

Ohio sues health giant over drug discrepancies

By: Marty Schladen
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Ohio Attorney General Dave Yost has sued the largest Medicaid provider in the U.S. He's claiming that, in addition to other transgressions, health care giant Centene billed the Ohio Department of Medicaid's pharmacy program for money that had already been paid.

The St. Louis-based company owns the Buckeye Health Plan, one of the five managed-care organizations contracting with the Ohio Department of Medicaid to provide benefits to more than 25% of the state's population. In 2017, Buckeye hired another Centene-owned company, Envolve Health, to help administer pharmacy benefits.

In a statement Thursday, Yost accused Centene of not being on the up-and-up as it handled its share of the state's \$3 billion annual pharmacy benefit under the Medicaid program.

"Corporate greed has led Centene and its wholly owned subsidiaries to fleece taxpayers out of millions," he said. "This conspiracy to obtain Medicaid payments through deceptive means stops now. My office has worked tirelessly to untangle this complex scheme, and we are confident that Centene and its affiliates have materially breached their obligations both to the Department of Medicaid and the state of Ohio."

Yost said the case was filed Thursday in the Franklin County Court of Common Pleas under seal due to a nondisclosure agreement. So the specific allegations it makes — and the amount of money it's seeking — are unclear.

But in his statement, Yost says the suit alleges three areas of wrongdoing:

- “Filing reimbursement requests for amounts already paid by third parties”
- “Failing to accurately disclose to (the Medicaid Department) the true cost of pharmacy services, including the disclosure of discounts received”
- “Artificially inflating (drug) dispensing fees”

In a statement of its own, Centene — which represents 13% of Americans enrolled in Medicaid managed-care plans — denied the allegations.

“These claims are unfounded, and Envoke will aggressively defend the integrity of the pharmacy services provided to the State of Ohio,” it said. “Envolve’s pharmacy contracts with the State are reviewed and pre-approved by state agencies before they ever go into effect. Furthermore, these services saved millions of taxpayer dollars for Ohioans from market-based pharmaceutical pricing.

“We look forward to answering any of the Attorney General’s questions. Our company is committed to the highest levels of quality and transparency.”

Centene is said to be under [federal investigation](#) over its actions in the Ohio Medicaid program in 2017.

Following an analysis of confidential pharmacy data by [the Columbus Dispatch](#), the Medicaid department in 2018 commissioned its own review. It found that two secretive pharmacy middlemen — CVS Caremark and OptumRx — [billed \\$224 million more](#) in 2017 for generic drugs than it reimbursed the pharmacies that had dispensed them.

Also buried in that report: In addition to CVS Caremark, Buckeye had hired a second middleman, its corporate sibling, Envoke.

It said that Buckeye paid Envoke \$321 million for drugs, while Envoke passed along only \$301 million of that to CVS Caremark, which passed along only \$268

million of that to the pharmacies that had actually purchased and dispensed the drugs.

So what did Envolve do for its \$20 million?

CVS Caremark and OptumRx are “pharmacy benefit managers.” Such companies contract with insurers, create pharmacy networks, negotiate rebates from drugmakers and reconcile claims, among other functions. The Medicaid department said that Envolve was acting as a pharmacy benefit “administrator,” providing such services as “utilization management, specialty management, data analytics, drug utilization review and formulary management.”

When a CVS spokesman was asked if his company was providing those services to Buckeye, he said [it was](#). However, he later walked that statement back, saying CVS and Envolve provided different services under those descriptions.

At any rate, Buckeye charged taxpayers an average of \$11.60 each for the 4.6 million prescriptions it handled, while the average for the other four Medicaid managed-care organizations under contract with Ohio Medicaid was about \$5.60.

Thursday’s filing marks Yost’s third suit against big corporations handling prescription drugs on behalf of state agencies.

In early 2019, [he sued OptumRx](#), part of UnitedHealth Group, for \$16 million. He said the company didn’t follow the terms of its contract with the Bureau of Workers Compensation.

Last July, Yost sued another pharmacy benefit manager, [Express Scripts](#), claiming that when working for the the Ohio Highway Patrol Retirement System, the company failed to deliver on guaranteed discounts for drugs, misclassified drugs in order to charge higher prices, overcharged for generic drugs and didn’t disclose payments it received in connection with its work for the state agency.

Many states are scrutinizing the PBM industry. Critics say CVS Caremark, OptumRx and Express Scripts control more than 70% of the marketplace and use that dominance to engage in anticompetitive practices and raise costs for taxpayers and consumers.

Industry representatives say the companies use their clout to negotiate savings from manufacturers, pharmacists and wholesalers.

Last fall, part of the argument made it all the way to the [U.S. Supreme Court](#), which ruled that states have the power to regulate PBMs even if they work for private insurers that operate in multiple states.

Centene also has come in for scrutiny well beyond the Buckeye State.

In Texas, the Dallas Morning News in 2018 reported that Centene's subsidiary there had [denied care to sick and disabled children](#).

The Des Moines Register in 2018 reported that Centene had paid [millions in penalties in a dozen states](#) — including for failing to promptly pay claims and not providing the poor and elderly with adequate access to doctors.

The newspaper investigation also found the company paid \$4.5 million to settle a lawsuit claiming that Centene had failed to pay overtime to nurses, including in Ohio.