

IN THE UNITED STATES COURT
OF FEDERAL CLAIMS

HIGHMARK, INC, *et al.*,

Plaintiffs,

v.

THE UNITED STATES,

Defendant.

No. 20-1686 C
Judge Kaplan

JOINT STATUS REPORT

Pursuant to the Court’s March 6, 2023 order (ECF No. 47), the parties respectfully submit this joint status report to request that the Court continue the stay in these proceedings.

This case is currently stayed because the Government is working with a number of cost-sharing reduction (“CSR”) Plaintiffs to determine whether they may efficiently resolve this and other pending CSR matters without further litigation or at least streamline these cases. The parties to a number of these CSR cases, including this one, have stipulated to entry of partial final judgment as to the CSR amounts owed by the Government for 2017. On September 23, 2022, with leave of this Court, the Plaintiffs filed an Amended Complaint to recover CSR payments due to Plaintiffs for 2018-21. On March 6, 2023, the Court ordered the parties to file a joint status report on or before April 20, 2023.

The parties believe that the current continued stay in this case will provide more time for the parties to continue their discussions about resolving the damages amounts owed by the Government in the pending CSR cases, including this one, for benefit years

2018 and beyond without further litigation. On April 28, 2022, the Government provided its substantive response to the CSR Plaintiffs' proposed settlement methodology for CSR damages owed for benefit years 2018 and beyond. On May 20, 2022, counsel for the Government and for a number of CSR Plaintiffs, including this case, participated in a teleconference with actuaries to discuss the proposed settlement methodology and to share relevant data. On May 23, 2022, CSR Plaintiffs responded to the Government's April 28, 2022 letter. Thereafter, the parties have convened by phone multiple times, and the Government produced certain settlement-related data and other information to the CSR Plaintiffs on July 22, 2022, which the parties hope will continue to advance our settlement discussions. 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 responded to the CSR Plaintiffs' letter on November 10, 2022. On January 10, 2023, the CSR Plaintiffs responded to the Government's letter. The parties participated in conference calls on Thursday, January 19, 2023, and Friday, February 24, 2023 to discuss the latest settlement proposal. The complexity of the CSR cases and the number of interested stakeholders necessitate that the parties be afforded additional time to pursue this mutual attempt to resolve the damages issues in this case without further litigation. Good cause therefore exists to continue the stay in this case for CSRs due to Plaintiffs for benefit years 2018 and beyond.

Accordingly, the parties jointly request that the Court continue the stay in this case, and the parties will file a Joint Status Report within 45 days to update the Court on the status of their efforts to fully resolve this matter.

April 20, 2023

Respectfully submitted,

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