

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

BLUE CROSS OF CALIFORNIA, <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 20-606
)	(Judge Wolski)
THE UNITED STATES,)	
)	
Defendant.)	
)	
)	

JOINT STATUS REPORT

Pursuant to the parties’ July 21, 2021 joint status report (ECF No. 15) the parties respectfully submit this joint status report. In the July 21 joint status report, the parties reported that they would file a joint status report by September 20, 2021.

In July, 2021, shortly after the U.S. 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), the parties began 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 Government counsel in initial talks regarding potential avenues for resolving the CSR matters.

The parties’ resolution efforts are continuing at this time, and the parties respectfully request that the stay of this matter continue for an additional 45 days, at which time a joint status report will be filed. At present, plaintiffs’ counsel are continuing efforts to develop a proposal to share with the Government to collectively resolve the damages and mitigation issues in the CSR

cases without further litigation or to streamline resolution of these cases. Plaintiffs' counsel expects to share a proposal and methodology to resolve the damages and mitigation issues in these cases with the Government within 45 days. Thereafter, the Government's counsel must consult with and obtain approval from its decision makers and stakeholders and will provide a substantive response to Plaintiffs' counsel's proposal and methodology.

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. The parties therefore jointly propose that they file a status report by November 4, 2021, in which the parties will update the Court on the status of these efforts.

Dated: September 20, 2021

/s/ Lawrence S. Sher

Lawrence S. Sher (D.C. Bar No. 430469)
REED SMITH LLP
1301 K Street NW
Suite 1000-East Tower
Washington, DC 20005
Telephone: 202.414.9200
Facsimile: 202.414.9299
Email: lsher@reedsmith.com

Of Counsel:

Gregory Vose (PA Bar No. 324912)
REED SMITH LLP
Reed Smith Centre
225 Fifth Avenue, Suite 1200
Pittsburgh, PA 15222
Telephone: 412.288.3131
Facsimile: 412.288.3063
Email: gvose@reedsmith.com

Attorneys for Plaintiffs

Respectfully submitted,

BRYAN M. BOYNTON
Acting Assistant Attorney General

MARTIN F. HOCKEY, JR.
Acting Director

/s/ Claudia Burke

CLAUDIA BURKE
Assistant Director

/s/ Eric E. Laufgraben

ERIC E. LAUFGRABEN
Senior Trial Counsel
Commercial Litigation Branch
Civil Division
U.S. Department of Justice
P.O. Box 480
Ben Franklin Station

Washington, DC 20044
Telephone: (202) 353-7995
Facsimile: (202) 353-0461
Email: Eric.E.Laufgraben@usdoj.gov

OF COUNSEL:

CHRISTOPHER J. CARNEY
Senior Litigation Counsel

ALBERT S. IAROSSI
Trial Attorney
Civil Division
U.S. Department of Justice

Attorneys for Defendant