

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

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GUIDEWELL MUTUAL		)	
HOLDING CORPORATION, et al.		)	
		)	
	Plaintiff,	)	
		)	Case No. 18-1791
	v.	)	
		)	Judge Lydia Kay Griggsby
		)	
THE UNITED STATES,		)	
		)	
	Defendant.	)	
		)	
		)	
		)	
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**JOINT STATUS REPORT AND MOTION TO CONTINUE STAY**

Pursuant to this Court’s May 15, 2019 Order (ECF No. 21), the parties submit this joint status report regarding the status of *Sanford Health Plan v. United States*, No. 19-1290 (Fed. Cir.) (*Sanford*) (consolidated with *Montana Health CO-OP v. United States*, No. 19-1302 (Fed. Cir.)). On January 9, 2020, oral argument was held in those consolidated appeals and the companion cases, *Community Health Choice, Inc. v. United States*, No. 19-1633, and *Maine Cmty. Health Options v. United States*, No. 19-2102. On May 19, 2020, pursuant to a Federal Circuit order, the parties filed supplemental briefs in the consolidated appeals, addressing the impact of the Supreme Court’s decision in *Maine Community Health Options v. United States*, 140 S. Ct. 1308 (2020).

On August 14, 2020, the Federal Circuit issued decisions in the consolidated appeals. The Federal Circuit’s decision in *Sanford*, which concerned only 2017 CSR claims, held that the Tucker Act provides a remedy for the Government’s failure to make the CSR payments required under the ACA. The Court ruled that the Supreme Court’s risk-corridors decision in *Maine*

*Community Health Options*, addressing a different payment-obligation provision of the ACA, “makes clear that the cost-sharing-reduction reimbursement provision imposes an unambiguous obligation on the government to pay money and that the obligation is enforceable through a damages action in the Court of Federal Claims under the Tucker Act.” *Sanford*, 2020 WL 4723703, \*1.

Although the Federal Circuit has issued rulings in the consolidated CSR appeals, it has not yet issued mandates in those appeals. Because any party to those appeals may file a petition for rehearing and/or rehearing *en banc*, Fed. Cir. R. 35, 40, or a petition for a writ of *certiorari*, there may be further proceedings in those appeals that will impact all 23 of the CSR cases pending in this Court that raise CSR claims, including this one.

In order to conserve judicial and party resources, the parties respectfully request that the Court stay this case for 56 days, to and including Friday, October 23, 2020, at which point the parties will submit a joint status report proposing further proceedings. A 56-day stay will provide the Court and the parties with clarity about the posture of the consolidated CSR appeals and their impact on this case. *See UnionBanCal Corp. v. United States*, 93 Fed. Cl. 166, 167 (2010) (“The orderly course of justice and judicial economy is served when granting a stay simplifies the ‘issues, proof, and questions of law which could be expected to result from a stay.’”) (quoting *CMAX, Inc. v. United States*, 300 F.2d 265, 268 (9th Cir. 1962)). Other judges presiding over CSR cases in this Court have already extended the stays in those cases until October 23. *See, e.g., Harvard Pilgrim et al. v. United States* No. 18-1820 (Fed. Cl.) at ECF No. 22 (Aug. 24, 2020); *Harvard Pilgrim et al. v. United States* No. 20-578 (Fed. Cl.) at ECF No. 12 (Aug. 24, 2020); *Sanford Health Plan v. United States* No. 20-746 (Fed. Cl.) at ECF No. 9 (Aug. 25, 2020).

CONCLUSION

For these reasons, we respectfully request that the Court stay this case for 56 days, to and including October 23, 2020, at which point the parties will submit a joint status report proposing further proceedings in this case.

Respectfully submitted,

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