

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

COMMON GROUND HEALTHCARE  
COOPERATIVE,

Plaintiff,  
on behalf of itself and all others  
similarly situated,

vs.

THE UNITED STATES OF AMERICA,

Defendant.

No. 1:17-cv-00877-KCD  
(Judge Davis)

**JOINT STATUS REPORT**

Pursuant to this Court's March 15, 2022 Order, the parties submit this joint status report. On June 21, 2021, the United States Supreme Court denied Plaintiff 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 decision in *Community Health Choice, Inc. v. United States*, Nos. 2019-1633, -2102, 2020 WL 4723757 (Fed. Cir. Aug. 14, 2020). The Supreme 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). Additionally, on that same day, the Court denied the petition for writ of certiorari and the Government's conditional cross-petition in *Maine Community Health Options v. United States* (No. 20-1162), which also sought review of the Federal Circuit's August 14, 2020 decision. *See* Orders List (U.S. June 21, 2021)

The parties' resolution efforts are continuing at this time, and the parties respectfully request that the stay of this matter continue for an additional 60 days, at which time a joint status report will be filed. At present, Class counsel, as well as attorneys representing other plaintiff

health plans, are engaged with counsel for the Government in initial talks regarding potential avenues for resolving the CSR matters. Specifically, the parties are working to develop proposals and methodologies that could resolve the damages and mitigation issues in the CSR cases without further litigation or streamline resolution of these cases. On December 3, 2021, counsel for a large number of plaintiff health plans shared a proposal with the Government, and on April 28, 2022, the Government provided its substantive response to plaintiffs' counsel's proposed settlement methodology for CSR damages owed for benefit years 2018 and beyond. The parties held a conference call on May 6 to discuss certain aspects of the Government's response and what the next steps should be. The parties intend to meet again on May 20 to discuss more specific actuarial issues. After Class counsel and other plaintiffs' counsel have completed reviewing the Government's response, the parties plan to meet and confer regarding the Government's response and the potential mutual resolution of pending CSR claims for benefit years 2018 and beyond. Further, both Government counsel and Class counsel will need to consult with numerous stakeholders before moving forward with any proposal. The parties are also working together to present the Court with a joint stipulation for entry of partial final judgment as to CSR damages the Government owes Plaintiff for 2017 in this case.

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 streamline a potential resolution. The complexity of the CSR matter and the number of interested stakeholders necessitates that the parties be afforded additional time for these efforts. To this end, the parties propose that they file a status report by July 12, 2022, in which the parties will update the Court on these efforts.

DATED: May 13, 2022

QUINN EMANUEL URQUHART &  
SULLIVAN, LLP

/s/ Stephen Swedlow

Stephen Swedlow  
stephenswedlow@quinnemanuel.com  
191 N. Wacker Drive, Suite 2700  
Chicago, Illinois 60606  
Telephone: (312) 705-7400  
Facsimile: (312) 705-7401

J.D. Horton

jdhorton@quinnemanuel.com  
Adam B. Wolfson  
adamwolfson@quinnemanuel.com  
865 S. Figueroa Street  
Los Angeles, California 90017  
Telephone: (213) 443-3000  
Facsimile: (213) 443-3100

*Attorneys for Plaintiff Common Ground  
Healthcare Cooperative and the Class*

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

PATRICIA M. McCARTHY  
Director

/s/ Claudia Burke  
CLAUDIA BURKE  
Assistant Director

/s/ David M. Kerr  
DAVID M. KERR  
Trial Attorney  
Commercial Litigation Branch  
Civil Division  
U.S. Department of Justice  
P.O. Box 480  
Ben Franklin Station  
Washington, DC 20044  
Telephone: (202) 305-7597  
Facsimile: (202) 307-2503  
Email: Chris.Carney@usdoj.gov

OF COUNSEL:

ALBERT S. IAROSI  
Trial Attorney  
U.S. Department of Justice

*Attorneys for Defendant United States of  
America*