

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

MAINE COMMUNITY HEALTH OPTIONS,)	
)	
Plaintiff,)	Case No. 17-2057C
)	
v.)	Chief Judge Margaret M. Sweeney
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	

JOINT STATUS REPORT

Pursuant to the Court’s February 15, 2019 Opinion and Order, ECF No. 20, and February 27, 2019 Order, ECF No. 25, Plaintiff, Maine Community Health Options, and Defendant, the United States, respectfully submit this joint status report regarding further proceedings in this case.

As reflected in Plaintiff’s Motion for Leave to File Amended Complaint, ECF No. 21, Plaintiff has prepared an amended Complaint to include a claim for unpaid cost-sharing reduction reimbursements for 2018. Defendant did not oppose the Motion, but instead asked the court, to the extent the Court intends to direct the entry of a judgment awarding Plaintiff 2017 and 2018 CSR costs, to expressly set forth its reasons for doing so (as the Court did in *Common Ground Healthcare Coop. v. United States*, No. 17-877C (Sweeney, C.J.) (class action); and *Community Health Choice, Inc. v. United States*, No. 18-5C (Sweeney, C.J.)). Def. Resp. to Pl.’s Mot. for Leave to Amend Compl., ECF No. 26. Defendant also requested that all arguments it made in those two cases, as to why plaintiff’s ability to raise premiums to recover CSR costs through premium tax credits should preclude a claim for 2018 CSR costs, be deemed part of the record in this case. As such, Plaintiff respectfully requests that the Court grant its Motion.

Further, as the Court ordered in its Opinion and Order, the parties have determined the amount due to Plaintiff for the cost-sharing payment it did not receive for 2017 to be \$298,693.33. The parties have also agreed on a process to determine and stipulate the amount of actual CSR payments due for 2018 by early May, 2019. CMS plans to reconcile 2018 advance CSR payment calculations to actual CSR amounts issuers paid, as it has done for past benefit years. CMS will open the CSR data submission window to accept issuers' benefit year 2018 CSR data in early April 2019. Assuming that Plaintiff makes a timely data submission (by April 29, 2019), CMS expects to be able to notify Plaintiff of its benefit year 2018 reconciled CSR amounts in early May 2019. These numbers would reflect actual CSR payments made by Plaintiff in 2018. At that time, the parties will propose a final amount for the 2018 damages due to Plaintiff. As such, Plaintiff will note this process in its amended Complaint, and include the current amount of advanced 2018 CSR payments the Government calculated but did not pay.

March 5, 2019

OF COUNSEL:
Daniel Wolff
Xavier Baker
Skye Mathieson
Charles Baek
CROWELL & MORING LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Respectfully submitted,

s/ Stephen J. McBrady
Stephen J. McBrady
CROWELL & MORING LLP

1001 Pennsylvania Avenue, NW
Washington, DC 20004
Tel: (202) 624-2500
Fax: (202) 628-5116
SMcBrady@crowell.com

*Counsel for Maine Community
Health Options*

JOSEPH H. HUNT
Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.
Director

s/ Claudia Burke
CLAUDIA BURKE
Assistant Director

OF COUNSEL:
ALBERT S. IAROSI
ERIC E. LAUFGRABEN
VERONICA N. ONYEMA
Trial Attorneys
Civil Division
U.S. Department of Justice

s/Christopher J. Carney
CHRISTOPHER J. CARNEY
Senior Litigation Counsel
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
P.O. Box 480
Ben Franklin Station
Washington, DC 20044
Telephone: (202) 305-7597
Facsimile: (202) 307-2503
Email: Chris.Carney@usdoj.gov

Attorneys for Defendant