

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF OKLAHOMA**

**THE CHOCTAW NATION,**

*Plaintiff,*

v.

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

*Defendants.*

Civil Action No. 21-CV-128-SPS

**COMPLAINT FOR DAMAGES AND DECLARATORY RELIEF**

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## I. INTRODUCTION

1. This litigation concerns the federal statutory claims of a federally recognized Native American Nation—Plaintiff The Choctaw Nation (“Nation”)—under the Indian Health Care Improvement Act (“IHCIA”). The IHCIA contains a financial recoupment mechanism codified in 25 U.S.C. § 1621e (the “Recovery Act”), which authorizes Native American tribes and nations to recover the cost of healthcare services they provide to members of federally recognized tribes or nations (“Members”). The Recovery Act authorizes the recovery of these costs from third parties responsible for Members’ insurance coverage.

2. The Nation operates several pharmacies under the IHCIA (known as “ITU Pharmacies”) providing services to Members, including many citizens of Oklahoma. Pursuant to federal law, Members are eligible to receive health care (including prescription drugs and other pharmacy services) at the Nation’s facilities at no charge, with no co-pays or other fees. 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 under the Recovery Act to recoup the costs of covered services the Nation provides to a Member from any applicable insurance coverage the Member may have.

3. Defendants at issue are those Pharmacy Benefit Managers (“PBMs”) who ignore this federal law by rejecting or otherwise hindering the Nation’s claims for reimbursement. Defendants unlawfully reject the Nation’s claims for reimbursement and/or hinder the Nation’s ability to recover its costs. This leaves the Nation without the benefit of this essential, and federally required, cost recovery mechanism. Thus, Defendants violate the Recovery Act.

4. The Nation respectfully requests the Court enter judgment in its favor and award damages as set out in COUNTS ONE and TWO or, alternatively, disgorgement as set out in

COUNT THREE; injunctive relief as set out in COUNT FOUR; declaratory relief as set out in COUNT FIVE; attorney’s fees and cost of litigation; and any other relief this Court deems proper.

## II. SUMMARY OF THE CASE

5. This case arises under federal laws<sup>1</sup> guaranteeing Native Americans access to healthcare. With the support of these laws, the Nation has established a robust healthcare system, which includes several ITU Pharmacies<sup>2</sup> throughout the territory of the Choctaw Nation. The Nation’s ITU Pharmacies provide services to Members, including many citizens of Oklahoma.

6. 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. Defendants ignore these laws and fail to reimburse the Nation.

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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).

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