

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUE CARE NETWORK OF MICHIGAN, and BLUE CROSS BLUE SHIELD OF MICHIGAN MUTUAL INSURANCE COMPANY,)	
)	
Plaintiffs,)	Case No. 20-1000
)	(Judge Davis)
v.)	
)	
THE UNITED STATES,)	
)	
Defendant.)	

JOINT STATUS REPORT

Pursuant to this Court’s January 7 and April 30, 2021 Orders (ECF Nos. 15 and 16) the parties submit this joint status report. The January 7 Order continued the stay of the remaining counts of plaintiffs’ First Amended Complaint (Counts III and IV), which both concern plaintiffs’ cost-sharing reduction (CSR) claims, pending a request for review by the Supreme Court, if any, of the Federal Circuit’s CSR decisions in *Community Health Choice, Inc. v. United States*, 970 F.3d 1364 (Fed. Cir. 2020), and *Common Ground Healthcare Co-Op v. United States*, No. 2020-1286 (Fed. Cir. Sept. 30, 2020) (collectively, the CSR Appeals). The Court also directed the parties to file a joint status report by April 16, 2021. The parties apologize to the Court for the delay in submitting this joint status report.

On February 19, 2021, plaintiffs in *Community Health Choice, Inc. v. United States*, No. 2019-1633 (Fed. Cir.) and *Maine Community Health Options v. United States*, No. 2019-2102 (Fed. Cir.) jointly filed a petition for writ of *certiorari* to the United States Supreme Court following the Federal Circuit’s denial of a petition for rehearing *en banc* in their consolidated appeals. See *Petition for Writ of Certiorari, Maine Cmty. Health Options v. United States* (No.

20-1162). The United States filed an opposition to the petition for *certiorari* on April 9, 2021. That same day, the United States also filed a conditional cross-petition for a writ of *certiorari*, which requested that if the Supreme Court were to grant the petition in *Maine Community* (No. 20-1162) to review the Federal Circuit's ruling concerning the calculation of damages in the CSR appeals, the Court should also review the Federal Circuit's underlying liability ruling, or alternatively, hold the cross-petition pending the Court's decision in *Maine Community* (No. 20-1162). See *Petition for Writ of Certiorari, United States v. Maine Cmty. Health Options* (No. 20-1432). The insurers' response to the Government's cross-petition is due May 13, 2021.

On February 24, 2021, Plaintiff Common Ground Healthcare Cooperative also filed a petition for writ of *certiorari* to the United States Supreme Court seeking review of the Federal Circuit's September 30, 2020 decision entering judgment consistent with the Federal Circuit's decision in *Community Health Choice*. See *Petition for Writ of Certiorari, Common Ground Healthcare Co-Op v. United States* (No. 20-1200). The Government's response to that petition is due today, April 30, 2021.

Good cause exists for the Court to continue the stay of this case. How the Supreme Court resolves these *certiorari* petitions will directly affect future proceedings in this matter concerning plaintiffs' CSR claims, and therefore awaiting such resolution will preserve the time and resources of both this Court and the parties. Accordingly, the parties respectfully request that the Court enter an order staying this matter until the Supreme Court resolves these petitions. We propose that the parties be ordered to submit to a joint status report proposing further proceedings within 30 days of the Supreme Court's resolution of all petitions for writ of *certiorari* pertaining to the CSR Appeals.

Respectfully submitted,

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