

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

MAINE COMMUNITY HEALTH OPTIONS,)	
)	
Plaintiff,)	
)	Case No. 20-458
v.)	(Judge Davis)
)	
THE UNITED STATES,)	
)	
Defendant.)	
)	

JOINT STATUS REPORT

Pursuant to the Court’s September 13, 2022 Order, the parties respectfully submit this Joint Status Report.

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.

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. The parties participated in a settlement-related call on September 1, 2022, and the CSR Plaintiffs followed that call with a letter to the Government on September 15, 2022. The Government has been reviewing and discussing internally the CSR Plaintiffs' letter. Specifically, the Government has been exploring possible new sources of information and ways to estimate where information does not appear to be available. CSR Plaintiffs expect to receive a response letter from the Government soon.

The parties respectfully request that the stay of this matter continue for an additional 60 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 January 9, 2023, in which the parties will update the Court on the status of their efforts to resolve this matter.

November 8, 2022

s/ Stephen McBrady
Stephen McBrady
CROWELL & MORING LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004
Telephone: (202) 624-2500
Facsimile: (202) 628-5116
SMcBrady@crowell.com

Respectfully submitted,

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney General

PATRICIA M. McCARTHY
Director

/s/Claudia Burke
CLAUDIA BURKE
Assistant Director

OF COUNSEL:

Charles Baek

CROWELL & MORING LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004

*Counsel for Plaintiff Maine Community
Health Options*

/s/Albert S. Iarossi

ALBERT S. IAROSSİ
Senior Trial Counsel
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
P.O. Box 480
Ben Franklin Station
Washington, DC 20044
Telephone: (202) 616-3755
Email: albert.s.iarossi@usdoj.gov
OF COUNSEL:

DAVID M. KERR
Trial Attorney
Civil Division
U.S. Department of Justice

Counsel for Defendant The United States