

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

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EMBLEMHEALTH, INC.	)	
HEALTH INSURANCE PLAN OF	)	
GREATER NEW YORK, INC. ET AL,	)	
	)	
Plaintiff,	)	Case No. 19-1164
	)	
v.	)	Judge Somers
	)	
THE UNITED STATES,	)	
	)	
Defendant.	)	
_____	)	

**JOINT STATUS REPORT**

Pursuant to the Court’s July 5, 2023 order (ECF No. 28), the parties respectfully submit this Joint Status Report.

This case is currently stayed because the Government is working with a number of CSR Plaintiffs to determine whether they, and potentially, plaintiffs here, may efficiently resolve this and other pending CSR matters without further litigation or at least streamline these cases. In its July 5, 2023 order, the Court directed the parties to file a joint status report on August 1, 2023, and every 60 days thereafter until the stay is lifted or otherwise ordered by the Court.

As the parties reported to the Court in their January 26, 2024 Joint Status Report, counsel for the Government and the other CSR Plaintiffs have reached a tentative agreement in principle on a methodology by which the Government and the other CSR Plaintiffs believe some of these CSR cases can be settled, potentially including this case. This settlement methodology has been preliminarily reviewed by officials at both the Department of Health and Human Services and the Department of Justice, but the actual settlement of each CSR case applying that methodology must be approved and accepted by Defendant and each participating plaintiff (including, potentially, the issuers in this case) before it can be finally authorized.

The Government has proposed to the other CSR Plaintiffs a reconciliation process to gather and verify certain relevant data, and that process is currently underway to determine and calculate the damages that may be owed to a given CSR plaintiff insurer for a given year pursuant to the agreed-upon methodology. Once the agreed-upon relevant data is gathered and verified, each issuer, including, potentially, the plaintiffs in this case, will have the option of participating in the proposed settlement process or continuing instead with litigation, subject to the approval process described above. The parties also are working to complete a draft form settlement agreement and release to be used by the parties as a template for each case that the parties have agreed to settle assuming authorization to settle.

Defendant has shared a draft settlement agreement template with the other CSR plaintiffs most recently on February 27, 2024, and on March 12, 2024, those other CSR plaintiffs agreed to the latest draft. This draft settlement agreement is now pending final approval by CMS. The timeline defendant proposed for the data gathering and verification with plaintiffs is underway, and the United States must now obtain approval from the authorized representatives of the Attorney General. Therefore, the settlement agreement and approval process for these CSR cases will take additional time to complete. We thus respectfully request that the Court continue the stay in this case until Friday, May 24, 2024, at which time the parties propose to update the Court regarding the current status of the settlement process in this CSR case and others.

Respectfully submitted,

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