

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HARVARD PILGRIM HEALTH CARE, INC.,	)	
HPHC INSURANCE COMPANY, INC., AND	)	
HARVARD PILGRIM HEALTH CARE OF	)	
NEW ENGLAND, INC.,	)	Case No. 18-1820C
	)	Senior Judge Loren Smith
Plaintiffs,	)	
	)	
v.	)	
	)	
THE UNITED STATES,	)	
	)	
Defendant.	)	

JOINT STATUS REPORT

Pursuant to the Court’s July 27, 2022 order (ECF No. 44), the parties respectfully submit this Joint Status Report. The July 27, 2022 order continued the stay in these proceedings and directed the parties to file a joint status report proposing further proceedings by September 2.

In July 2021, shortly after the U.S. Supreme Court denied the petition for writ of certiorari (No. 20-1162) and the Government’s conditional cross-petition (No. 20-1432) in *Maine Community Health Options v. United States*, which sought review of the Federal Circuit’s cost-sharing reduction (CSR) decision in *Community Health Choice, Inc. v. United States*, Nos. 2019-1633, -2102, 2020 WL 4723757 (Fed. Cir. Aug. 14, 2020), the parties began discussions regarding the next steps in this litigation. Several different attorneys, collectively representing a large number of plaintiff health plans—including the plaintiff here—engaged Government counsel in discussions regarding potential resolution of the CSR matters through settlement.

The parties’ resolution efforts are progressing. On December 3, 2021, Plaintiffs’ counsel shared a proposal with the Government to attempt to collectively resolve the damages and mitigation issues in the CSR cases without further litigation or to significantly streamline

resolution of the remaining damages/mitigation issues in these cases. On April 28, 2022, the Government responded to Plaintiffs' proposal, and Plaintiffs responded on May 23, 2022. Thereafter, the parties have convened by phone multiple times, and the Government produced certain settlement-related data and other information to the plaintiffs on July 22, 2022. Most recently, the parties participated in a settlement-related call on September 1, 2022. The parties expect to provide additional explanation to each other in the next couple of weeks on specific topics that were discussed during this recent call, which the parties hope will continue to advance our settlement discussions.

The parties respectfully request that the stay of this matter continue for an additional 45 days, at which time the parties will file a joint status report. Good cause exists for the Court to continue the existing stay of this case. The parties are working together to determine whether they may efficiently resolve this matter without further litigation or can at least streamline the damages and mitigation issues in this case. The complexity of the CSR cases and the large number of interested stakeholders, necessitates that the parties be afforded additional time to complete these efforts. The parties therefore jointly propose that they file a status report by October 17, 2022, in which the parties will update the Court on the status of their efforts to resolve this matter.

September 2, 2022

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