

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

THIS DOCUMENT RELATES TO:

Cases filed against PBMs

) **MDL 2804**
)
) **Case No. 1:17-md-2804**
)
) **Judge Dan Aaron Polster**
)
) **ORDER REGARDING EXCHANGE OF**
) **INFORMATION BETWEEN PBMS AND**
) **PEC**

On April 4, 2023, the Court held a status conference to resolve disputes over exchange of information between the PEC and the Pharmacy Benefit Manager Defendants (PBMs) in advance of settlement discussions. The parties and the Court discussed numerous issues; the parties agreed on the scope of production for some types of information, and the Court made rulings on other types. This Order memorializes the Court's rulings. If mediation is not successful, the scope of discovery the Court will order in the litigation context may be substantially broader.

- **Claims and Rebate Data.** Plaintiffs seek this data from 2006 through 2021. The Court orders the PBMs to produce this data from the years 2010 to 2021, but recognizes that some of the data may be incomplete for 2010-2014. For mediation purposes, Plaintiffs may extrapolate from the data produced to arrive at figures for any years not provided.
 - The PBMs must produce documents relating to the three sources of revenue discussed at the status conference. They must also produce claims and rebate data, but need not produce such data on a prescription-by-prescription basis. Plaintiffs may also obtain financial information from the PBMs' public securities filings.

- **Geographic Scope.** Plaintiffs seek nationwide claims and rebate data, while the PBMs argue for a much narrower geographic scope. The Court orders the PBMs to produce the data for Connecticut, Florida, Missouri, New Jersey, New York, Ohio, Texas, Vermont, Virginia, and West Virginia, plus two other states of Plaintiffs' choosing (which Plaintiffs shall determine promptly).
- **Expert Deposition Transcripts.** Plaintiffs must produce all the expert deposition transcripts in their possession, but need not order transcripts they do not have.
- **Updated Plaintiff Fact Sheets.** The PBMs have asked for updated Plaintiff Fact Sheets for the approximately 80 cases currently filed against the PBMs. The Court directs Plaintiffs to identify for those cases how much each of the plaintiff subdivisions has received or will receive under the four completed settlements (Janssen, Cardinal Health, AmerisourceBergen, and McKesson). The PBMs may extrapolate from the Track 3 Abatement Order (docket no. 4611) to approximate expenditures and judgment proceeds related to abatement. If the PBMs seek specific information from the Track 3 trial, they may contact Plaintiffs' Liaison Counsel to request it.
- **Reserving Jurisdictional Objections.** The court will sign a brief stipulation, drafted by the PBMs but jointly submitted, to the effect that production of data for purposes of mediation does not waive objections to personal jurisdiction.
- **Timing.** The parties shall roll out their productions as they obtain the information, as promptly as possible, but production must be substantially complete by May 5, 2023.

IT IS SO ORDERED.

/s/ Dan Aaron Polster April 6, 2023
DAN AARON POLSTER
UNITED STATES DISTRICT JUDGE