

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

SENDERO HEALTH PLANS, INC,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

Case No. 17-2048C

Judge Matthew H. Solomson

JOINT STATUS REPORT AND MOTION TO CONTINUE STAY

Pursuant to the Court’s Status Report Order on July 25, 2022, the parties respectfully submit this Joint Status Report. The July 25 order continued the stay in these proceedings and directed the parties to file a joint status report proposing further proceedings by September 26, 2022.

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 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.

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 convened by phone, and the Government is currently preparing additional information relevant to the parties' discussion. Most recently, the parties participated in a settlement-related call on September 1, 2022. Plaintiffs have since provided additional information and clarification to the Government, and the parties expect to continue this process in the next couple of weeks on specific topics that were discussed during this recent call, which the parties believe will continue to advance our settlement discussions.

The parties' resolution efforts are progressing. 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. Pursuant to the Court's July 25 order, the parties will file a joint status report on or before November 28, 2022, to update the Court regarding the parties' progress toward settlement.

September 26, 2022

/s/ William L. Roberts

William L. Roberts

william.roberts@faegredrinker.com

FAEGRE DRINKER BIDDLE & REATH LLP

2200 Wells Fargo Center

90 South Seventh Street

Minneapolis, MN 55402-3901

Telephone: (612) 766-7000

Fax: (612) 766-1600

***Counsel of Record for Plaintiff Sendero
Health Plans, Inc.***

OF COUNSEL:

Jonathan W. Dettmann

jon.dettmann@faegredrinker.com

Evelyn Snyder

evelyn.snyder@faegredrinker.com

Respectfully submitted,

BRIAN M. BOYNTON

Principal Deputy Assistant Attorney General

RUTH A. HARVEY

Director

Commercial Litigation Branch

KIRK T. MANHARDT

Deputy Director

/s/ Phillip M. Seligman

PHILLIP M. SELIGMAN

Commercial Litigation Branch

Civil Division

U.S. Department of Justice

P.O. Box 480

Ben Franklin Station

Washington, D.C. 20044

Tel. (202) 307-1105

Fax (202) 307-0494

Phillip.seligman@usdoj.gov

OF COUNSEL:

DAVID M. KERR

Trial Attorney

ALBERT S. IAROSCI

Trial Attorney

Civil Division

U.S. Department of Justice

Counsel for Defendant The United States