

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

HARVARD PILGRIM HEALTH CARE, INC.,)	
HPHC INSURANCE COMPANY, INC., AND)	
HARVARD PILGRIM HEALTH CARE OF)	
NEW ENGLAND, INC.,)	Case No. 20-578
)	Senior Judge Loren Smith
Plaintiffs,)	
)	
v.)	
)	
THE UNITED STATES,)	
)	
Defendant.)	

JOINT STATUS REPORT

Pursuant to the Court's March 26, 2024 order, 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, 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. On March 26, 2024, the Court ordered the parties to file a joint status report on or before May 24, 2024.

Pursuant to the Court's March 26, 2024 order, the parties respectfully submit this Joint Status Report. As stated in the parties' previous 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 reconcile 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. Once the agreed-upon relevant data is gathered and reconciled, each plaintiff 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 plaintiffs most recently on February 27, 2024, and on March 12, 2024, 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 reconciliation with plaintiffs is underway, and the United States must now obtain approval from the authorized representative 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 for 60 days, until Tuesday, July 23, 2024, at which time the parties propose to update the Court regarding the current status of the settlement process, along with an expected settlement timeline, in this CSR case and others.

May 24, 2024

/s/ Stephen McBrady
 Stephen McBrady
 CROWELL & MORING LLP
 1001 Pennsylvania Avenue, NW
 Washington, DC 20004
 Telephone: (202) 624-2500
 Facsimile: (202) 628-5116

Respectfully submitted,

BRIAN M. BOYNTON
 Principal Deputy Assistant Attorney General

PATRICIA M. McCARTHY
 Director

/s/Claudia Burke

SMcBrady@crowell.com

OF COUNSEL:

Charles Baek

CROWELL & MORING LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Counsel for Plaintiffs

CLAUDIA BURKE
Deputy Director

/s/Albert S. Iarossi

ALBERT S. IAROSSI
Assistant Director
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
P.O. Box 480
Ben Franklin Station
Washington, DC 20044
Telephone: (202) 616-3755
Email: albert.s.iarossi@usdoj.gov

OF COUNSEL:

DAVID M. KERR
Senior Trial Counsel
Civil Division
U.S. Department of Justice

Counsel for Defendant The United States