

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

<hr/>		)	
EMBLEMHEALTH, INC.		)	
HEALTH INSURANCE PLAN OF		)	
GREATER NEW YORK, INC. ET AL,		)	
	Plaintiff,	)	Case No. 19-1164
		)	
v.		)	Judge Campbell-Smith
		)	
THE UNITED STATES,		)	
		)	
	Defendant.	)	
<hr/>		)	

**JOINT STATUS REPORT AND MOTION TO CONTINUE STAY**

Pursuant to the Court’s July 22, 2021 order (ECF No. 12) the parties respectfully submit this joint status report. The July 22nd order continued the stay in these proceedings, and directed the parties to file a joint status report proposing further proceedings by September 20, 2021.<sup>1</sup>

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.

---

<sup>1</sup> Due to a miscommunication between the parties, this status report is being filed one day late, and the parties respectfully request that the Court permit this status report to be filed out of time.

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.<sup>2</sup> 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.

Respectfully submitted,

s/ Edward J. Meehan  
Edward J. Meehan, Esq.  
Tamara S. Killion, Esq.  
Ryan C. Temme, Esq.  
1701 Pennsylvania Ave., N.W.  
Washington, DC 20006

BRIAN M. BOYNTON  
Acting Assistant Attorney General

MARTIN F. HOCKEY, JR.  
Acting Director

---

<sup>2</sup> The parties recognize that the Court's July 22nd order instructed the parties to file a joint status report by September 20, 2021, and every 30 days thereafter. However, the parties in similar CSR cases in this Court have requested until November 4, 2021 to file their next status report, in order to give the parties sufficient time to further confer as described above. We thus respectfully request that the Court permit the parties in this case to file our next joint status report in this case on November 4, 2021 as well, and every 30 days thereafter.

P: (202) 857-0620  
F: (202) 659-4503  
E: emeehan@groom.com  
E: tkillion@groom.com

s/ Claudia Burke  
CLAUDIA BURKE  
Assistant Director

s/ Albert S. Iarossi  
ALBERT S. IAROSSO  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 480  
Ben Franklin Station  
Washington, D.C. 20044  
Telephone: (202) 616-3755  
Facsimile: (202) 514-8624  
Email: Albert.S.Iarossi@usdoj.gov

OF COUNSEL:

CHRISTOPHER J. CARNEY  
Senior Litigation Counsel

ERIC E. LAUFGRABEN  
Senior Trial Counsel  
Civil Division  
U.S. Department of Justice

Counsel for Defendant

September 21, 2021