

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

COMMON GROUND HEALTHCARE  
COOPERATIVE,

Plaintiff,  
on behalf of itself and all  
others similarly situated,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

No. 1:17-cv-00877-MMS  
(Judge Sweeney)

**PLAINTIFF COMMON GROUND HEALTHCARE  
COOPERATIVE'S UNOPPOSED MOTION FOR LEAVE  
TO FILE SECOND AMENDED CLASS ACTION COMPLAINT**

Pursuant to Rule 15(a) of this Court's Rules ("RCFC"), Plaintiff Common Ground Healthcare Cooperative ("CGHC" or "Plaintiff") respectfully requests that the Court grant Plaintiff leave to file a Second Amended Class Action Complaint, which is attached hereto as Exhibit A. Plaintiff filed its original Class Action Complaint on June 27, 2017, (ECF No. 1), and filed a First Amended Class Action Complaint on November 22, 2017 (ECF No. 10). Plaintiff conferred with counsel for the Government, who stated that the Government does not oppose this motion to file a Second Amended Class Action Complaint to add cost-sharing reduction claims for the 2019 benefit year.

Plaintiff's original Class Action Complaint included claims for unpaid risk corridors amounts for the 2016 benefit year. Plaintiff's First Amended Class Action Complaint added claims for unpaid cost-sharing reduction ("CSR") amounts for October through December 2017, as well as for the 2018 benefit year. Plaintiff's Second Amended Class Action Complaint will add claims for money damages for the unpaid cost-sharing reduction amounts owed for the benefit year starting January 1, 2019, and running through the date that final judgment is entered on that claim in this matter. If the Court grants Plaintiff leave to file this Second Amended Class

Action Complaint, Plaintiff will move to certify a class of QHP issuers owed CSR payments for the 2019 benefit year, and then file a motion for class notice similar to the one filed for the CSR Class for the 2017 and 2018 benefit years. The class notice and opt-in process for the 2019 benefit year could be handled efficiently while the judgment on the 2017 and 2018 CSR claims is on appeal to the Federal Circuit.

RCFC 15(a)(2) states that “[t]he court should freely give leave [to amend] when justice so requires.” Plaintiff respectfully submits that justice will not be served if the Court denies it leave to amend the Complaint to add ripe claims for money damages for unpaid 2019 CSR payments, which the Government has unlawfully withheld. Moreover, the Government does not oppose this motion to file the Second Amended Class Action Complaint to add claims for money damages for unpaid 2019 CSR payments.

Accordingly, Plaintiff moves for permission to file the Second Amended Class Action Complaint. Upon issuance of the Court’s order, if Plaintiff’s motion for leave is granted, then Plaintiff will timely file the Second Amended Class Action Complaint to the docket.

Dated: March 13, 2019

Respectfully submitted,

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SULLIVAN, LLP

*/s/ Stephen Swedlow*

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Healthcare Cooperative*

**CERTIFICATE OF SERVICE**

I certify that on March 13, 2019, a copy of the foregoing Plaintiff's Unopposed Motion for Leave to File Second Amended Class Action Complaint was served via the Court's CM/ECF system on Defendant's counsel.

/s/ Stephen Swedlow  
Stephen Swedlow