



The parties subsequently filed the requested joint status report on March 5, 2019. In the status report, the parties first summarize the contents of plaintiff's motion for leave to file an amended complaint and defendant's response to that motion. Second, the parties indicate that they "have determined the amount due to Plaintiff for the cost-sharing payment it did not receive for 2017 to be \$298,693.33." Joint Status Report 2. Third, the parties represent that they have "agreed on a process to determine and stipulate the amount of actual CSR payments due for 2018":

[The Centers for Medicare and Medicaid Services ("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.

Id. Finally, the parties report that 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." Id.

In light of the parties' representations, the court **GRANTS** plaintiff's motion for leave to file an amended complaint. By **no later than Friday, March 15, 2019**, plaintiff shall file an amended complaint that includes a request for CSR reimbursements that were not paid in 2018, as well as the amount that the government calculated to be due to plaintiff for 2018 and a description of the agreed-to process for determining the actual amount due to plaintiff for 2018.

Further, to ensure that a proper record exists in the event that defendant chooses to file an appeal, the court adopts the following schedule for further proceedings:

- Plaintiff shall file a motion for summary judgment with respect to its request for CSR reimbursements that were not paid in 2018 **no later than Friday, March 29, 2019**. The motion may be pro forma; if it so chooses, plaintiff may simply state (1) its request for judgment, (2) that it is adopting the arguments it previously advanced with respect to its request for CSR reimbursements that were not paid in 2017, and (3) that it is adopting some or all of the arguments unique to the 2018 benefit year made by Common Ground Healthcare Cooperative and/or Community Health Choice, Inc. in their briefs or at the joint oral argument. Alternatively, plaintiff may, at its option, file a more comprehensive motion.
- Defendant shall file a response to plaintiff's motion for summary judgment by **no later than Friday, April 19, 2019**. The response may be pro forma; if it so chooses, defendant may simply reiterate the statements it made in its

response to plaintiff's motion for leave to file an amended complaint and the joint status report. Alternatively, defendant may, at its option, file a more comprehensive response.

- The parties shall file a joint status report **no later than seven days after CMS notifies plaintiff of the actual CSR payments due to plaintiff for 2018** in which they propose the amount due to plaintiff for 2018.
- After the parties file the joint status report, the court will issue a decision regarding plaintiff's request for 2018 CSR payments and direct the entry of judgment for the amount due to plaintiff for 2017 and 2018.

**IT IS SO ORDERED.**

s/ Margaret M. Sweeney  
MARGARET M. SWEENEY  
Chief Judge