AIMEDALLIANCE

Litigation & Case Law TRACKER

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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 issue of our *Litigation & Case Law Tracker* covers the period from January 27, 2026, through April 22, 2026.

We welcome feedback at policy@aimedalliance.org.

Judicial-Branch Advocacy

Trump Admininistration Backs Drugmakers in 340B Contract Pharmacy Challenges

February 25 – The Trump Administration filed amicus briefs in the First and Tenth Circuits in support of drugmakers that challenged contract pharmacy laws in Rhode Island and Colorado. These laws prohibit drugmakers from imposing restrictions on hospitals and the pharmacies they contract with to dispense discounted prescription medications under the federal 340B program. In its briefs, the Administration asserts that (1) such laws violate the Supremacy Clause because they impose additional conditions and burdens on participation in a federal program, and (2) the district courts erred in finding that federal law does not preempt such laws because Congress was silent on contract pharmacies in the 340B statute. The Administration acknowledged that congressional silence ordinarily defeats federal preemption arguments; however, it argues that Congress can preempt state laws impliedly. "In light of the reticulated scheme Congress created here, the context does not suggest that Congress left states free to layer on regulations."

The cases are Pharmaceutical Research and Manufacturers of America v. Nerohna, number 26-1039, in the U.S. Court of Appeals for the First Circuit; and AbbVie Inc. et al. v. Weiser et al., number 25-1439, in the U.S. Court of Appeals for the Tenth Circuit.

Federal Policy

Challenge to Secretary's Overhaul of HHS Survives Motion to Dismiss

April 7 – The U.S. District Court for the District of Rhode Island denied a motion to dismiss by the Department of Health and Human Services (HHS) in a challenge brought by 19 states and the District of Columbia seeking to invalidate the Secretary's plan to overhaul HHS through staffing reductions and elimination of certain subagencies. The court found that the plaintiff states sufficiently pled their constitutional and Administrative Procedure Act (APA) claims to survive the motion, and that the government's jurisdictional challenges were already addressed and rejected by the court and First Circuit in previous preliminary injunction rulings.

The case is State of New York et al. v. Robert F. Kennedy Jr. et al., number 1:25-cv-00196, in the U.S. District Court for the District of Rhode Island.

President Trump Orders Tariffs on Patented Pharmaceuticals

April 2 – President Trump signed an executive order imposing a 100 percent tariff on imported pharmaceutical products and ingredients, citing national security and public health concerns stemming from U.S. reliance on foreign drug manufacturing. The tariffs are set to take effect in 120 days for the largest drug companies and 180 days for certain smaller companies.

Countries with existing trade deals with the U.S., including Japan, Korea, Switzerland and Liechtenstein, and members of the European Union, will be subject a 15 percent tariff rate, while products from the United Kingdom will be subject to lower tariffs, so long as certain conditions are met under a new pharmaceutical pricing deal between the U.K. and United States. Additionally, companies that execute Most Favored Nation (MFN) pricing agreements with HHS and onshoring agreements with the Department of Commerce (DOC) will not be assessed tariffs through January 20, 2029. A 20 percent tariff will apply to companies that only enter into onshoring agreements with the DOC.

Generics, biosimilars, and their ingredients are exempt from the executive order, while certain specialty products (e.g., orphan drugs and animal health drugs) will also be excluded if they are from trade agreement countries or meet public health need criteria.

Medical Organizations Back H-1B Visa Legislation for Health Care Workforce

March 17 – A bipartisan group of lawmakers introduced legislation in the House of Representatives that would exempt from the Trump Administration's $100,000 fee on H-1B visas any non-citizen

"who is employed (or has received an offer of employment) in the health care workforce." The American Medical Association and other medical organizations have backed the bill.

The H-1B visa program allows employers to apply for high-skilled foreign workers to work temporarily in certain occupations that require at least a bachelor's degree or its equivalent. Last September, President Trump signed a proclamation requiring a $100,000 fee to accompany new H1-B visa applications. The order has faced several legal challenges, which are summarized in the January edition of our *Litigation & Case Law Tracker*.

Court Stays Childhood Vaccine Policy Changes in Challenge by Medical Organizations

March 16 – The U.S. District Court for the District of Massachusetts granted partial preliminary relief to a group of medical organizations challenging actions taken by HHS that altered Centers for Disease Control and Prevention's (CDC) childhood immunization recommendations and reconstituted the Advisory Committee on Immunization Practices (ACIP). The court found that HHS likely violated the APA and the Federal Advisory Committee Act by bypassing ACIP in revising vaccine schedules and by removing and replacing ACIP members without following required procedures or maintaining a "fairly balanced" committee with relevant vaccine expertise. The court determined that these actions were likely unlawful, arbitrary, and capricious, and that they could result in concrete legal and financial harms to doctors, medical organizations, and patients. As a remedy, the court stayed HHS's January 2026 memo revising the CDC childhood immunization schedule, stayed the appointments of thirteen newly appointed ACIP members, and stayed all votes taken by the reconstituted ACIP.

HHS also faces a similar lawsuit filed by a group of states on February 24 in the Northern District of California. To date, the court has not issued an opinion in that case.

The cases are American Academy of Pediatrics et al. v. Kennedy et al., number 1:25-cv-11916, in the U.S. District Court for the District of Massachusetts; and State of Arizona et al. v. Robert F. Kennedy Jr. et al., number 3:26-cv-01609, in the U.S. District Court for the Northern District of California.

Labor Organizations Challenge Trump Administration's Public Health Grant Cuts

March 9 – Labor organizations representing employees of state and local governments in Illinois, California, Colorado, and Minnesota sued the CDC, HHS, and the Office of Management and Budget (OMB) seeking to block the termination of numerous public health grants administered by the CDC. The plaintiffs, whose members include individuals who work in a broad range of public health roles at local and state agencies, allege that OMB's directive to cut $600 million worth of public health

grants made by the CDC in only those four states violates the APA, is unconstitutional, and is a "direct outcome" of the President's threats to cut funding to states with sanctuary cities.

On Feb. 12, the U.S. District Court for the Northern District of Illinois temporarily enjoined the order in a related lawsuit brought by the four states. There, the court found that the states were likely to succeed on their claims that OMB's directive is arbitrary and capricious and violates the APA.

The labor organizations' case is American Federation of State, County, and Municipal Employees, AFL-CIO et al. v. Vought et al., number 1:26-cv-02656, in the U.S. District Court for the Northern District of Illinois.

The states' case is State of Illinois et al. v. Vought et al., number 1:26-cv-01566, in the U.S. District Court for the Northern District of Illinois.

HHS Asks 4th Circuit to Reverse Order Blocking ACA Rule Changes

February 4 – HHS filed its opening brief with the Fourth Circuit in its appeal of an August 22 district court order that temporarily prevented seven changes to Affordable Care Act (ACA) regulations from taking effect. The Trump Administration's appeal involves two of those rule changes. The first involves a change to an actuarial valuation provision, which allows de minimis variations in actuarial values used in determining coverage levels (e.g., bronze, gold, platinum plans). The second change would amend eligibility requirements for advance premium tax credits for enrollees. The government's brief asserts that the district court abused its discretion and erred in granting preliminary relief because (1) HHS has the statutory authority to provide for a de minimis range of variation in actuarial values and the court was not free to second-guess the policy judgment in the policy; and (2) the ACA broadly empowers HHS to fill in the details of the advance premium tax credit scheme.

The case is City of Columbus v. Robert Kennedy Jr., number 25-2012, in the U.S. Court of Appeals for the Fourth Circuit.

A previous summary of the district court case can be found in the October edition of our *Litigation & Case Law Tracker*.

Planned Parenthood Drops Case Against Government in Medicaid Challenge

January 30 – Planned Parenthood filed a notice of voluntary dismissal in the U.S. District Court for the District of Massachusetts, abandoning its challenge to a 2025 federal law that blocks Medicaid payments for one year to certain abortion providers. The dismissal comes after the First Circuit

held in December that the law does not illegally punish Planned Parenthood and that Congress acted within its power to set conditions on how federal dollars are spent.

The case is Planned Parenthood Federation of America Inc. et al. v. Kennedy et al., number 1:25-cv-11913, in the U.S. District Court for the District of Massachusetts.

A previous summary of this case can be found in the January edition of our *Litigation & Case Law Tracker*.

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, number 1:23-cv-02836**, in the U.S. District Court for the Northern District of 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.
- **Paydhealth, LLC v. Dawn Holcombe**, in the U.S. Court of Appeals for the Third Circuit.
- **Sharx, LLC v. AbbVie Inc.**, No. 2024-L-000264 in the Circuit Court of Cook County, Illinois.

Compounding

Most of GLP-1 Drugmaker's Suit Against Telehealth Platforms Survives Dismissal

March 26 – The U.S. District Court for the Northern District of California denied most of a motion to dismiss in Eli Lilly's lawsuit against Aios, Inc., a corporation operating a pair of telehealth platforms focused on selling medications for weight loss. Eli Lilly filed suit against the company and related entities in April 2025, alleging that they unlawfully sell compounded versions of Lilly's GLP-1 medications. Ruling on the defendants' motion to dismiss, the court found that Lilly adequately pled claims for civil conspiracy and unfair competition under California law. It also found that the drugmaker adequately pled false advertising under the federal Lanham Act and California law but only "to the extent that those claims are premised on the theory that defendants' statements regarding a 'personalized treatment plan' are false." The court dismissed Lilly's corporate practice of medicine claim, however, finding that it did not adequately allege that the purported corporate practice of medicine caused Lilly economic injury.

The case is Eli Lilly and Co. v. Aios Inc. et al., number 4:25-cv-03535, in the U.S. District Court for the Northern District of California.

Novo Nordisk and Hims & Hers to Collaborate After Settling Case

March 9 – Novo Nordisk filed a notice in the U.S. District Court for the District of Delaware dismissing its patent infringement case against Hims & Hers. The same day, Hims & Hers announced a new collaboration with Novo Nordisk to sell the drugmaker's FDA-approved semaglutide medications through the telehealth platform, while offering compounded semaglutide on a limited scale if a health care provider determines that a compounded product is clinically necessary. Semaglutide is the patented active ingredient in Novo Nordisk's popular GLP-1 medications prescribed for obesity and type 2 diabetes.

The settlement comes just weeks after Novo Nordisk filed its patent infringement suit in early February alleging that the telehealth platform was unlawfully marketing compounded semaglutide.

The case is Novo Nordisk A/S et al. v. Hims & Hers Health Inc. et al., number 1:26-cv-00143, in the U.S. District Court for the District of Delaware.

FDA Issues 30 Warning Letters to Telehealth Companies Over Compounded GLP-1 Claims

March 3 – The U.S. Food and Drug Administration (FDA) announced that it issued 30 warning letters to telehealth companies for making false or misleading claims regarding compounded GLP-1 products offered on their websites. According to the announcement, the FDA has sent out thousands of warning letters to pharmaceutical and telehealth companies since starting its campaign last September against misleading direct-to-consumer pharmaceutical ads.

Proposed Class Action Claims Hims & Hers Misleads in GLP-1 Ads

February 20 – Two individuals, on behalf of a putative class of persons who have purchased "compounded semaglutide" from Hims & Hers, filed a class action lawsuit in Illinois federal court against the telehealth company. The plaintiffs allege that Hims & Hers has engaged in various deceptive trade practices in violation of Illinois law, namely by marketing compounded semaglutide injections as having the same active ingredient as popular FDA-approved GLP-1 medications prescribed for obesity and type 2 diabetes.

According to the complaint, the semaglutide used in the compounded products is not the same active ingredient as the semaglutide used in branded medications because they are produced using fundamentally different processes and contain different peptides, among other differences. "This different active ingredient made by a different process has never been meaningfully tested for safety or effectiveness or evaluated by FDA, unlike the exhaustive testing and FDA approval process undertaken for [the branded medications]."

The case is Donoho et al. v. Hims & Hers Health Inc. et al., number 1:26-cv-01954, in the U.S. District Court for the Northern District of Illinois.

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. Empower Clinic Services, LLC, d/b/a Empower Pharmacy et al.**, number 2:25-cv-02183 in the U.S. District Court for the District of New Jersey.
- **Eli Lilly and Company v. North American Custom Laboratories LLC**, number 3:25-cv-02876, in the U.S. District Court for the Northern District of Texas.
- **In Re Hims & Hers Health, Inc. Securities Litigation**, number 25-cv-05315 in the U.S. District Court for the Northern District of California.
- **Novo Nordisk A/S, et al. v. Mochi Health Corp., et al.**, number 5:25-cv-06563, in the U.S. District Court for the Northern District of California.
- **Outsourcing Facilities Association, et al. v. Food & Drug Administration, et al.**, number 25-10758, in the U.S. Court of Appeals for the Fifth Circuit.

Drug Price Caps

Aimed Alliance is monitoring several cases relating to drug price caps, including AstraZeneca Pharmaceuticals LP, et al., v. Robert F. Kennedy Jr., Secretary of Health and Human Services, et al., number 25-348, in the U.S. Supreme Court.

We will report any substantive developments in these matters in future editions of our *Litigation & Case Law Tracker*.

340B Drug Pricing

Split 4th Circuit Revives Drug Manufacturers' Challenge to Maryland 340B Law

April 14 – A split Fourth Circuit panel vacated a Maryland district court's order denying a preliminary injunction to pharmaceutical manufacturers challenging a Maryland law that imposes restrictions on drug manufacturers participating in the federal 340B drug discount program. The court remanded the case and directed the district court to reevaluate the "propriety of preliminary relief" in light of the Fourth Circuit's decision in Pharmaceutical Research & Manufacturers of America v. McCuskey, published by the court on March 31. In that decision, the court held that West Virginia's 340B law, which is materially similar to Maryland's law, is likely preempted by the

federal 340B statute. According to the court, West Virginia's law attempts to reshape the "contractual bargain" Congress makes with private parties through its spending powers.

The cases are AbbVie Inc. et al. v. Anthony G. Brown et al., number 24-1939; Novartis Pharmaceuticals Corp. v. Anthony G. Brown et al., number 24-1949; and Pharmaceutical Research and Manufacturers of America v. Anthony G. Brown et al., number 24-1978, in the U.S. Court of Appeals for the Fourth Circuit.

Trade Group Latest to Challenge Washington State's 340B Legislation

April 10 – Pharmaceutical Research and Manufacturers of America (PhRMA) filed a lawsuit in a Washington federal court seeking to block a new state law set to take effect in June. The law prohibits drugmakers and others acting on their behalf from (1) imposing restrictions on the acquisition or delivery of 340B drugs to covered entities or their contracted pharmacies, or (2) conditioning the acquisition or delivery of such drugs on the submission of specific types of data by covered entities or their contract pharmacies.

The trade group argues that the law violates the Constitution's Supremacy Cause because, among other things, it "singles out manufacturers for burdensome regulation only if they have chosen to participate in the federal 340B Program . . . And it wrests control from the federal government over the contours of a federal spending program." The plaintiff further alleges that the law is preempted by the federal statute establishing the 340B program.

The lawsuit comes just days after multiple drugmakers filed a pair of similar lawsuits in the same court.

The trade group's case is Pharmaceutical Research and Manufacturers of America v. Nicholas W. Brown et al., number 3:26-cv-05374, in the U.S. District Court for the Western District of Washington.

The drugmakers' cases are Novartis Pharmaceuticals Corp. v. Brown et al., number 3:26-cv-05302, and AbbVie Inc. et al. v. Brown et al., number 2:26-cv-01018, in the U.S. District Court for the Western District of Washington.

Drugmaker Sues HRSA for "Overly Broad" Interpretation of Guidance

April 8 – AbbVie filed a federal lawsuit against HHS and the Health Resources and Services Administration (HRSA) over HRSA's "effective denial" of the drugmaker's audit rights under the 340B program. The 340B statute prohibits covered entities from reselling or transferring 340B discounted drugs to a person who is not a "patient" of the entity. AbbVie discovered that a covered entity in Texas was prescribing 340B drugs to patients outside of Texas, while multiple other providers within a health care system were claiming 340B discounts on units of the same

drug prescribed to a single patient. AbbVie sought to audit these entities for possible diversion (i.e., selling drugs to people who are not patients). However, HRSA denied the drugmaker's work plan because the agency agreed with the providers' interpretation of the term "patient" based on the agency's 1996 guidance. AbbVie argues that the interpretation is "outdated, overly expansive, and erroneous," and captures individuals who may have had only a cursory encounter with the provider. As a result, the complaint states, two or more covered entities can each claim the same prescription was written for their own patient, which undermines the integrity of the 340B program.

The case is AbbVie Inc. v. Kennedy et al., number 1:26-cv-01190, in the U.S. District Court for the District of Columbia.

9th Circuit Revives Health System's 340B Overbilling Suit

March 17 – The Ninth Circuit revived a large health system's False Claims Act suit against several drugmakers it claims engaged in a fraudulent scheme to charge inflated prices that did not comply with the statutory ceiling set forth under the 340B program. Significantly, the court held that the plaintiff's lawsuit is not barred by longstanding precedent against private enforcement of 340B. Rather, the plaintiff "does not 'in essence' seek to enforce Section 340B — it seeks to enforce the FCA," the court wrote in reversing the district court's 2024 dismissal of the case. The decision cleared a path for the health system to target several drug manufacturers for alleged overbilling in the 340B discount drug program.

The case is U.S. ex rel. Adventist Health System of West v. AbbVie Inc. et al., number 24-2180, in the U.S. Court of Appeals for the Ninth Circuit.

DC Federal Court Blocks Pre-Pandemic HRSA Registration Requirement for Child Sites

March 3 – The U.S. District Court for the District of Columbia granted summary judgment to over 40 hospitals, health systems, and other medical facilities that participate in the 340B program, in their lawsuit against HRSA, the agency in charge of administering the 340B drug discount program. During the COVID-19 public health emergency, the agency waived its requirement that new offsite facilities (or "child sites") of qualified hospitals register with the agency before accessing 340B drug pricing. In October 2023, HRSA announced an end to the pandemic-era registration waiver. The plaintiffs promptly sued to block the move, arguing that the registration requirement would force them to wait months before accessing discounted drugs they could previously access immediately, and would therefore spend millions more on non-discounted drugs.

In granting the plaintiffs' motion for summary judgment and vacating the registration requirement, the district court agreed that the registration requirement conflicts with the text of the 340B statute and is thus contrary to law. "Congress clearly understood how to impose agency

certification as a precondition to 340B program participation. That it chose not to do so for hospital entities, like plaintiffs, strongly suggests that Congress meant for there to be no such precondition," the judge said.

The case is Albany Med Health Center et al. v. Health Resources and Services Administration et al., number 1:23-cv-03252, in the U.S. District Court for the District of Columbia.

5th Circuit Throws Out Challenge to Louisiana's 340B Contract Pharmacy Law

February 9 – The Fifth Circuit affirmed a Louisiana district court's 2024 order granting summary judgment to the state in a consolidated appeal by PhRMA and several drugmakers in their challenge to Louisiana's 340B contract pharmacy law. The law prohibits drug manufacturers participating in the 340B program from interfering with covered entities' ability to obtain and deliver discounted drugs through contract pharmacies. The Fifth Circuit disagreed with the plaintiffs' overlapping arguments that Louisiana's law is preempted by the federal 340B statute and unconstitutional. "States regulate pharmacies — and the distribution of drugs to those pharmacies — every day," Judge Willett wrote. "[The law] fits comfortably within that tradition."

The consolidated cases are Pharmaceutical Research and Manufacturers of America v. Murrill, number 24-30673; AbbVie Inc. et al. v. Murrill, number 24-30645; AstraZeneca Pharmaceuticals v. Murrill, number 24-30651, in the U.S. Court of Appeals for the Fifth Circuit.

Health Insurers and Pharmacy Benefit Managers

Sixth Circuit Holds that ERISA Preempts Tennessee PBM Law

April 7 – The Sixth Circuit affirmed a U.S. District Court's finding that the Employee Retirement Income Security Act (ERISA) preempts a Tennessee law that is intended to limit pharmacy benefit managers (PBMs) from steering patients to PBM-owned pharmacies.

ERISA's preemption clause provides that ERISA "supersede[s] any and all State laws insofar as they may now or hereafter relate to any employee benefit plan." According to the opinion, the law defines PBMs in a way that "sweep[s] in self-funded health plans that are governed by [ERISA]" and, therefore, runs "headlong into that Act's preemption provision…"

Tennessee's law includes provisions that prohibit PBMs from interfering with participants' choice of contracted pharmacy, and that require PBMs to include any pharmacy in its network that is willing to accept the same terms and conditions established by a PBM for a pharmacy network serving participants in the state. According to the court, the "any willing provider" provisions "have an impermissible connection with ERISA because they require [the plaintiff] to structure its plan in a particular way, they govern a central matter of plan administration, and they interfere

with nationally uniform plan administration." Additionally, provisions that prohibit incentives to choose one pharmacy over another "are more than mere [permissible state] cost regulations," and interfere with plan design because that would effectively "impose across-the-board, universal copays and other fees at every pharmacy in a given network."

The case is McKee Foods Corporation v. BFP Inc. et al., number 25-5416, in the U.S. Court of Appeals for the Sixth Circuit.

Providers' Antitrust "Repricing" Suit Against Major Payers Survives Dismissal

March 31 – In a consolidated provider antitrust litigation challenging insurers' use of a "repricing" tool to reduce out-of-network reimbursements, the U.S. District Court for the District of Massachusetts denied a joint motion to dismiss filed by defendants, which include the Cigna Group, Elevance Health Companies Inc., Humana Inc., and UnitedHealth Group Inc.; and Zelis Healthcare LLC, a technology company, and its affiliated entities (collectively, "Zelis"), finding that the plaintiffs plausibly pled a conspiracy to fix prices.

The case involves consolidated lawsuits filed by doctors and other health care professionals in 2025 alleging that the defendants conspired to force providers to take payments for out-of-network services that had been "severely downwardly adjusted" by Zelis' repricing tool, which the plaintiffs say are essentially "take-it-or-leave-it" offers. Major health insurers must now defend claims that they shared confidential claims data and conspired to suppress payments to health care providers by using "repricing" technology solutions to recommend reimbursement amounts for certain out-of-network services offered by providers.

The case is In re: Zelis Repricing Antitrust Litigation, number 1:25-cv-10734, in the U.S. District Court for the District of Massachusetts.

Union Benefit Funds Accuse PBMs of Pocketing Money Meant for Rebates

March 18 – A union-run health and welfare benefits fund filed a proposed class action lawsuit against CaremarkPCS Health, LLC and its corporate parent, CVS Health Corporation. The fund and the putative class members are PBM customers of Caremark.

According to the complaint, Caremark and CVS, together with CVS subsidiary Zinc Health Services, created a fraudulent "formulary manipulation scheme" to sell formulary access and preferential placements to high-cost drugs. As part of the alleged scheme, the PBM uses its negotiating power to charge drugmakers "exorbitant" fees for routine PBM services instead of using those payments to secure greater rebates for the plaintiffs. The alleged scheme "maximizes Defendants' profits while driving up the Caremark PBM customers' prescription drug costs instead of reducing such costs." The plaintiffs' claims include violations of the federal Racketeer Influenced and Corrupt

Organizations Act (RICO), breach of contract, breach of the implied covenant of good faith and fair dealing, and unjust enrichment.

The case is Roofers' Unions Welfare Trust Fund v. CaremarkPCS Health LLC et al., number 1:26-cv-00162, in the U.S. District Court for the District of Rhode Island.

February 17 – In a similar case, a Chicago plumbers union health benefit fund filed a proposed federal class action suit in the Northern District of Illinois alleging an unlawful "formulary manipulation scheme" by defendants Express Scripts, Cigna, and Evernorth Health Services, and non-party Ascent Health Service. Ascent is a Swiss group purchasing organization that negotiates rebates with drug companies on behalf of PBMs.

According to the complaint, "Express Scripts would give formulary access and favorable formulary placements to the drug company's medications while excluding competing drugs, in return for the drug company agreeing to make payments to Ascent, for the benefit of the defendants and at the expense of Express Scripts' PBM customers like Plumbers' Welfare Fund and other class members." The union's claims are similar to those set forth in the Caremark case above, including violations of RICO and various contract-based claims.

The case is Plumbers' Welfare Fund, Local 130 U.A. v. Express Scripts et al., number 1:26-cv-01718, in the U.S. District Court for the Northern District of Illinois.

UnitedHealth Ordered to Produce Documents in AI Claims Case

March 9 – The U.S. District Court for the District of Minnesota granted in part a motion to compel discovery of documents and answers that defendant UnitedHealth Group has refused to provide, including information about the algorithm it used to manage Medicare Advantage claims. The case involves a putative class action filed by the estates of two Medicare Advantage patients in 2023. The estates claim that UnitedHealth used an artificial intelligence program to systematically deny medically necessary post-acute care in violation of patients' contracts. The order to compel largely clears the path for plaintiffs to examine the before and after of the payer's shift to using such technology in claims reviews.

The case is Gene B. Lokken et al. v. UnitedHealth Group Inc. et al., number 0:23-cv-03514, in the U.S. District Court for the District of Minnesota.

FTC and Express Scripts Reach "Landmark Settlement"

February 4 – The Federal Trade Commission (FTC) announced a "landmark settlement" with Express Scripts, one of the nation's largest PBMs, and its affiliated entities (referred to collectively as "ESI"). According to the announcement, the "settlement requires ESI to adopt fundamental changes to its business practices that increase transparency, are expected to drive down patients'

out-of-pocket costs for drugs like insulin by up to $7 billion over 10 years, bring millions of dollars in new revenue to community pharmacies each year, and advance the Trump Administration's key healthcare priorities."

The settlement resolves the Commission's September 2024 administrative case against ESI, which alleged that ESI artificially inflated the list price of insulin medications by using anticompetitive and unfair rebating practices, and impaired access to lower-cost products. The case remains pending against other defendants, Caremark (consent agreement pending) and OptumRx. However, proceedings have been stayed since February while the parties work toward a settlement.

March 23 – The FTC and CVS Caremark jointly moved to withdraw the matter from adjudication to allow the FTC to consider the proposed consent agreement. The terms of the proposed agreement remain confidential.

Aimed Alliance is monitoring the following additional cases relating to health insurers and PBMs. We will report any dispositive developments in these matters in future issues of our Litigation & Case Law Tracker.

- **Express Scripts Inc., et al. v. Richmond, et al.**, number 25-2529, in the U.S. Court of Appeals for the Eighth Circuit.
- **Wolf, et al. v. Accredo Health Group, Inc., et al.**, number 25-348, in the U.S. Supreme Court.

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