

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

_____)	
HARVARD PILGRIM HEALTH CARE, INC.,)	
HPHC INSURANCE COMPANY, INC., AND)	
HARVARD PILGRIM HEALTH CARE OF)	
NEW ENGLAND, INC.,)	Case No. 18-1820C
)	
Plaintiffs,)	
)	
v.)	Senior Judge Loren Smith
)	
)	
THE UNITED STATES OF AMERICA,)	
)	
Defendant.)	
_____)	

JOINT STATUS REPORT AND MOTION TO CONTINUE STAY

Pursuant to the Court’s September 24, 2021 order (ECF No. 28) (“Order”) the parties respectfully submit this joint status report. The Order continued the stay in these proceedings, and directed the parties to file a joint status report proposing further proceedings by November 4, 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—engaged Government counsel in discussions regarding potential resolution of the CSR matters through settlement.

Plaintiffs' counsel plan to share a proposal with the Government in the next 30 days to attempt to collectively resolve the damages and mitigation issues in the CSR cases without further litigation or to significantly streamline resolution of the remaining damages/mitigation issues in these cases. Thereafter, the Government has agreed that it will review Plaintiffs' proposal, consult with government actuaries and provide Plaintiffs with a substantive response. The parties' resolution efforts are progressing and the parties respectfully request that the stay of this matter continue for an additional 60 days, at which time the parties will file a joint status report. Good cause exists for the Court to continue the existing 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 damages and mitigation issues in this case. The complexity of the CSR cases and the large number of interested stakeholders, necessitates that the parties be afforded additional time to complete these efforts. The parties therefore jointly propose that they file a status report by January 4, 2022, in which the parties will update the Court on the status of their efforts to resolve this matter.

Respectfully submitted,

s/ Stephen McBrady
Stephen McBrady
CROWELL & MORING LLP
1001 Pennsylvania Avenue, NW Washington, DC
20004
Telephone: (202) 624-2500
Facsimile: (202) 628-5116
SMcBrady@crowell.com

BRIAN M. BOYNTON
Acting Assistant Attorney General

MARTIN F. HOCKEY, JR.
Acting Director

s/ Claudia Burke
CLAUDIA BURKE
Assistant Director

s/ Albert S. Iarossi
ALBERT S. IAROSSO
Trial Attorney
Civil Division

OF COUNSEL:

Daniel Wolff
Charles Baek

CROWELL & MORING LLP
1001 Pennsylvania Avenue, NW
Washington, DC 20004

Counsel for Plaintiffs

U.S. Department of Justice

P.O. Box 480

Ben Franklin Station

Washington, D.C. 20044

Telephone: (202) 616-3755

Email: Albert.S.Iarossi@usdoj.gov

OF COUNSEL:

CHRISTOPHER J. CARNEY

Senior Litigation Counsel

ERIC E. LAUFGRABEN

Senior Trial Counsel

Counsel for Defendant

November 4, 2021