CAPITOL STREET

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CVS FTC Settlement Lifts Another Overhang

2nd FTC Deal Reached To Address Drug Costs; UNH/Optum Details Outstanding

Relevant Companies

Our Take & Next Up

The FTC settlement with CVS Health's Caremark PBM on insulin litigation would save $8.5 B over ten years with $4.5 B in point of sale (POS) rebates (here). This agreement marks the second of the three named defendants to reach resolution following the agency's September 2024 lawsuit against the Big 3 PBMs, with OptumRx (UNH) now the last outstanding.

Other catalysts on our horizon. The FTC final 6B report (PBM) is overdue and likely to address affiliated pharmacies. The June CMS RFI seeks input on implementing PBM transparency laws as a part of the *2026 Consolidated Appropriations Act*, with comments due July 20. We are also waiting on the final Department of Labor (DOL) PBM Rule that calls for transparency and grants employer plan fiduciaries explicit ERISA audit rights.

Key Points

This afternoon, the FTC reached a long-awaited settlement with Caremark (CVS), marking the second out of three agreements. The settlement resolves all outstanding FTC litigation and investigations related to CVS Health — including its pharmacy benefits management and affiliated pharmacy businesses — involving rebate, pharmacy network contracting, and vertical integration issues. This leaves UNH as the remaining holdout (here). We expect the Optum details in the coming weeks, as it is reportedly complete as well.

CVS-FTC deal terms must largely be implemented by Jan 1, 2027 (with transparency, rebate, community pharmacy, and insulin requirements by Jan 1, 2028). The deal framework is modeled on the Express Scripts/Cigna settlement (February here) requiring Caremark to curb rebate pricing practices, adopt greater transparency, and shift to a fee-based compensation structure.

CVS Caremark will be required to do the following (for insulin + other medicines). Many of the requirements mirror the Cigna Express settlement provisions.

- Stop interfering with independent “hub” pharmacies. (NEW)

- Stop preferring on its standard formularies high wholesale acquisition cost (WAC) versions of any drug over identical low wholesale acquisition cost versions. (SAME AS ESI)
- Ensure that members' out-of-pocket (OOP) costs will be based on the drug's net cost. (SAME AS ESI)
- Specific to insulin products, insulin products must be provided at low costs via full access to Cigna's Patient Assurance Program or through CVS's co-pay certainty that limits co-pays per prescription claim ($25 for 34 day supply, $50 for 35-68 day supply, $75 for 69+ day). (SIMILAR TO ESI)
- Provide a standard offering to all plan sponsors that allows the plan sponsor to transition off rebate guarantees, implement a point-of-sale rebate program, banning spread pricing. We note that FTC will allow CVS to offer TrueCost (Caremark PBM) or net cost guarantees as meeting agreement requirements. (SAME AS ESI)
- Delink drug manufacturers' compensation from list prices as part of its standard offering. (SAME AS ESI)
- Maintain GPO activities (Zinc Health Services) within the United States. (SAME AS ESI)
- Offer standard offerings to plan sponsors that count cash payments on TrumpRx toward deductibles and OOP limits, for drugs covered under the benefit design or certified as the "MFN price." (SAME AS ESI)
- Provide community pharmacies with the opportunity to shift to a cost-plus a fee reimbursement model. (SAME AS ESI)
- Follow reporting requirements to plan sponsors including, mandatory, drug-level reporting, providing data to permit compliance with the Transparency in Coverage regulations, and disclosing payments to brokers representing plan sponsors. (SAME AS ESI)
- Promote the standard offerings to plan sponsors and retail community pharmacies. (SAME AS ESI)

A new pillar of the CVS-FTC settlement strictly prohibits Caremark from interfering with "hub" (aka digital concierge service) pharmacies.

- The hub acts like a digital concierge service that manages prior authorization (PA), and helps consumers understand OOP costs, as well as support adherence. Hubs also connect eligible patients with financial assistance, mail or deliver drugs, provide care coordination and provide refill reminders.
- A House Judiciary report earlier this year revealed that CVS targeted digital hubs because they helped patients find the cheapest drugs, which often meant buying outside the CVS network. By blocking access to these independent hubs, CVS aimed to force patients into using its own, highly profitable CVS-owned pharmacies. The settlement explicitly bars Caremark from blocking them, instating an independent monitor to enforce compliance.

The decision to eliminate rebates will vary based on the client and how individual employers choose to structure their own pharmacy benefit (according to CVS). The FTC's settlement with Caremark locks in place up to $8.5 B in consumer savings over the next 10 years and unlocks up to $4.5 B in additional savings for patients over the same 10-year period from point-of-sale (POS) rebates. For context, the FTC estimated that the Express Scripts (Cigna) settlement would generate up to $7 B in patient savings over 10 years.

The administration is hoping to increase utilization of the TrumpRx platform by bringing insurers on board to count TrumpRx payments towards the deductible and OOP Cost maximum accumulation.

- TrumpRx will be provided as a standard offering by CVS & CI as a part of the agreements. The press release notes that the agreement "builds on previous wins for President Trump's healthcare agenda, including innovations like TrumpRx to make prescription drug prices more transparent and affordable."

- In a new twist here, under the CVS agreement, TrumpRx spend will not be required to be counted towards patient deductible or OOP max if it is inconsistent with held religious beliefs or moral convictions of the plan sponsor. NOTE TrumpRx requirements will largely impact commercial plans. Fully insured plans will be expected to comply, while self-insured have some flexibility to opt out of terms.

In February, the FTC settled with Express Scripts (CI) on its insulin rebate litigation with terms, reflecting administration priorities here. As a part of the settlement, ExpressScripts agreed to mandatory, drug-level reporting, covered access to insulin via TrumpRx, and reshoring its GPO to the US from Switzerland. Recall in September 2024, the FTC sued Caremark Rx, Express Scripts, and OptumRx. The suit involves the 3 PBMs and affiliated group purchasing organizations (GPOs) for allegedly engaging in anticompetitive and unfair rebating practices for insulin drugs. The agency announced its intention to settle with PBMs in January 2026 when it suspended proceedings (here).

The FTC's underlying theory of the case remains the same in both cases. The agency's objective is to reshape incentives around formulary design, manufacturer rebates, and PBM compensation, which could have broader implications for rebate contracting across the industry – even beyond insulin.

- PBMs allegedly favored high-list-price drugs because rebate-based compensation created distorted incentives.
- Rebates tied to list prices allegedly inflated insulin costs and disadvantaged lower-cost competitors.
- The remedy is to change PBM economics from rebate-driven compensation toward more transparent, fee-based arrangements.

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