



DEPARTMENT OF THE ATTORNEY GENERAL
KA 'OIHANA O KA LOIO KUHINA

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**ATTORNEY GENERAL LOPEZ SUES MAJOR PHARMACY BENEFIT MANAGERS
TO PROTECT HAWAII CONSUMERS**

FOR IMMEDIATE RELEASE

October 4, 2023

HONOLULU – Attorney General Anne Lopez today filed a lawsuit on behalf of the State of Hawai'i seeking civil penalties, damages, disgorgement of profits, and injunctive relief against “the Big Three” pharmacy benefit managers (PBMs)—CVS Caremark, Express Scripts, and OptumRx—which, collectively, manage prescription drug benefits for hundreds of thousands of Hawai'i residents.

The complaint alleges that the PBMs' business practices have driven skyrocketing prices for brand-name prescription medications over the past decade. These practices include charging drug manufacturers “rebates,” which are payable directly to the PBMs, in exchange for the favorable placement of drugs on the PBMs' formularies—a ranked list of prescription medications covered by insurance.

If a manufacturer refuses to increase the rebate it pays to the PBMs, the manufacturer risks its medication being excluded from the PBMs' formularies entirely—severely impacting the medication's chance of success and forcing consumers to choose between paying the medication's full cash price out-of-pocket or switching to a different drug. The number of medications excluded from the PBM defendants' formularies increased by 961% from 2014 to 2022. Most frequently excluded were medications used to treat chronic conditions, meaning that patients with chronic illnesses were disproportionately affected.

In addition to rebates, PBMs charge manufacturers administrative fees, data fees, and price-protection fees, none of which actually provide a discount to consumers at the point of sale.

“The skyrocketing costs of prescription drugs pose grave challenges to the people of Hawai‘i,” says Attorney General Anne Lopez. “The Department of the Attorney General will work to hold accountable corporations that unlawfully harm patients to increase their bottom lines.”

“Pay-to-play practices directly harm consumers both by artificially inflating the price of medications beyond what many consumers can pay and by restricting consumers’ access to medications that could save or greatly increase the quality of their lives,” said Deputy Attorney General Ciara Kahahane. “The anticompetitive scheme allegedly perpetuated by the PBM defendants takes money out of consumers’ pockets and jeopardizes the well-being of the most vulnerable citizens of our state.”

The complaint alleges that the PBM defendants engaged in unfair methods of competition and unfair and deceptive acts and practices in violation of Hawai‘i law. The state seeks damages, civil penalties of up to \$10,000 per violation and additional civil penalties of up to \$10,000 for each deceptive or unfair act that was directed towards an elder, punitive damages, and disgorgement of profits. The state also seeks an injunction requiring the PBM defendants to halt their unfair and deceptive practices.

The state is being represented by Deputy Attorneys General Ciara Kahahane and Erin Lau; the Honolulu law firm of Cronin, Fried, Sekiya, Kekina & Fairbanks; and the national law firm Motley Rice LLC.

A copy of the partially redacted complaint can be found [here](#).

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