

**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 26, 2024 order (ECF No. 65), the parties respectfully submit this joint status report to request that the Court continue the stay of this case for 60 days.

As the parties reported to the Court in their March 26, 2024 Joint Status Report (ECF No. 64), 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 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 26, 2024, the Court ordered the parties to file a joint status report on or before May 27, 2024.

Pursuant to the Court's March 26, 2024 order, the parties respectfully submit this Joint Status Report. Counsel for the parties have reached a tentative agreement in principle on a methodology by which the parties believe some of these CSR cases can be settled,

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 CSR plaintiff before it can be finally authorized. A process to gather and verify certain relevant data is 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.

Defendant shared a draft settlement agreement template with plaintiffs on February 27, 2024, and on March 12, 2024, plaintiffs agreed to the latest draft. Plaintiffs are awaiting Defendant's final approval of the settlement agreement template. Plaintiffs met with Defendant on May 22, 2024 to discuss the process the Government has requested to verify the CSR settlement amounts due to Plaintiffs in this case. Plaintiffs will need to provide, and Defendant will need to review, the CSR information necessary to perform such settlement amount verification, and then the United States will need to obtain final settlement approval from the authorized representative of the Attorney General. Accordingly, the settlement approval process for this CSR case will take some additional time to complete. We therefore respectfully request that the Court continue the stay in this case for 60 days, until Tuesday, July 26, 2024, to allow the parties to finalize the settlement.

May 28, 2024

Respectfully submitted,

/s/ Lawrence S. Sher

Lawrence S. Sher (D.C. Bar No. 430469)
WINSTON & STRAWN LLP
1901 L Street NW
Washington, DC 20036
Telephone: 202.282-5000
Facsimile: 202.282.5100
Email: Lsher@winston.com

Attorneys for Plaintiffs

BRIAN M. BOYNTON
Principal Deputy Assistant Attorney
General

PATRICIA M. McCARTHY
Director

/s/ Claudia Burke

CLAUDIA BURKE
Deputy Director

/s/ David M. Kerr

DAVID M. KERR
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) 307-3390
Email: David.M.Kerr@usdoj.gov

OF COUNSEL:

ALBERT S. IAROSSE
Assistant Director
Civil Division
U.S. Department of Justice

Attorneys for Defendant

CERTIFICATE OF SERVICE

I hereby certify that on May 28, 2024 a copy of the foregoing Joint Status report was filed electronically with the Court's Electronic Case Filing (ECF) system. I understand that notice of this filing will be sent to all parties by operation of the Court's ECF system.

/s/ Lawrence S. Sher
Lawrence S. Sher (D.C. Bar No. 430469)
WINSTON & STRAWN LLP
1901 L Street NW
Washington, DC 20036
Telephone: 202.282-5000
Facsimile: 202.282.5100
Email: Lsher@winston.com

Attorneys for Plaintiffs