

Expo 2023 Follow Up by Ron Lanton

It was nice seeing everyone at the NPSC Expo. I wanted to make sure that I followed up with a few questions that were raised during my Legal and Policy presentation to Expo participants.

Specifically, there were two court cases that were mentioned. The first is an arbitration case that involved a San Francisco based HIV pharmacy named Mission Wellness v. Caremark regarding DIR fees. Since this matter was in arbitration, we aren't able to see any specifics around this case. However, while this result sounds intriguing, arbitration involves several issues that are specific to each particular pharmacy and its contract(s), meaning that what worked for one pharmacy in arbitration is not necessarily going to work for another.

The second matter involved a class action against OptumRx where an appeals court ruled in favor of an Ojai pharmacy from Ventura County and 21 other independent drugstores that claimed Optum Rx underpaid medication reimbursements. "Specifically, a panel of judges in the 1st District Court of Appeal in San Francisco upheld an Alameda County Superior Court ruling denying Optum's bid to send the complaints made by small pharmacies in a lawsuit into legal arbitration."

We at NPSC applaud these fights against PBMs. However, be aware that while a party receives a victory in one part of their litigation does not guarantee that there will not be other parts of litigation that still need to be resolved, meaning more time and money. It's a long way of me saying that litigation is not something that everyone can benefit from all the time but these cases above offer independents a glimmer of hope.

If you believe that your pharmacy has a PBM issue with a contract that should be disputed, you should check with your respective counsel for an opinion.

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