georgia	\$30,010,904.53
90296	Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.	\$31,142,310.40
94506	Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.	\$2,007,972.38
95185	Kaiser Foundation Health Plan of the Mid-Atlantic States, Inc.	\$36,966,452.97
40513	Kaiser Foundation Health Plan, Inc.	\$155,537,695.89

60612	Kaiser Foundation Health Plan, Inc.	\$16,173,112.98
23371	Kaiser Foundation Healthplan of the NW	\$6,553,058.03
71287	Kaiser Foundation Healthplan of the NW	\$15,251,167.48
53789	Keystone Health Plan Central	\$14,500,584.78
97176	Louisiana Health Service & Indemnity Company	\$23,579,282.01
58326	MercyCare HMO, Inc.	\$1,966,338.04
35334	MercyCare Insurance Company	\$690,228.89
11177	MetroPlus Health Plan	\$15,037,085.52
81413	Network Health Plan	\$2,307,460.56
82483	North Shore-LIJ Insurance Company Inc	\$113,132,550.69
20507	Optima Health Plan	\$8,636,390.10
10544	Oscar Health Plan of California	\$4,167,289.22
20069	Oscar Insurance Company of Texas	\$35,085,745.70
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58564	Physicians Plus Insurance Corporation	\$464,542.33
26734	Premier Health Plan, Inc.	\$5,682,287.55
57173	Presbyterian Health Plan, Inc.	\$2,801,184.47
52744	Presbyterian Insurance Company, Inc.	\$8,019,908.13
29698	Priority Health	\$26,339,617.56
29241	Priority Health Insurance Company (PHIC)	\$7,075,598.39
37392	Prominence HealthFirst of Texas, Inc.	\$1,572,951.33
56707	Providence Health Plan	\$66,966,568.57
70525	QCA Health Plan, Inc.	\$5,894,850.51
37903	QualChoice Life & Health Insurance Company, Inc.	\$6,742,797.09
80208	Rocky Mountain Health Care Options	\$4,463,039.51
97879	Rocky Mountain HMO	\$14,623,375.96
38166	Security Health Plan of Wisconsin, Inc.	\$27,043,286.85
26002	SelectHealth	\$57,700,877.85
68781	SelectHealth	\$143,988,818.30
26539	SHA, LLC DBA FirstCare Health Plans	\$7,708,618.14
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43802	UnitedHealthcare of Georgia, Inc.	\$4,356,433.40
38499	UnitedHealthcare of Louisiana, Inc.	\$200,537.78
97560	UnitedHealthcare of Mississippi, Inc.	\$3,906,592.67
54235	UnitedHealthcare of New York, Inc.	\$4,509,245.86
33931	UnitedHealthcare of Ohio, Inc.	\$3,833,592.57
45480	UnitedHealthcare of Oklahoma, Inc.	\$3,012,668.48
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**EXHIBIT A TO JOINT MOTION TO DIVIDE CLASS INTO SUBCLASSES AND
STIPULATION FOR ENTRY OF PARTIAL AMEND JUDGMENT AS TO THE NON-
DISPUTE SUBCLASS**

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TOTAL	-	\$1,793,311,386.47
		<u>\$1,796,711,630.07</u>

Exhibit B

Class Action Opt-In Notice Form

UNITED STATES COURT OF FEDERAL CLAIMS
Common Ground Healthcare Cooperative v. United States
Case No. 17-877 C

1. Fill out this form completely and legibly. It must be submitted, postmarked, faxed or delivered to the claims administrator (who has been retained by Class Counsel for this case and whose address is at Paragraph 5 below) on or before Monday, April 23, 2018.

PLEASE NOTE: A notice has been sent to your address based on information in the Government's records. It is your responsibility to ensure that the information you provide on this form is complete and accurate, and that you are entitled to a distribution of money arising out of the above lawsuit.

2. Please write the full name of the person or entity that offered a Qualified Health Plan(s) under the Patient Protection and Affordable Care Act in the 2016 benefit year, and whose allowable costs in the 2016 benefit year, as calculated by the Centers for Medicare & Medicaid Services, were more than 103 percent of their target amounts (as those terms are defined in the Patient Protection and Affordable Care Act).

CommunityCare Life and Health Insurance Company

3. Please fill in the following information.

Address: Two West Second Street, Ste. 100
Tulsa, OK 74103

Telephone number: (918) 594-5200

Name, telephone number, and email address for person at QHP issuer that will act as contact for information regarding the Class Action:

Andrew Hill, VP Chief Compliance & Risk Officer
(918) 594-4055
ahill@ccokz.com

4. By signing your name in the space below, you are declaring under penalty of perjury under the laws of the United States and applicable state laws:

- (a) That the above-listed QHP issuer wishes to opt into the Class Action lawsuit against the United States described in the accompanying Notice (*Common Ground Healthcare Cooperative v. United States*);
- (b) That you are authorized by the above-listed QHP issuer to sign this document on behalf of the QHP issuer and thereby bind the above-listed QHP issuer;
- (c) That the above-listed QHP issuer offered Qualified Health Plan(s) under the Patient Protection and Affordable Care Act in the 2016 benefit year, and its allowable costs in the 2016 benefit year, as calculated by the Centers for Medicare & Medicaid Services, were more than 103 percent of its target amounts (as those terms are defined in the Patient Protection and Affordable Care Act); and
- (d) That to the best of your knowledge, the above-listed QHP issuer is entitled to a distribution out of this lawsuit according to the description of the United States' alleged failure to make full risk corridors payments on an annual basis as printed in the accompanying Notice.

Sign Your Name: Andrew Hill Date: 8/19/2020

Print Your Name: Andrew Hill

Position at QHP issuer: VP, Chief Compliance & Risk Officer

Note: If you represent an entity making a claim, such as a corporation, partnership, or trust, please identify the name of that entity in response to Question 2, but sign in your own name as a representative of that entity.

5. Submit this completed form to:

By Internet: <http://www.riskcorridorsclassaction2016.com/optin>

- A copy of the Class Action Opt-In Notice Form may also be downloaded at this URL.

By Courier: Risk Corridors Class Action
c/o JND Class Action Administration
2727 Western Avenue, Suite 200
Seattle, WA 98121

By Mail: Risk Corridors Class Action
c/o JND Class Action Administration
PO Box 91307
Seattle, WA 98111

By Facsimile: 1-866-282-0407

Class Action Opt-In Notice Form

UNITED STATES COURT OF FEDERAL CLAIMS

Common Ground Healthcare Cooperative v. United States

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Mercy Care HMO

3. Please fill in the following information.

Address: 580 N. WASHINGTONJANESVILLE, WI 53548-2984Telephone number: (608) 752-3431

Name, telephone number, and email address for person at QHP issuer that will act as contact for information regarding the Class Action:

E. PATRICK CRANLEY(608) 314-2444P.CRANLEY@MH6MAIL.ORG

4. By signing your name in the space below, you are declaring under penalty of perjury under the laws of the United States and applicable state laws:

- (a) That the above-listed QHP issuer wishes to opt into the Class Action lawsuit against the United States described in the accompanying Notice (*Common Ground Healthcare Cooperative v. United States*);
- (b) That you are authorized by the above-listed QHP issuer to sign this document on behalf of the QHP issuer and thereby bind the above-listed QHP issuer;
- (c) That the above-listed QHP issuer offered Qualified Health Plan(s) under the Patient Protection and Affordable Care Act in the 2016 benefit year, and its allowable costs in the 2016 benefit year, as calculated by the Centers for Medicare & Medicaid Services, were more than 103 percent of its target amounts (as those terms are defined in the Patient Protection and Affordable Care Act); and
- (d) That to the best of your knowledge, the above-listed QHP issuer is entitled to a distribution out of this lawsuit according to the description of the United States' alleged failure to make full risk corridors payments on an annual basis as printed in the accompanying Notice.

Sign Your Name:  Date: 8-13-20

Print Your Name: Michael K. Lorhan

Position at QHP issuer: CFO

Note: If you represent an entity making a claim, such as a corporation, partnership, or trust, please identify the name of that entity in response to Question 2, but sign in your own name as a representative of that entity.

5. Submit this completed form to:

By Internet: <http://www.riskcorridorsclassaction2016.com/optin>

- A copy of the Class Action Opt-In Notice Form may also be downloaded at this URL.

By Courier: Risk Corridors Class Action
c/o JND Class Action Administration
2727 Western Avenue, Suite 200
Seattle, WA 98121

By Mail: Risk Corridors Class Action
c/o JND Class Action Administration
PO Box 91307
Seattle, WA 98111

By Facsimile: 1-866-282-0407

Class Action Opt-In Notice Form

UNITED STATES COURT OF FEDERAL CLAIMS

Common Ground Healthcare Cooperative v. United States

Case No. 17-877 C

1. Fill out this form completely and legibly. It must be submitted, postmarked, faxed or delivered to the claims administrator (who has been retained by Class Counsel for this case and whose address is at Paragraph 5 below) on or before Monday, April 23, 2018.

PLEASE NOTE: A notice has been sent to your address based on information in the Government's records. It is your responsibility to ensure that the information you provide on this form is complete and accurate, and that you are entitled to a distribution of money arising out of the above lawsuit.

2. Please write the full name of the person or entity that offered a Qualified Health Plan(s) under the Patient Protection and Affordable Care Act in the 2016 benefit year, and whose allowable costs in the 2016 benefit year, as calculated by the Centers for Medicare & Medicaid Services, were more than 103 percent of their target amounts (as those terms are defined in the Patient Protection and Affordable Care Act).

MercyCare Insurance Company

3. Please fill in the following information.

Address: 580 N. WASHINGTON ST

JANESVILLE, WI 53548-2984

Telephone number: (608) 752-3431

Name, telephone number, and email address for person at QHP issuer that will act as contact for information regarding the Class Action:

E. PATRICK CRANLEY, COO

(608) 314-2444

PCRANLEY@MHEMAIL.ORG

4. By signing your name in the space below, you are declaring under penalty of perjury under the laws of the United States and applicable state laws:

- (a) That the above-listed QHP issuer wishes to opt into the Class Action lawsuit against the United States described in the accompanying Notice (*Common Ground Healthcare Cooperative v. United States*);
- (b) That you are authorized by the above-listed QHP issuer to sign this document on behalf of the QHP issuer and thereby bind the above-listed QHP issuer;
- (c) That the above-listed QHP issuer offered Qualified Health Plan(s) under the Patient Protection and Affordable Care Act in the 2016 benefit year, and its allowable costs in the 2016 benefit year, as calculated by the Centers for Medicare & Medicaid Services, were more than 103 percent of its target amounts (as those terms are defined in the Patient Protection and Affordable Care Act); and
- (d) That to the best of your knowledge, the above-listed QHP issuer is entitled to a distribution out of this lawsuit according to the description of the United States' alleged failure to make full risk corridors payments on an annual basis as printed in the accompanying Notice.

Sign Your Name: *Michael K. Loman* Date: 8-12-20

Print Your Name: *Michael K. Loman*

Position at QHP issuer: *CHIEF FINANCIAL OFFICER*

Note: If you represent an entity making a claim, such as a corporation, partnership, or trust, please identify the name of that entity in response to Question 2, but sign in your own name as a representative of that entity.

5. Submit this completed form to:

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Class Action Opt-In Notice Form

UNITED STATES COURT OF FEDERAL CLAIMS
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Zoom Health Plan, Inc.

3. Please fill in the following information.

Address: 1455 Northwest Irving St., Ste. 600
Portland, OR 97209-2277

Last Company Address

Telephone number: _____

Name, telephone number, and email address for person at QHP issuer that will act as contact for information regarding the Class Action:

Eric Scott 850-443-9031 eric.scott@riskreg.com

4. By signing your name in the space below, you are declaring under penalty of perjury under the laws of the United States and applicable state laws:

- (a) That the above-listed QHP issuer wishes to opt into the Class Action lawsuit against the United States described in the accompanying Notice (*Common Ground Healthcare Cooperative v. United States*);
- (b) That you are authorized by the above-listed QHP issuer to sign this document on behalf of the QHP issuer and thereby bind the above-listed QHP issuer;
- (c) That the above-listed QHP issuer offered Qualified Health Plan(s) under the Patient Protection and Affordable Care Act in the 2016 benefit year, and its allowable costs in the 2016 benefit year, as calculated by the Centers for Medicare & Medicaid Services, were more than 103 percent of its target amounts (as those terms are defined in the Patient Protection and Affordable Care Act); and
- (d) That to the best of your knowledge, the above-listed QHP issuer is entitled to a distribution out of this lawsuit according to the description of the United States' alleged failure to make full risk corridors payments on an annual basis as printed in the accompanying Notice.



Sign Your Name: _____ Date: 8/17/2020

Print Your Name: Jan M. Moenck

Position at QHP issuer: Special Deputy Director

Note: If you represent an entity making a claim, such as a corporation, partnership, or trust, please identify the name of that entity in response to Question 2, but sign in your own name as a representative of that entity.

5. Submit this completed form to:

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