

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

_____)	
MONTANA HEALTH CO-OP)	
)	
Plaintiff,)	
)	Case No. 19-568C
v.)	
)	Judge Elaine D. Kaplan
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
)	
_____)	

JOINT STATUS REPORT

Pursuant to this Court’s March 26, 2021 Stay Order (ECF No. 19), the parties submit this joint status report.¹ The Stay Order continued the stay of the proceedings in this matter, and directed the parties to file a joint status report proposing further proceedings within 30 days of the Supreme Court’s resolution of the petitions and cross-petitions for certiorari in various related cost-sharing reduction (CSR) appeals.

On June 21, 2021, the United States Supreme Court denied the petition for writ of certiorari (No. 20-1162) and the Government’s conditional cross-petition (No. 20-1432) in *Maine Community Health Options v. United States*, which sought review of the Federal Circuit’s CSR decision in *Community Health Choice, Inc. v. United States*, Nos. 2019-1633, -2102, 2020 WL 4723757 (Fed. Cir. Aug. 14, 2020). *See* Orders List (U.S. June 21, 2021). Additionally, on that same day, the Court denied Common Ground Healthcare Cooperative’s petition for a writ of certiorari (No. 20-1200), seeking review of the Federal Circuit’s September 30, 2020 decision entering judgment consistent with the Federal Circuit’s *Community Health Choice* decision. The

¹ This joint status report is being filed a day late, due to a miscommunication between the parties.

Court also denied the Government's conditional cross-petition for certiorari regarding the same (No. 20-1536). *See* Orders List (U.S. June 21, 2021).

The parties have begun discussions regarding the next steps in this litigation. Several different attorneys, collectively representing a large number of plaintiff health plans—including the plaintiff here—have engaged counsel for the Government in initial talks regarding potential avenues for resolving the CSR matters. At present, plaintiffs' counsel are continuing efforts to develop a proposal to share with the Government to resolve those matters without further litigation or to streamline the cases. Once that proposal is provided to the Government, Government counsel must consult with and obtain approval from numerous interested stakeholders. To this end, the parties propose that they file a status report by September 20, 2021, in which the parties will update the Court on these efforts.

Good cause exists for the Court to continue the stay of this case. The parties are working together to determine whether they may efficiently resolve this matter without further litigation or can at least streamline the cases. The complexity of the CSR cases and the number of interested stakeholders, necessitates that the parties be afforded additional time for these efforts.

Respectfully submitted,

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