

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

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HIGHMARK, INC., et al.,)	
)	
Plaintiffs,)	
)	Case No. 20-1686
v.)	(Judge Griggsby)
)	
THE UNITED STATES,)	
)	
Defendant.)	
)	

JOINT STATUS REPORT

Pursuant to this Court’s January 26, 2021 order (ECF No. 7), the parties submit this joint status report.

On January 25, 2021, the parties filed a joint motion to stay this case pending the resolution of three cases, which, like this one, seek cost-sharing reduction (CSR) payments: *Maine Community Health Options v. United States*, No. 19-2102 (Fed. Cir.); *Community Health Choice, Inc. v. United States*, No. 19-1633 (Fed. Cir.); and *Common Ground Health Cooperative v. United States*, No. 20-1286 (Fed. Cir.). ECF No. 6. On January 26, 2021, this Court granted our motion and directed the parties to submit a joint status report by June 14, 2021—which is 30 days after the period to file writs of *certiorari* expired in all three cases—indicating the status of *Maine*, *Community*, and *Common Ground*, and proposing further proceedings. ECF No. 7.

On February 19, 2021, the *Maine* and *Community* plaintiffs jointly filed a petition for writ of *certiorari* to the U.S. Supreme Court. See Pet. 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* (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* (No. 20-1162). See Pet. for Writ of Certiorari, *United States v. Maine Cmty. Health Options* (No. 20-1432). The insurers filed responses to the United States' cross-petition on May 17, and the Government filed replies on June 1. The insurers' and the United States' petitions were distributed for the Supreme Court's June 17, 2021 conference.

On February 24, 2021, Common Ground also filed a petition for writ of *certiorari* to the U.S. Supreme Court seeking review of the Federal Circuit's judgment. See Pet. for Writ of Certiorari, *Common Ground Healthcare Co-Op v. United States* (No. 20-1200). The Government's response to that petition along with a 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 was filed on June 3. These petitions were also distributed for the Supreme Court's June 17, 2021 conference.

The parties respectfully request that the Court continue the stay in this case pending the Supreme Court's resolution of the certiorari petitions filed in *Maine* and *Common Ground*. Resolution of those petitions will directly affect future proceedings in this matter, and therefore awaiting such resolution will preserve the time and resources of both this Court and the parties. The parties respectfully propose that within 30 days of the final disposition of the petitions in *Maine* and *Common Ground*, the parties will submit a joint status report proposing further proceedings.

s/Lawrence S. Sher
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June 14, 2021

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