

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 MOTION FOR LEAVE TO FILE OUT OF TIME

Pursuant to this Court's May 13, 2022 Order and Rule 6 of the United States Court of Federal Claims, the parties jointly and respectfully submit this motion for leave to file out of time the attached joint status report regarding the status and next steps in this litigation.

This Court's May 13, 2022 Order directed the parties to file a joint status report by July 12, 2022, updating the Court on the status of settlement negotiations. Those settlement negotiations are ongoing, as explained in the joint status report submitted herein. We apologize for any inconvenience the late filing of the enclosed joint status report has caused, but assure the Court that we have been working together to determine whether the parties may efficiently resolve the matter without further litigation or, at least, streamline this and the other related cases.

The complexity of this case and the number of interested stakeholders necessitate additional time to pursue this mutual attempt to resolve the outstanding issues without further litigation, and the parties respectfully request that the Court grant this motion to file out of time

the attached joint status report, which requests a continued stay in this case until September 12, 2022. At that time, the parties will file another joint status report to update the Court on the status of their efforts to resolve the matter fully.

DATED: July 13, 2022

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JOINT STATUS REPORT

Pursuant to this Court's May 13, 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 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. On April 28, 2022, the Government responded to Plaintiffs' proposal, and Plaintiffs responded on May 23, 2022. The parties have also engaged in meet and confer conversations on the phone, and the Government is currently preparing additional information relevant to the parties' discussion of 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 September 12, 2022, in which the parties will update the Court on these efforts.

DATED: July 12, 2022

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