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Aimed Alliance's *Litigation & Case Law Tracker* summarizes developments in legal cases and the law that could affect the rights of U.S. health care consumers and providers. This quarterly publication also highlights the judicial-branch advocacy efforts of Aimed Alliance and its not-for-profit allies.

This edition of our *Litigation & Case Law Tracker* covers the period from May 1 through July 7, 2025.

We welcome feedback at policy@aimedalliance.org.

Federal Policy Challenges

Medical Organizations Sue to Block Directive on COVID-19 Vaccination

July 7 – A coalition of medical organizations and a pregnant physician sued to block a U.S. Department of Health and Human Services (HHS) directive removing COVID-19 vaccines for healthy pregnant women and children from the immunization schedule recommended by the Centers for Disease Control and Prevention (CDC). The plaintiffs allege the move was a “final agency action” subject to the Administrative Procedure Act (APA). They claim that HHS violated the APA because it arbitrarily and without proper rulemaking bypassed the CDC’s Advisory Committee on Immunization Practices.

The case is *American Academy of Pediatrics et al. v. Robert F. Kennedy Jr. et al.*, No. 1:25-cv-11916, in the U.S. District Court for the District of Massachusetts.

Supreme Court Reverses Fifth Circuit In Preventive Health Care Coverage Case

June 27 – The Supreme Court reversed the Fifth Circuit’s ruling that members of the U.S. Preventive Services Task Force (USPSTF) were unconstitutionally appointed principal officers of the federal government because they were not confirmed by the Senate and, therefore, lacked authority to mandate private insurance coverage of preventive health care services.

In a 6-3 opinion, the majority sided with the government's argument that USPSTF members were inferior officers of the government that did not need Senate confirmation under the Article II Appointments Clause, reasoning that the secretary of HHS has authority over the task force.

The Affordable Care Act (ACA) requires most private health insurance plans and Medicaid ACA expansion programs to cover several preventive health care services recommended by the USPSTF and other bodies without any patient cost-sharing. The Supreme Court's opinion confirms the validity of the task force's recommendations on a range of important preventive health care services, including those in oncology, mental health, and reproductive and sexual health.

The case *Robert F. Kennedy, Jr., Secretary of Health and Human Services, et al. v. Braidwood Management, Inc., et al.*, No. 24-316 in the U.S. Supreme Court. In the lower courts, prior to the change in executive administration, the case was named *Braidwood Management Inc., et al. v. Xavier Becerra, et al.*

Trump Admin. Loses Bid To Stay Order To Release NIH Grant Funds

June 24 – The U.S. District Court for the District of Massachusetts denied the Trump Administration's motion to stay a recent order that blocked the National Institutes of Health (NIH) from cancelling hundreds of research grants related to diversity, equity, and inclusion initiatives; vaccines; COVID-19; gender issues; and climate change.

District Judge William G. Young issued the order to resume processing grant applications and releasing grant funds during a bench trial on June 16. He found the Trump Administration failed to provide evidence to support grant cancellation letters it sent out in March, relying instead on "conclusory statements" to justify its actions. On June 23rd, the court published a written final judgment in favor of the plaintiffs, holding that the grant cancellations were arbitrary and capricious in violation of the APA. The same day, the government filed a notice of appeal in the U.S. Court of Appeals for the First Circuit and moved to stay the District Court's order and judgment pending the appeal.

The case involves two complaints filed in early April and later consolidated, one by a coalition of 16 states and the other by the American Public Health Association, unions, and advocacy groups. The plaintiffs alleged that the government paused the grant review process and began terminating grants in violation of the APA, with such actions stemming from a variety of "challenged directives" issued by various staff at NIH.

The case is *Massachusetts et al. v. Kennedy et al.*, No. 1:25-cv-10814, in the U.S. District Court for the District of Massachusetts.

Federal Government Sued for Purging Online Public Health Info

May 20 – Nine organizations representing physicians, nurses, medical students, researchers, and other health care stakeholders filed suit in U.S. District Court for the Western District of Washington, accusing HHS and several of its constituent agencies of unlawfully deleting public health information from federal websites and databases.

The plaintiffs allege that the removal of public health resources was prompted by two executive orders—one focused on “gender ideology” and the other on diversity, equity, and inclusion programs.

The plaintiffs claim that the defendants’ actions violate the APA and Separation of Powers under the U.S. Constitution, arguing that Congress developed a statutory regime requiring the HHS and its constituent agencies to investigate various public health issues and make their findings and resources available to researchers, practitioners and the public; and that the defendants cannot disregard legislative mandates in response to executive orders.

The Washington State Medical Association and its co-plaintiffs asked the court to declare the defendants’ actions illegal, prohibit further deletion of public health information, and require deleted information and resources to be restored.

The case is Washington State Medical Association et al. v. Robert F. Kennedy Jr. et al., No. 2:25-cv-00955, in the U.S. District Court for the Western District of Washington.

Federal Court Bars Cuts in Health Care Funding to States

May 16 – The U.S. District Court for the District of Rhode Island granted a preliminary injunction prohibiting HHS from canceling public health funding for 23 states and the District of Columbia that sued in April to block the funding terminations. The Trump Administration asserted that the funding at issue was no longer necessary because it was largely intended for purposes related to the COVID-19 pandemic.

U.S. District Judge Mary S. McElroy found the states are likely to succeed on the merits of their claim that HHS violated the APA because its actions were arbitrary and capricious. She also found the states are likely to succeed on their Constitutional claim that the funding terminations violate Separation of Powers. “HHS’ actions here clearly usurped Congress’s authority to spend and allocate funds how it deems appropriate . . . As a federal agency, HHS can spend, award, or suspend money based only on the power Congress has given to them—they have no other spending power . . . HHS’ Public Health Funding Decision contradicts Congress’s decision to appropriate funds to the States to address public health concerns.”

The case is State of Colorado et al. v. U.S. Department of Health and Human Services et al., No. 1:25-cv-00121, in the U.S. District Court for the District of Rhode Island.

Federal Agencies Freeze Enforcement of Parity Rule

May 15 – The U.S. Department of Labor, HHS, and the Treasury published a joint statement announcing they will not enforce a September 2024 final rule that further implements the Mental Health Parity and Addiction Equity Act (Parity Act), citing ongoing litigation and an executive order aimed at reducing regulatory burdens.

The announcement came just days after a D.C. federal court agreed to stay a lawsuit by ERISA Industry Committee (ERIC), a group representing large employers offering benefits regulated by ERISA. ERIC filed suit last January to block the rule, alleging that the rule violates the APA and due process clause of the Fifth Amendment.

“The Departments will not enforce the 2024 Final Rule or otherwise pursue enforcement actions, based on a failure to comply that occurs prior to a final decision in the litigation, plus an additional 18 months,” reads the joint statement. At the same time, the Departments clarified that health plans and issuers must continue to comply with existing statutory obligations and a 2013 rule implementing the Parity Act.

Alternative Funding Providers

Aimed Alliance is monitoring the following cases relating to alternative funding providers. We will report any substantive developments in these matters in future editions of our *Litigation & Case Law Tracker*.

- **AbbVie Inc. v. Payer Matrix LLC**, No. 1:23-cv-02836 in the U.S. District Court for the Northern District of Illinois.
- **Paydhealth, LLC v. Dawn G. Holcombe, d/b/a DGH Consulting**, No. 2:24-cv-00259 in the U.S. District Court for the Eastern District of Pennsylvania.
- **Johnson & Johnson Health Care Systems, Inc. v. Save On SP, LLC; Express Scripts Inc.; and Accredo Health Group, Inc.**, No. 2:22-cv-02632 in the U.S. District Court for the District of New Jersey.
- **Sharx, LLC v. AbbVie Inc.**, No. 2024-L-000264 in the Circuit Court of Cook County, Illinois.
- **Gurwitch v. Save On SP LLC**, No. 1:25-cv-00006 in the U.S. District Court for the Western District of New York.

Compounding

Court Tosses Suit Challenging FDA’s Removal of Semaglutide From Shortage List

June 13 – The U.S. District Court for the Northern District of Texas found the FDA properly determined that a national semaglutide shortage was resolved. Judge Mark Pittman granted summary judgment to the FDA and intervenor Novo Nordisk—the manufacturer of two semaglutide injection products—in a suit brought by a trade association for drug compounders and a pharmacy engaged in compounding. The plaintiffs have filed an appeal in the Fifth Circuit.

The court’s decision came as no surprise, as Judge Pittman ruled in FDA’s favor on May 7 in a related case involving the removal of tirzepatide from the shortage list. That case is summarized below.

The case is Outsourcing Facilities Association et al. v. FDA et al., No. 4:25-cv-00174, in the U.S. District Court for the Northern District of Texas.

Connecticut AG Seeks to Protect Consumers from Sellers of Bootleg GLP-1 Compounds

May 21 – The Connecticut Attorney General filed suit against a Florida-based company, its owner, and several related corporate entities, accusing them of illegally selling research-grade GLP-1 weight loss drugs to Connecticut consumers in violation of the state’s Unfair Trade Practices Act.

According to the complaint, the defendants exploit a perceived legal loophole that allows the sale of raw peptides and other compounds to laboratories for “scientific research.” Given that such compounds are not approved for human use, “sellers of research peptides operate in a regulatory vacuum.” The state alleges that the defendants thinly purport to sell supplies for use in laboratory experiments; however, they actually market “research grade semaglutide and tirzepatide directly to consumers in Connecticut as weight loss medications that can be purchased without a prescription,” and encourage buyers “to mix [such compounds] with water (essentially creating DIY drugs) before measuring doses and injecting the substances into their bodies.”

The Attorney General warned that bootleg GLP-1 inhibitors sold online for weight loss without a valid prescription have been found to contain bacteria and other impurities, as well as quantities of the active ingredient that differ from those found in FDA-approved drugs.

The case is State of Connecticut v. Y-Consulting LLC et al., No. HHD-CV25-6204578, in the Hartford Judicial District of the Connecticut Superior Court.

Court Tosses Suit Challenging FDA’s Removal of Tirzepatide From Shortage List

May 7 – The U.S. District Court for the Northern District of Texas found the FDA properly determined that a national tirzepatide shortage was resolved. Judge Mark Pittman granted summary judgment to the FDA and intervenor Eli Lilly—the manufacturer of two tirzepatide products—in a suit brought by a trade association for drug compounders and a pharmacy engaged in compounding. The plaintiffs have filed an appeal in the Fifth Circuit.

The case is: Outsourcing Facilities Association et al. v. FDA et al., No. 4:24-cv-00953, in the U.S. District Court for the Northern District of Texas.

Aimed Alliance is monitoring the following additional cases relating to drug compounding. We will report any substantive developments in these matters in future editions of our *Litigation & Case Law Tracker*.

- **Eli Lilly and Company v. Alderwood Surgical Center LLC, et al.**, No. 2:24-cv-00878 in the U.S. District Court for the Western District of Washington.
- **Eli Lilly and Company v. Empower Clinic Services, LLC, d/b/a Empower Pharmacy et al.**, No. 2:25-cv-02183 in the U.S. District Court for the District of New Jersey.
- **Eli Lilly and Company v. Strive Pharmacy LLC**, No. 1:25-cv-00401 in the U.S. District Court for the District of Delaware.

Drug Importation

Court Issues Preliminary Injunction In Alleged Drug Importation Scheme

June 24 – The U.S. District Court for the District of Maryland granted Gilead Sciences a preliminary injunction to stop an alleged scheme involving the importation of certain Gilead drugs from outside of the United States. The court found the plaintiff “made a strong and clear showing that it is likely to prevail on the merits” of its Lanham Act trademark infringement and unfair competition claims against all defendants.

Gilead sued in December 2024 alleging violations of state law and the federal Lanham Act following its investigation into a report that a patient received the manufacturer’s HIV-1 antiviral treatment packaged with labeling written in Turkish. According to its complaint:

Defendants here are a health insurer and its pharmacy benefit manager (“PBM”); an Alternative Funding Program (“AFP”) that works with health

insurers and PBMs to implement policies and programs to reduce the cost of prescription drug benefits; two “international mail order” companies used to fill U.S. prescriptions with illegally imported drugs; and a Turkish pharmacy that ships Turkish drugs to American patients. Because health insurance companies are participants in the scheme, Defendants give themselves a veneer of legality and authenticity, which they employ to abuse their patients’ trust. Defendants promise to arrange for patients to get Gilead-branded prescription medicine delivered right to their door, and either require or push the patient to send their prescription to a “mail-order pharmacy,” including by promising the patient that any copay will be waived. But this is a bait-and-switch. What shows up to the patient’s home is illegally imported, unapproved foreign product, shipped directly from Turkey, India, or another foreign country.

The case is *Gilead Sciences, et al. v. Meritain Health, Inc., et al.*, No. 1:24-cv-03566-JRR, in the U.S. District Court for the District of Maryland.

Drug Price Caps and Hospital Budget Reviews

Hospital System’s Challenge to Del. Cost Review Board Narrowly Survives Dismissal

June 2 – A Delaware state court dismissed all but one claim in an eight-count constitutional challenge to the Diamond State Hospital Cost Review Board, a state-appointed body empowered to review and approve hospital budgets based on certain spending benchmarks. The review board’s duties and powers stem from legislation enacted in June 2024. The plaintiffs—two affiliated corporations that operate a regional hospital system with locations in Delaware—sued shortly after the law’s enactment, arguing that the law violates both the Delaware and U.S. constitutions.

The court dismissed one claim as nonviable, and six others as “unripe” given that the board had unfilled seats and had yet to pass implementing regulations. However, the court refused to dismiss the claim that the 2024 law violates state constitutional limits on the legislature’s power to interfere with the internal governance of Delaware corporations. “In Delaware, the managerial power of boards of directors is sacrosanct,” the court’s opinion read. “The plaintiffs adequately plead that the legislation conceivably placed the Review Board atop their own boards, usurping the directors’ authority to set corporate strategic [priorities].”

The case is *Christiana Care Health Services Inc. et al. v. John Carney et al.*, No. 2024-0802, in the Court of Chancery of the State of Delaware.

Aimed Alliance is monitoring numerous cases relating to drug price caps, including **Amgen Inc. v. Colorado Prescription Drug Affordability Review Board**, No. 2025-1641 in the U.S. Court of Appeals for the Federal Circuit, and the three combined cases listed below. We will report any substantive developments in these matters in future editions of our *Litigation & Case Law Tracker*.

- **Bristol Myers Squibb Co. v. Secretary United States Department of HHS**, No. 24-01820 in the U.S. Court of Appeals for the Third Circuit.
- **Janssen Pharmaceuticals Inc. v. Secretary United States Department of HHS**, et al., No. 24-01821 in the U.S. Court of Appeals for the Third Circuit.
- **Novo Nordisk, Inc., et al. v. Secretary United States Department of HHS**, et al., No. 24-2510 in the U.S. Court of Appeals for the Third Circuit.

340B Drug Pricing

Drug Manufacturer Sues to Block Colorado’s Discount Drug Law

June 13 – AbbVie Inc. sued in Colorado federal court seeking a declaration that an incoming Colorado law is unconstitutional and asking the court to block the state’s enforcement of the law against AbbVie. Senate Bill 71, set to take effect in August, prohibits drug manufacturers from restricting or otherwise limiting “the acquisition of a 340B drug by, or delivery of a 340B drug to, a 340B covered entity, a pharmacy contracted with a 340B covered entity, or a location otherwise authorized by a 340B covered entity to receive and dispense 340B drugs[.]”

The plaintiff argues that the law “imposes state-level requirements not mandated by Congress and that directly conflict with and frustrate the federal 340B program. S.B. 71 overrides the discretion manufacturers retain under federal law to impose reasonable conditions on their 340B offers, and subjects AbbVie to conflicting obligations, compliance burdens, and potential enforcement actions.”

The case is *AbbVie Inc. et al. v. Philip Weiser et al.*, No. 1:25-cv-01847, in the U.S. District Court for the District of Colorado.

Aimed Alliance is monitoring the following additional cases relating to state laws affecting the federal 340B drug pricing program. We will report any substantive developments in these matters in future editions of our *Litigation & Case Law Tracker*.

- **Pharmaceutical Research & Manufacturers of America v. John McCuskey**, No. 25-1054 in the U.S. Court of Appeals for the Fourth Circuit.

- **AbbVie Inc., et al. v. Fitch**, No. 24-60375 in the U.S. Court of Appeals for the Fifth Circuit.
- **AbbVie Inc., et al. v. Jackley, et al.**, No. 3:25-cv-30006 in the U.S. District Court for South Dakota.
- **AbbVie Inc., et al. v. Wrigley, et al.**, No. 1:25-cv-00081 in the U.S. District Court for North Dakota.

Employer-Sponsored Health Plans

Sixth Circuit Reverses Dismissal of Fiduciary Breach Claim Against Health Plan TPA

May 21 – The Sixth Circuit reversed the dismissal of an ERISA breach of fiduciary duty lawsuit against the third-party administrator (“TPA”) of the plaintiff’s self-funded employee health benefits plan. The court of appeals held that the plaintiff, a boat manufacturer, plausibly alleged that the TPA acted as an ERISA fiduciary when it exercised control over plan assets; allegedly, by systematically overpaying some categories of claims and then profiting from its mismanagement through implementation of a “shared savings program” through which it identified overpayments, clawed them back, and kept a percentage of those “savings” for itself.

“A plaintiff can show that a defendant acted as an ERISA fiduciary by exercising discretionary authority over plan management or administration,” the Sixth Circuit explained. The court of appeals concluded that the plaintiff’s alleged misconduct involved discretionary management of plan assets and, therefore, triggered fiduciary duties under ERISA, even though the TPA’s conduct was grounded in contractual authority. The court of appeals disagreed with the district court’s holding that issues raised by the plaintiff “are fully matters of contract” and thus not actionable under ERISA. “To hold that an administrator like [the defendant] insulates itself from ERISA liability because a contract governs its relationship with its customer would ‘gut ERISA’s fiduciary provisions,’” the court noted.

The case is *Tiara Yachts Inc. v. Blue Cross Blue Shield of Michigan*, No. 24-1223, in the U.S. Court of Appeals for the Sixth Circuit.

False Claims Act

Federal Government Files FCA Suit Accusing Insurers of Medicare Kickbacks and Bias

May 1 – The federal government filed a FCA suit against some of the nation’s largest health insurers and insurance brokers. The government alleges that Humana, Aetna, and Anthem paid hundreds of millions of dollars in unlawful kickbacks to insurance brokers to induce them to steer beneficiaries into the insurers’ Medicare Advantage plans. The brokers allegedly directed Medicare beneficiaries to the plans offered by insurers that paid them the most money, regardless of the quality or suitability of the insurers’ plans. “Our nation’s citizens trusted that the insurance brokers helping them select a plan were unbiased and acting in their best interests. Defendants violated that trust,” the complaint read.

The case is United States of America ex rel. Andrew Shea v. eHealth Inc. et al., No. 1:21-cv-11777, in the U.S. District Court for the District of Massachusetts.

Health Privacy

Bankruptcy Court Approves Chapter 11 Sale of Genetic Company’s Assets

June 30 – U.S. Bankruptcy Court for the Eastern District of Missouri approved the sale of 23andMe’s assets, which includes customers’ DNA data, to a nonprofit led by 23andMe’s co-founder. “The transfer of the acquired assets constitutes a legal, valid, enforceable, and effective transfer, and complies with the Bankruptcy Code and applicable non-bankruptcy law,” according to the written order.

The order came nearly three weeks after a group of attorneys general sued the genetic-testing company to thwart the company’s plan to sell its customers’ genetic data as part of a Chapter 11 asset auction. They alleged that the defendant “lacks sufficient rights to control and transfer a customer’s biological material and their [genetic data] to a third party absent the customer’s express, informed, affirmative consent to the proposed sale/transfer.” The plaintiffs also raised concerns over how such data may be used by the asset purchaser.

However, plaintiffs filed a supplement in the proceedings on June 18, stating that they are not opposed to the newly proposed equity sale to the nonprofit “because this particular buyer is arguably an affiliate of the Debtors and not a third party. Furthermore, there is no actual physical or electronic transfer or disclosure of any DNA or other customer material or data.”

The bankruptcy court case is In re: 23andMe Holding Co., No. 4:25-bk-40976, in the U.S. Bankruptcy Court for the Eastern District of Missouri. The adversary lawsuit is NAAG Client States et al. v. 23andMe Holding Co. et al., No. 4:2025-ap-04035, in the U.S. Bankruptcy Court for the Eastern District of Missouri.

Online Privacy Case Against Telehealth Company May Proceed

June 26 – The U.S. District Court for the Southern District of New York declined to dismiss a proposed class action against a telehealth company accused of unlawfully sharing users' personal health information with Meta-owned Facebook through a tracking pixel installed on the telehealth platform's website. The plaintiffs brought claims under the federal Electronic Communications Privacy Act and New York, Florida, and California laws. The court preserved eight of the plaintiffs' claims while dismissing four state law claims without prejudice, meaning the plaintiffs may amend their complaint and replead such claims.

The case is *Pattison et al. v. Teladoc Health Inc.*, No. 7:23-cv-11305, in the U.S. District Court for the Southern District of New York.

Parts of Privacy Class Action May Proceed Against App Maker and Tech Giants

May 23 – The U.S. District Court for the Northern District of California kept a class action alive against Meta Platforms and the developer of a menstrual cycle app, denying parts of both companies' motions for summary judgment. Google is also a defendant; however, the order did not apply to them. The plaintiff class is a group of app users who claim Flo Health, Inc. unlawfully shared their personal health information with Meta and Google.

The court ruled that Meta must defend against the claim that it violated the California Invasion of Privacy Act and Flo must face the claim that it violated the state's Confidentiality of Medical Information Act. The court granted summary judgment to the companies on all other claims alleged by the plaintiffs.

The case is *Erica Frasco v. Flo Health Inc. et al.*, No. 3:21-cv-00757, in the U.S. District Court for the Northern District of California.

Aimed Alliance is monitoring the following cases relating to actions affecting patient privacy. We will report any substantive developments in these matters in future editions of our *Litigation & Case Law Tracker*.

- **H., et al. v. Meta Platforms, Inc.**, No. 3:23-cv-4784 in the U.S. District Court for the Northern District of California.
- **W.W. v. Orlando Health Inc.**, No. 6:24-cv-1068 in the U.S. District Court for the Middle District of Florida.

Pharmacy Benefit Managers

Supreme Court Declines to Take Up Case on Oklahoma PBM Law

June 30 – The U.S. Supreme Court declined to hear a challenge to a 10th Circuit decision that invalidated several provisions of an Oklahoma law regulating pharmacy benefit managers (PBMs). Oklahoma’s insurance commissioner petitioned the Supreme Court last May after the 10th Circuit held in 2023 that certain provisions of the Patient’s Right to Pharmacy Choice Act were preempted by the Employee Retirement Income Security Act (ERISA) or Medicare Part D, siding with the Pharmaceutical Care Management Association (PCMA), the PBM industry group challenging the state law on federal preemption grounds.

The Supreme Court’s denial of Oklahoma’s petition aligns with an amicus brief filed by the federal government in May in response to a request for input by the Court. In its brief, the federal government asked the court to deny Oklahoma’s petition for a writ of certiorari, arguing that the case does not warrant further review by the nation’s highest court.

The case is *Mulready et al. v. Pharmaceutical Care Management Association*, No. 23-1213, in the U.S. Supreme Court.

Iowa Court Temporarily Blocks State Law Regulating PBMs

June 30 – The U.S. District Court for the Southern District of Iowa temporarily blocked an Iowa law imposing requirements, restrictions, or transaction fees on PBMs, one day before the law was set to become effective. In granting the 14-day temporary restraining order, the court preliminarily held that certain provisions of the law, namely a bar on discrimination by health plans against pharmacies or pharmacists regarding several aspects of benefit provision, interfere with a “central matter of plan administration” and are thus preempted by ERISA. Additionally, the court determined that prohibitions on PBM disclosure of information about comparative reimbursement rates between pharmacies and mail-order pharmacies likely violate the First Amendment by suppressing truthful, non-misleading commercial speech.

The case is *Iowa Association of Business and Industry et al. v. Iowa Insurance Commissioner*, No. 4:25-cv-00211, in the U.S. District Court for the Southern District of Iowa.

PBM Found Liable for \$95 Million in Part D Whistleblower Case

June 25 – The U.S. District Court for the Eastern District of Pennsylvania ruled after a bench trial that CVS Caremark Corp. owes \$95 million for overbilling the government for Medicare Part D-sponsored drugs. The False Claims Act (FCA) suit was brought by a

whistleblower who claimed the PBM “contracted with pharmacies to pay a fixed average price for prescription drugs but caused higher prices to be reported” to the government. In his opinion, the judge said “Relator has proven damages with reasonable certainty . . . Caremark’s conduct inflated the prices of Part D drugs and thus caused CMS to over-subsidize drug costs.” The court declined to rule on treble damages or other penalties, instead allowing the parties an opportunity to file briefs on the issue.

The case is U.S. ex rel. Sarah Behnke v. CVS Caremark Corp. et al., No. 2:14-cv-00824, in the U.S. District Court for the Eastern District of Pennsylvania.

PBM Sues to Block State Law Banning PBM-Owned Pharmacies

May 29 – Express Scripts and several affiliated corporations sued the executive director and members of the Arkansas State Board of Pharmacy, asking the court to block and declare unlawful a recently enacted state law prohibiting PBMs from acquiring or holding a direct or indirect interest in an Arkansas-licensed pharmacy. The plaintiffs allege that the law is unconstitutional and preempted by TRICARE as applied to affiliated pharmacies that provide pharmacy benefits under contracts with the Department of Defense.

The case is Express Scripts Inc. et al. v. Richmond et al., No. 4:25-cv-00520, in the U.S. District Court for the Eastern District of Arkansas.

Provider Payments

Court Declines To Dismiss Reimbursement Pricing Antitrust MDL

June 3 – The U.S. District Court for the Northern District of Illinois declined to dismiss all claims against MultiPlan and several organizations that contract with the company to price out-of-network health care services. The defendants are accused of colluding through MultiPlan’s pricing tools to systematically underpay out-of-network providers.

The multidistrict litigation involves a consolidated class action complaint and a consolidated master direct action complaint. In both, the plaintiffs argue that the defendants violated federal antitrust law by agreeing to fix the prices for out-of-network health care services. The direct action plaintiffs also allege violations of state antitrust

laws, state consumer protection laws, and state unjust enrichment laws. The court denied the defendants' motion to dismiss on all claims except the state unjust enrichment claim.

The case is In re: MultiPlan Health Insurance Provider Litigation, No. 1:24-cv-06795, in the U.S. District Court for the Northern District of Illinois.

Court Declines to Dismiss Residential Treatment Coverage Suit

May 6 – The U.S. District Court for the Northern District of California denied United Behavioral Health's motion to dismiss a lawsuit alleging that it used overly restrictive guidelines and bundled reimbursement requests to deny claims for residential mental health and substance use disorder treatment. The plaintiffs—a group of participants and beneficiaries of health care plans administered by UBH—claim the company violated its fiduciary duties and the terms of their insurance plans by deliberately designing policies to reduce the number and value of claims that it would approve. Citing various sections of ERISA, the plaintiffs seek declaratory and injunctive relief.

The case is Beach et al. v. United Behavioral Health, No. 3:21-cv-08612, in the U.S. District Court for the Northern District of California.

Opioid Litigation

State AGs Back Proposed \$7.4B Opioid Settlement

June 16 – Attorneys general from 55 U.S. states and territories issued joint statements backing Purdue Pharma's proposed \$7.4 billion deal to settle claims against the company and the Sackler family as part of the company's Chapter 11 bankruptcy plan. If the bankruptcy court approves the plan, the Sacklers would contribute \$6.5 billion in exchange for a release of fraudulent conveyance claims and thousands of opioid injury claims. The company would contribute another \$900 million to the settlement fund.

The bankruptcy case is In re: Purdue Pharma LP, No. 7:19-bk-23649, in the U.S. Bankruptcy Court for the Southern District of New York.



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