

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

_____)	
SENDERO HEALTH PLANS, INC,)	
)	
Plaintiff,)	
)	
v.)	Case No. 17-2048C
)	
THE UNITED STATES,)	Judge Matthew H. Solomson
)	
Defendant.)	
)	
)	
)	
)	
_____)	

JOINT STATUS REPORT AND MOTION TO CONTINUE STAY

Pursuant to this Court’s May 19, 2021 Stay Order (ECF No. 35) the parties submit this joint status report. The May 19 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

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 can 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.

July 21, 2021

/s/ William L. Roberts

William L. Roberts

william.roberts@faegredrinker.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@faegredrinker.com

Nicholas J. Nelson

nicholas.nelson@faegredrinker.com

Evelyn Snyder

evelyn.snyder@faegredrinker.com

Respectfully submitted,

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