



Kaiser Daily Health Policy Report

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Prescription Drugs

Federal Prosecutors Expand Lawsuit Against PBM Medco, Bring Charges Against Two Executives

The [Justice Department](#) on Tuesday filed an amended complaint against New Jersey-based pharmacy benefit manager [Medco Health Solutions](#), alleging that the company paid an insurer \$87.4 million in kickbacks to secure a contract, the *Wall Street Journal* reports. According to the complaint, filed in federal court in Philadelphia, Medco paid \$87.4 million during the last two quarters of 2001 to an insurer in a transaction that was "represented as reimbursement for systems and other costs in connection with the transition to Medco." However, DOJ alleges that the money was "in fact intended to improperly influence the awarding" of a PBM contract. The complaint does not name the insurer, and James Sheehan, assistant U.S. attorney in Philadelphia, declined to specify the insurer. However, the *Journal* reports that after inquiries, Connecticut-based [Oxford Health Plans](#) -- which has contracted with Medco to manage drug benefits for its 1.4 million members since January 2002 -- confirmed that it is the insurer named in the complaint (Martinez, *Wall Street Journal*, 12/10). The new complaint expands a civil lawsuit filed in September by DOJ that seeks monetary damages and a permanent injunction against Medco. According to the original lawsuit, Medco improperly switched, canceled and destroyed mail-order prescriptions to defraud patients. The suit, which involves services that Medco provides for federal employees and retirees, states that the practices are part of a "systemic pattern of conduct" since 1995 ([Kaiser Daily Health Policy Report](#), 9/30).

Other Allegations

The newest court documents also allege that Medco made payments in cash and services to other plans to influence them to select Medco for contracts. The documents also state that Medco solicited or attempted to solicit "money and things of value from pharmaceutical manufacturers seeking to provide pharmaceuticals to federal beneficiaries" (*Wall Street Journal*, 12/10). In addition, the amended complaint alleges that two former executives -- Robert Blyskal and Diane Collins -- intentionally canceled, deleted or destroyed prescription orders to avoid repercussions of not meeting obligations under a contract with [Blue Cross Blue Shield](#) involving federal employees and their dependents, the [AP/Newark Star-Ledger](#) reports.

Reaction

Medco General Counsel David Machlowitz said the company will "aggressively defend ourselves against the allegations" (Loviglio, *AP/Newark Star-Ledger*, 12/10). A spokesperson for Oxford said that the agreements with Medco were "fully disclosed in the company's [[Securities and Exchange Commission](#)] filings ... We believe that these agreements are legal and appropriate." Sheehan did not comment on whether the DOJ would take any action against the health plan in the complaint (*Wall Street Journal*, 12/10).