

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

HIGHMARK INC., HIGHMARK BCBSD
INC.; HIGHMARK WEST VIRGINIA INC.;
and HEALTHNOW NEW YORK INC. (d/b/a
BLUECROSS BLUESHIELD OF WESTERN
NEW YORK and BLUESHIELD OF
NORTHEASTERN NEW YORK),

Plaintiffs,

v.

CVS PHARMACY, INC.,

Defendant.

Civil Action
No.

JURY TRIAL DEMANDED

COMPLAINT

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Plaintiffs Highmark Inc., Highmark BCBSD Inc., Highmark West Virginia Inc., and HealthNow New York Inc. (d/b/a BlueCross BlueShield of Western New York and BlueShield of Northeastern New York) (“Plaintiffs”), bring this Complaint against Defendant CVS Pharmacy, Inc. (“CVS”), and allege as follows:

NATURE OF THE ACTION

1. For more than a decade, CVS—the largest retail drugstore chain in the United States—has intentionally engaged in a fraudulent scheme to overcharge Plaintiffs for prescription drugs by submitting claims for payment at artificially inflated prices.

2. Plaintiffs offer health care plans for comprehensive health care services and coverage, including prescription drug coverage, to their members in Pennsylvania and other states.

3. The scheme was, at its core, quite simple. CVS offered hundreds of generic drugs at low, discounted prices through cash discount programs: originally, its Health Savings Pass (“HSP”) Program, and then a later successor to the HSP Program, the Value Prescription Savings Card (“VPSC”) Program (together, the “Cash Discount Programs”).

4. CVS created and maintained the Cash Discount Programs for two reasons: *first*, to compete for cash customers who might otherwise be attracted to discounts offered by CVS’s competitors, and *second*—and more importantly—to obfuscate its true prices from third party payors, including Plaintiffs. CVS intentionally told third party payors, including Plaintiffs, that the prices charged to cash customers for these generic drugs were higher—often much higher. Third-party payors then reimbursed CVS based on those higher, inflated prices—instead of the actual, lower, prices CVS offered to the general public, including through its Cash Discount Programs.

5. CVS was *required* by governing contracts, and industry standards, to submit the same low price it offered to the general public who paid “cash”—*i.e.*, who paid out-of-pocket not

using insurance—called the Usual & Customary (“U&C”) Price. By intentionally submitting falsely inflated U&C prices, CVS knew that it was being overpaid for these generic drug transactions. In fact, as internal documents show, that was CVS’s plan all along. CVS has now pocketed *billions* of dollars in ill-gotten gains through this unlawful scheme—including millions from Plaintiffs.

6. This is fraud. And CVS was able to perpetrate and conceal this fraud for years.

7. When a customer purchases drugs at CVS (or at other pharmacies) using insurance, the pharmacist or pharmacy technician enters the prescription information and information from the customer’s insurance card into CVS’s computerized claims processing system. Once this information is entered, CVS submits the claim for dispensing and adjudication.

8. Adjudication is the automated process by which CVS submits prescription claims electronically in real time to third party payors or, as with Plaintiffs, to middlemen known as Pharmacy Benefit Managers (“PBMs”), who contract separately with both CVS and Plaintiffs to provide administrative and claims processing services. When submitting electronic claims for payment, CVS is required by contract and industry standards to truthfully and accurately submit its U&C price, which is the price offered to a member of the general public paying for a prescription drug without insurance.

9. The PBMs electronically verify the claim and confirm patients are eligible for insurance coverage or another prescription drug benefit. The PBM then determines the amount owed by Plaintiffs and the out-of-pocket amount owed by the insured customer.

10. Payment amounts are subject to specific limitations widely used throughout the industry. When Plaintiffs’ members fill prescriptions for those drugs using their insurance,

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