

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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SENDERO HEALTH PLANS, INC.)	
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Plaintiff,)	
)	
v.)	Case No. 17-2048C
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THE UNITED STATES,)	Judge Lydia Kay Griggsby
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Defendant.)	
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JOINT STATUS REPORT AND MOTION TO CONTINUE STAY

Pursuant to this Court’s June 30, 2020 Order (ECF No. 25), the parties submit this joint status report regarding the status of *Community Health Choice, Inc. v. United States*, No. 19-1633. On January 9, 2020, oral argument was held in that appeal and the companion cost-sharing reduction (CSR) cases, *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.)) 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, 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 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 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. *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); *Guidewell Mutual Holding, Corp. v. United States* No. 18-1791 (Fed. Cl.) at 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.

September 10, 2020

s/ William L. Roberts

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on September 10, 2020, a copy of the foregoing was served via the Court's CM/ECF system on all counsel of record.

/s/ William L. Roberts

William L. Roberts