

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

LOCAL INITIATIVE HEALTH
AUTHORITY FOR LOS ANGELES
COUNTY, dba L.A. Care Health Plan,

Plaintiff-Appellee,

V.

UNITED STATES,

Defendant-Appellant.

Nos. 20-1393 (L), 20-2254

JOINT STATUS REPORT

Pursuant to the Court’s August 28, 2023 order (ECF No. 46), Plaintiff-Appellee Local Initiative Health Authority for Los Angeles County, dba L.A. Care Health Plan, and Defendant-Appellant United States respectfully submit this joint status report to request that the Court continue the stay of this appeal for 60 days as to the Government’s appeal of Plaintiff’s judgments for cost-sharing reduction (“CSR”) claims for benefit years 2018 and 2019.

As the parties reported to the Court in their August 1, 2023 Joint Status Report (ECF No. 45), this case is currently stayed because the Government is working with a number of 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 August 28, 2023, the Court ordered the parties to file a joint status report on or before 45 days thereafter.

Pursuant to the Court's August 28, 2023 order, the parties respectfully submit this Joint Status Report. As stated in the parties' previous Joint Status Report, counsel for the parties have

continued to engage in productive settlement negotiations regarding this and other CSR cases currently pending before this Court. The parties most recently exchanged letters on September 7 and September 19, 2023. In light of those communications, the parties believe that they have reached a tentative agreement in principle on a methodology by which the parties can settle some of these CSR cases. This settlement methodology must, however, be approved by officials at both the Department of Health and Human Services and the Department of Justice and any settlement also must be approved and accepted by each participating CSR plaintiff. In addition, the parties will need to gather relevant data from plaintiff-insurers from past benefit years in order to calculate whether damages may be owed to a given plaintiff insurer for a given year. The Centers for Medicare and Medicaid Services is currently preparing a process for plaintiff insurers to submit relevant CSR data. Once that data is gathered and analyzed, plaintiffs will have the option of participating in the proposed settlement process or continuing instead with litigation.

Both the approval process and data gathering and analysis will take time. We thus respectfully request that the Court continue the stay in this case for 60 days, until Tuesday, December 11, 2023, at which time the parties propose to update the Court regarding the current status of the settlement process.

Dated: October 12, 2023

s/ Lawrence S. Sher
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CERTIFICATE OF COMPLIANCE

The undersigned hereby certifies that this Joint Status Report complies with the word limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), it contains 434 words.

s/ Lawrence S. Sher

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on October 12, 2023, I caused the foregoing Joint Status Report to be filed with the Clerk for the Court for the United States Court of Appeals for the Federal Circuit by using the appellate CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ Lawrence S. Sher

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