

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 March 16, 2023 Order, the parties respectfully submit this Joint Status Report. The March 16, 2023 Order continued the stay in these proceedings and directed the parties to file a joint status report proposing further proceedings by May 12, 2023.

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 responded to CSR Plaintiffs by letter dated 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. Counsel for the CSR Plaintiffs presently are working on a combined written response to the Government's most recent position on certain offset and mitigation issues that are material to any potential settlement. Counsel for the CSR Plaintiffs expects to deliver this response letter to counsel for the Government before the end of this month

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. To wait for an agreement on a method that can be applied to most or all plaintiffs furthers judicial efficiency. There are currently 26 CSR cases before 14 judges. An agreement on a settlement method would eliminate the confusion that could result from multiple judges adjudicating the same claims differently. This would, in turn, free the Court's resources to devote to other matters. We acknowledge the time this process has taken, but maintain that the time has been necessary to resolve issues with so many stakeholders and such complex accounting issues.

The parties have significantly narrowed the issues to be resolved and believe that they are close to a final determination as to whether the methodology they have been discussing can be used. The parties therefore jointly propose that they file a status report by July 10, 2023, in which the parties will update the Court on the status of their efforts to resolve this matter.

May 12, 2023

s/ Stephen McBrady
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