

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

COMMUNITY HEALTH CHOICE, INC.,)	
)	
Plaintiff,)	
)	
v.)	Case No. 18-05
)	(Judge Davis)
THE UNITED STATES,)	
)	
Defendant.)	
)	

JOINT STATUS REPORT AND MOTION TO CONTINUE STAY

Pursuant to the Court’s May 16, 2022 order (ECF No. 68), the parties respectfully submit this Joint Status Report. The May 16, 2022 order continued the stay in these proceedings and directed the parties to file a joint status report proposing further proceedings by July 12, 2022.

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.

On December 3, 2021, Plaintiffs’ counsel shared a proposal with the Government 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. On April 28, 2022, the Government responded to Plaintiffs’ proposal, and

Plaintiffs responded on May 23, 2022. Thereafter, the parties convened by phone, and the Government is currently preparing additional information relevant to the parties' discussion.

On February 24, 2022, the parties filed a Joint Stipulation for Entry of Partial Final Judgment (ECF No. 62) to resolve damages owed through December 31, 2017. On February 28, 2022, the Court granted the Stipulation and directed the Clerk to enter partial final judgment on Count IV of the Amended Complaint in favor of Plaintiff, dismissed Count IV of the Amended Complaint with prejudice as it related to Plaintiff's claim for CSR payments through December 31, 2017, and dismissed Counts V and VI of the Amended Complaint with prejudice (ECF No. 63).

With respect to remaining damages under Count IV after December 31, 2017, 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 September 12, 2022, in which the parties will update the Court on the status of their efforts to resolve this matter.

July 12, 2022

/s/ William L. Roberts

William L. Roberts
william.roberts@faegredrinker.com
FAEGRE DRINKER BIDDLE & REATH LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
Telephone: (612) 766-7000
Fax: (612) 766-1600

Of Counsel:

Jonathan W. Dettmann
jon.dettmann@faegredrinker.com
Nicholas J. Nelson
nicholas.nelson@faegredrinker.com
Evelyn Snyder
evelyn.snyder@faegredrinker.com
FAEGRE DRINKER BIDDLE & REATH LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, MN 55402-3901
Telephone: (612) 766-7000
Fax: (612) 766-1600

*Counsel for Plaintiff Community Health
Choice, Inc.*

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
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) 307-3390
Facsimile: (202) 514-8624
Email: david.m.kerr@usdoj.gov

OF COUNSEL:

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

Counsel for Defendant The United States