

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

CIGNA HEALTH AND LIFE INSURANCE COMPANY, et al.,)	
)	
Plaintiffs,)	
)	Case No. 20-546
v.)	(Judge Holte)
)	
THE UNITED STATES,)	
)	
Defendant.)	

JOINT STATUS REPORT AND MOTION TO CONTINUE STAY

Pursuant to this Court’s July 1, 2020 Order (ECF No. 7), the parties submit this joint status report. The July 1 order partially stayed this case pending the Federal Circuit’s decisions in four cases concerning cost-sharing reductions (CSRs): *Sanford Health Plan v. United States*, 139 Fed. Cl. 701 (2018), *appeal docketed*, No. 19-1290 (Fed. Cir. 2018); *Montana Health Co-Op v. United States*, 139 Fed. Cl. 213 (2018), *appeal docketed*, No. 19-1302 (Fed. Cir. 2018); *Community Health Choice, Inc. v. United States*, 141 Fed. Cl. 744 (2019), *appeal docketed*, No. 19-1633 (Fed. Cir. 2019); and *Maine Community Health Options v. United States*, 143 Fed. Cl. 381 (2019), *appeal docketed*, No. 19-2102 (Fed. Cir. 2019). On August 14, 2020, the Federal Circuit issued decisions in those CSR appeals.

Although the Federal Circuit has issued rulings in the CSR appeals, it has not yet issued mandates in those appeals. Because any party to the 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 25 of the cases pending in this Court that raise CSR claims, including this one.

To conserve judicial and party resources, the parties respectfully request that the Court stay the remaining CSR claims in this case (Counts III and IV) for 39 days, to and including Friday, October 23, 2020, at which point the parties will submit a joint status report proposing further proceedings. A 39-day stay will provide the Court and the parties with clarity about the posture of the 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)). The Court has already extended existing stays in other CSR cases until October 23, 2020. *See, e.g., Harvard Pilgrim et al. v. United States* No. 18-1820 (Fed. Cl.), ECF No. 22 (Aug. 24, 2020); *Harvard Pilgrim et al. v. United States* No. 20-578 (Fed. Cl.), ECF No. 12 (Aug. 24, 2020); *Sanford Health Plan v. United States* No. 20-746 (Fed. Cl.), ECF No. 9 (Aug. 25, 2020); *Guidewell Mutual Holding, Corp. v. United States* No. 18-1791 (Fed. Cl.), ECF No. 24 (Aug. 28, 2020).

CONCLUSION

For these reasons, we respectfully request that the Court stay this case for 39 days, to and including October 23, 2020, at which point the parties will submit a joint status report proposing further proceedings in this case.

s/Howard J. Stanislawski
Howard J. Stanislawski
SIDLEY AUSTIN LLP
1501 K Street NW
Washington, DC 20005
(202) 736-8000
hstanislawski@sidley.com

Of Counsel:

Thomas D. Cunningham
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7000
tcunningham@sidley.com

William A. Sarraille
Tobias S. Loss-Eaton
SIDLEY AUSTIN LLP
1501 K Street NW
Washington, DC 20005
(202) 736-8000
tlosseaton@sidley.com

Counsel for Plaintiffs Cigna Health and Life Insurance Company, Cigna Healthcare of Arizona, Inc., and Cigna Healthcare of Texas, Inc.

September 14, 2020

Respectfully submitted,

JEFFREY BOSSERT CLARK
Acting Assistant Attorney General

ROBERT E. KIRSCHMAN, JR.
Director

s/Claudia Burke
CLAUDIA BURKE
Assistant Director

s/Eric E. Laufgraben
ERIC E. LAUFGRABEN
Senior Trial Counsel
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
P.O. Box 480
Ben Franklin Station
Washington, DC 20044
Telephone: (202) 353-7995
Facsimile: (202) 353-0461
Email: Eric.E.Laufgraben@usdoj.gov

OF COUNSEL:

CHRISTOPHER J. CARNEY
Senior Litigation Counsel

ALBERT S. IAROSI
Trial Attorney
Civil Division
U.S. Department of Justice

Attorneys for Defendant