

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

COMMUNITY HEALTH CHOICE, INC.,
Plaintiff-Appellee,

v.

UNITED STATES,
Defendant-Appellant.

No. 2019-1633

MAINE COMMUNITY HEALTH OPTIONS,
Plaintiff-Appellee,

v.

UNITED STATES,
Defendant-Appellant.

No. 2019-2102

**UNOPPOSED MOTION FOR LEAVE TO FILE A SINGLE RESPONSE
TO PLAINTIFFS' REHEARING PETITIONS, AND FOR A SEVEN-DAY
EXTENSION OF TIME TO FILE THE RESPONSE**

The Court has directed the government to respond to the plaintiffs' rehearing petitions in the above-captioned cases by October 16, 2020. For the following reasons, the government respectfully requests leave to file a single response to the two petitions. In addition, the government requests a 7-day extension, to October 23, 2020, in which to file that response. This motion is unopposed.

1. On August 14, 2020, the panel ruled that the government is liable for unpaid cost-sharing reduction (CSR) subsidies, but that the trial court must reduce the damages by the amount of additional premium tax credit payments that each plaintiff received as a result of the government's termination of CSR payments. *See*

Community Health Choice, Inc. v. United States, 970 F.3d 1364 (Fed. Cir. 2020)

(incorporating the reasoning of *Sanford Health Plan v. United States*, 969 F.3d 1370 (Fed. Cir. 2020)). Plaintiffs filed separate rehearing petitions. This Court recently directed the government to respond to each petition by October 16.

2. To avoid burdening the Court with duplicative briefing, the government respectfully requests leave to file a single response to the rehearing petitions.

3. In addition, the government respectfully requests a 7-day extension, to and including October 23, 2020, in which to file the response. The requested extension is necessary to allow adequate time to prepare the response in light of government counsel's other deadlines, which include *Yale New Haven v. Azar*, Nos. 20-2115, 20-2151 (2d Cir.) (opening brief due Oct. 14, 2020) (Klein); *USF Federal Credit Union v. Gateway Radiology*, 20-13462 (11th Cir.) (opening brief due Oct. 9) (Stern); *Salas v. Saul*, No. 20-35233 (9th Cir.) (reply brief Oct. 13) (Stern); and *Cochran v. SEC*, No. 19-10396 (5th Cir.) (response to rehearing petition due Oct. 16, as extended) (Stern).

4. Counsel for each plaintiff authorized us to state that this motion is unopposed.

Respectfully submitted,

MARK B. STERN

s/ Alisa B. Klein

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OCTOBER 2020

CERTIFICATE OF COMPLIANCE

I certify that this document complies with the word limit of Fed. R. App. P. 27(d)(2)(A) because, excluding the parts of the document exempted by Fed. R. App. P. 32(f), it contains 307 words.

/s/ Alisa B. Klein
Alisa B. Klein

CERTIFICATE OF SERVICE

I hereby certify that on October 5, 2020, I electronically filed the foregoing motion with the Clerk of the Court by using the appellate CM/ECF system. I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Alisa B. Klein

Alisa B. Klein