

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF OKLAHOMA

THE CHICKASAW NATION,

*Plaintiff,*

v.

1. CVS CAREMARK, LLC;
2. CAREMARK PHC, LLC;
3. CAREMARK PCS HEALTH, LLC;
4. CAREMARK, LLC;
5. CAREMARK RX, LLC;
6. AETNA, INC.;
7. AETNA HEALTH, INC.;
8. OPTUMRX, INC.;
9. OPTUM, INC.;
10. UNITED HEALTHCARE SERVICES,  
INC.; and
11. UNITEDHEALTH GROUP, INC.

*Defendants.*

Civil Action No. 20-CV-488-KEW

**COMPLAINT**

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## I. INTRODUCTION

1. This case arises under federal laws<sup>1</sup> guaranteeing Native Americans access to healthcare. With the support of these laws, Plaintiff the Chickasaw Nation (the “Nation”) has established a robust and sophisticated healthcare system, which includes several ITU Pharmacies<sup>2</sup> throughout the territory of the Chickasaw Nation. The Nation’s ITU Pharmacies provide services to members of federally recognized Native American nations (“Members”), including many citizens of Oklahoma.

2. Pursuant to federal law, Members are eligible to receive health care (including pharmacy services) at the Nation’s facilities at no charge. The Member pays no co-pay or other fees for healthcare services, including prescription medications he or she receives from the Nation’s ITU Pharmacies. However, the ITU Pharmacy must still pay for the costs of the medications it dispenses to Members. To offset these costs, the Nation has the right to recoup the costs of covered services the Nation provides to a Member from any applicable insurance coverage the Member may have. The Nation therefore enjoys the status of a “payor of last resort.” Clear, unambiguous federal laws guarantee this right.

3. Defendants ignore these laws. Defendants make up two of the largest vertically integrated pharmacy conglomerates in the U.S. They consist of captive Pharmacy Benefit

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<sup>1</sup> 25 U.S.C. § 1621, *et seq.*; see Section IV—“Legal Framework”, *infra*.

<sup>2</sup> “ITU Pharmacies” are those pharmacies operated by Indian Health Service (“IHS”), an Indian tribe or tribal organization, or an urban Indian organization, all of which are defined in Section 4 of the Indian Health Care Improvement Act (“IHCA”), 25 U.S.C. 1603. The Nation’s pharmacies are ITU Pharmacies.

When a Member of any Nation visits an ITU Pharmacy (whether run by that Member’s respective nation or another nation), that Member receives services for no charge, and that ITU Pharmacy has a 25 U.S.C. § 1621e right of recoupment against the Member’s insurer (if the Member has coverage).

Managers (“PBMs”), along with large health insurance plans and networks. They provide and manage many of the insurance programs covering Members. The CVS Defendants<sup>3</sup> allocate a significant portion of their management services to (and derive a complementary proportion of revenue from) their captive pharmacy benefits plan under the subsidiary, Defendant Aetna. Similarly, the Optum Defendants<sup>4</sup> allocate a significant portion of their management services to (and derive a complementary proportion of revenue from) the pharmacy benefit plans of the Optum parent company—Defendant United Health Group. Of course, these relationships make up a respectively predominant portion of each of the CVS and United Health Group conglomerate’s revenue stream and allow Defendants to exert significant and substantial control over the pharmacy market.

4. In approximately 2015, the Nation’s ITU Pharmacies began experiencing numerous and unprecedented claim denials. These denials emanated from Defendants’ various PBM entities on behalf of the respective health benefits plans they managed (predominantly, Aetna and United Health Group plans). Defendants began denying claims—claims for covered drugs, for which the Nation had previously submitted and received reimbursement without issue—for reasons that have no applicability whatsoever to ITU Pharmacies. These denials were based on Defendants’ retail pharmacy rules from which the Nation is exempt.<sup>5</sup> These claim denials violate specific provisions

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<sup>3</sup> The “CVS Defendants” are Defendants CVS Caremark, LLC; Caremark PHC, LLC; CaremarkPCS Health, L.L.C.; Caremark, L.L.C.; Caremark Rx, L.L.C.; Aetna, Inc.; and Aetna Health, Inc. *See* Section II—Parties, *infra*.

<sup>4</sup> The “Optum Defendants” are OptumRx, Inc.; OptumRx Holdings, LLC; Optum, Inc.; UnitedHealth Group, Inc.; and United Healthcare Services, Inc. *See* Section II—Parties, *infra*.

<sup>5</sup> *See* Section V.B., *infra*. These unlawful denials were based on many of Defendants’ retail pharmacy rules, which are wholly inapplicable to ITU Pharmacies. These rules include but are not limited to requirements that (a) patients use a specialty pharmacy to fill certain prescriptions; (b) patients visit an in-network pharmacy; or (c) patients use a mail-order pharmacy. While these

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