

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

)	
SENDERO HEALTH PLANS, INC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 17-2048C
)	
THE UNITED STATES,)	Judge Lydia Kay Griggsby
)	
Defendant.)	
)	
)	
)	
)	
)	
)	
)	
)	

JOINT STATUS REPORT AND MOTION TO CONTINUE STAY

Pursuant to this Court’s January 15, 2021 Stay Order (ECF No. 33) the parties submit this joint status report. The January 15 Stay Order continued the stay of the proceedings in this matter until May 10, 2021, and directed the parties to file a joint status report updating the Court on the status of the proceedings 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.) on or before that date and providing the parties’ position regarding further proceedings in this matter.

On February 19, 2021, plaintiffs in *Community Health Choice, Inc.* and *Maine Community. Health Options* jointly filed a petition for writ of *certiorari* to the United States Supreme Court. 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 and a separate conditional cross-petition were filed on April 30, 2021. See Pet. for Writ of *Certiorari, United States v. Common Ground Healthcare Co-op* (No. 20-1536). Common Ground's response is due on June 3, 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.

May 5, 2021

Respectfully submitted,

/s/ William L. Roberts
William L. Roberts
william.roberts@FaegreBD.com
FAEGRE DRINKER BIDDLE & REATH LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
Telephone: (612) 766-7000
Fax: (612) 766-1600

***Counsel of Record for Plaintiff Sendero
Health Plans, Inc.***

OF COUNSEL:

Jonathan W. Dettmann
jon.dettmann@FaegreBD.com
Nicholas J. Nelson
nicholas.nelson@FaegreBD.com
Evelyn Snyder
evelyn.snyder@FaegreBD.com

BRIAN M. BOYNTON
Acting Assistant Attorney General

RUTH A. HARVEY
Director
Commercial Litigation Branch

KIRK T. MANHARDT
Deputy Director

/s/ Phillip M. Seligman
PHILLIP M. SELIGMAN
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
P.O. Box 480
Ben Franklin Station
Washington, D.C. 20044
Tel. (202) 307-1105
Fax (202) 307-0494
Phillip.seligman@usdoj.gov

OF COUNSEL:

CHRISTOPHER J. CARNEY
Senior Litigation Counsel

ERIC E. LAUFGRABEN
Senior Trial Counsel

ALBERT S. IAROSI
Trial Attorney

Civil Division
U.S. Department of Justice

Counsel for Defendant

CERTIFICATE OF SERVICE

I certify that on May 5, 2021, 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