

PBM Medco To Pay \$5.5M To Settle Charges It Did Not Pass Along All Rebates to Massachusetts

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[Medco Health Solutions](#), the nation's largest pharmacy benefit manager, has agreed to pay Massachusetts \$5.5 million to settle allegations that it failed to pass along to the state more than half of the rebates it negotiated with drug makers, according to documents expected to be filed in U.S. District Court in Philadelphia on Monday, the [Boston Globe](#) reports. The state hired Medco in 1997 to manage prescription drug benefits for nearly 200,000 state employees and retirees, negotiate discounts from manufacturers, maintain a preferred drug list, process billing and perform other tasks. Under the contract, Medco agreed to give the state "nearly all of the payments" it received from drug makers for placing their products on the preferred drug list or for favoring their drugs over others on the list, the *Globe* reports. According to a complaint by state Attorney General Thomas Reilly (D), Medco passed along only about \$9 million in rebates and kept \$10 million. Reilly's complaint, expected to be filed simultaneously with the settlement, also alleges that Medco lied about the rebates to obtain the contract. According to the settlement documents, Medco does not admit to any wrongdoing. The civil settlement -- the largest to date under the state's 2000 False Claims Law -- concludes Reilly's yearlong investigation of the company. The state attorney general's office began its investigation after two whistleblowers filed suit against Medco in Philadelphia, accusing that employees at company pharmacies, including one at a Wilmington, Mass.-based mail-order facility, improperly filled prescriptions (Dembner, *Boston Globe*, 4/26). The whistleblowers said the employees gave patients fewer pills than their physicians ordered, put patients on more expensive drugs and discarded prescriptions before filling them to increase profit ([Kaiser Daily Health Policy Report](#), 4/22).

Other Investigations, Lawsuits

The settlement would not prevent allegations about problems at the Wilmington facility from moving forward in the case filed by the U.S. Attorney in Philadelphia last September (*Boston Globe*, 4/26). U.S. Attorney Jim Sheehan charged that Medco improperly favored drugs sold by Merck, its former parent company, and failed to pass along rebates it received to customers ([Kaiser Daily Health Policy Report](#), 4/22). In addition, Massachusetts and 25 other states are investigating allegations that Medco and other PBMs overcharged taxpayers for their services or violated antitrust and consumer protection laws (*Boston Globe*, 4/26). That investigation also is examining whether the PBMs improperly adjusted patients' prescriptions to boost profits. The company also faces a civil lawsuit filed by the [Department of Justice](#) in September that seeks monetary damages and a permanent injunction against Medco for allegedly improperly switching, canceling and destroying 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. In December, DOJ filed an amended complaint claiming that Medco paid an unnamed health plan \$87.4 million in kickbacks to secure a contract ([Kaiser Daily Health Policy Report](#), 4/22).