

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

COMMON GROUND HEALTHCARE)
 COOPERATIVE,)
)
 Plaintiff,)
)
 v.)
)
 THE UNITED STATES OF AMERICA,)
)
 Defendant.)
 _____)

No. 17-877 C
Judge Sweeney

UNITED STATES’ RESPONSE REGARDING APPOINTMENT OF CLASS COUNSEL AND MOTION FOR CERTIFICATION OF RISK CORRIDORS CLASS AND UNOPPOSED MOTION FOR AN EXTENSION OF TIME TO RESPOND TO MOTION FOR CERTIFICATION OF COST-SHARING REDUCTION CLASS

On December 14, 2017, plaintiff Common Ground Healthcare Cooperative filed a motion seeking appointment of Quinn, Emanuel, Urquhart & Sullivan, LLP as class counsel (Docket No. 14) and a motion seeking class certification (Docket No. 13) of two separate classes of qualified health plan (“QHP”) issuers:

- (1) a class of QHP issuers who did not receive full timely payments for the 2016 plan year pursuant to the ACA’s risk corridors program (‘Risk Corridors Class’),
- and (2) a class of QHP issuers who did not receive full timely payments pursuant to the ACA’s cost-sharing reduction (‘CSR’) provisions (‘CSR Class’).

Docket No. 13 at 1. Responses to these motions are due on December 28, 2017.

The United States does not oppose the motion to appoint Quinn, Emanuel, Urquhart & Sullivan, LLP as class counsel for either putative class. Furthermore, the United States does not dispute that the Risk Corridors Class satisfies the requirements for certification under Rule 23 of the Rules of the United States Court of Federal Claims. Accordingly, the United States does not oppose a partial granting of the class certification motion with respect to the Risk Corridors Class.

Under Rule 6(b) of the Rules of the United States Court of Federal Claims, the United States respectfully requests an enlargement of time of 30 days until January 29, 2018, in which to respond

to the motion for certification of the CSR Class. The United States has not previously requested an extension for this purpose, and plaintiff does not oppose the requested extension.

An extension is necessary for the following reasons. Unlike the Risk Corridors Class, which is similar to the class certified by this Court in *Health Republic Insurance Company v. United States*, No. 16-259C, the CSR Class is based on a different statute and may present issues not warranting class certification. In addition, the new CSR Class was proposed only in November, when plaintiff amended its complaint to add a new count under the CSR statute and regulations. Given the upcoming holidays as well as the importance of the issues at stake in this case, the United States requires additional time to evaluate the putative CSR Class and to address the class certification motion with respect to the CSR Class.

Respectfully submitted,

Dated: December 22, 2017

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CERTIFICATE OF SERVICE

I certify that on December 22, 2017, a copy of the attached *United States' Response Regarding Appointment Of Class Counsel And Motion For Certification Of Risk Corridors Class And Unopposed Motion For An Extension Of Time To Respond To Motion For Certification Of Cost-Sharing Reduction Class* was served via the Court's CM/ECF system on Plaintiff's counsel, Stephen A. Swedlow.

/s/ Charles E. Canter

Charles E. Canter

U.S. Department of Justice