

Cigna Hit With Class Action Over AIDS/HIV Drug Program

By Jeannie O'Sullivan

A proposed nationwide class action filed Monday in Florida federal court alleged Cigna Health and Life Insurance Co. discriminates against AIDS and HIV patients by requiring them to obtain life-saving medications via mail, echoing similar lawsuits against other insurance companies in recent years.

An anonymous class representative claimed Cigna routinely tells enrollees that specialty drugs used to treat the diseases can only be ordered through the insurer's Tel-Drug program, which forces patients to forego face-to-face counseling at a pharmacy or pay out-of-pocket for their medications.

But the complexity of AIDS and HIV treatments means patients rely on their community pharmacists to monitor potentially life-threatening adverse drug interactions and side effects, the plaintiffs' attorneys said.

"Patients should have a choice about how they obtain their life-saving medications and Cigna should do the right thing and follow the lead of other health plans that have now provided that choice," Edith Kallas of Whatley Kallas LLP, who represents the plaintiff along with Podhurst Orseck and Consumer Watchdog, said in a statement.

Whatley Kallas and Consumer Watchdog have teamed in similar lawsuits against United Healthcare Insurance Co., Anthem Blue Cross and Aetna Inc.

Reached for comment Tuesday, Cigna spokeswoman Karen Eldred said the company doesn't comment on litigation.

The Tel-Drug program violates multiple anti-discrimination provisions of the Affordable Care Act, such as those that bar eligibility rules based on health conditions and exclusion based on disability, the plaintiff said.

"Patients with HIV/AIDS who are forced into the mail-order drug program bear additional costs in time spent navigating online processes, phone menus and long hold times; coordinating with multiple pharmacies and pharmacists [for specialty and nonspecialty drugs]; and experience disruptions in their treatment," the plaintiff claimed. "These patients also suffer from the loss of privacy at their workplace and neighborhoods where they may receive regular, conspicuous deliveries."

The insurer skirts Employment Retirement Income Security Act provisions by revoking enrollees' right to use community pharmacies, causing an elimination of benefits without a change in coverage; failing to provide a claims procedure for opting out of the program; and failing to provide explanation of coverage, according to the lawsuit.

The program also runs afoul of the Americans with Disability Act because it only applies certain high costs to specialty medications designed to treat complicated disorders, but permits the plaintiff and class members to continue to use their pharmacists of choice as an in-network benefit for other medications,

the complaint alleged.

The class has an estimated 7,000 members, according to Jerry Flanagan, Consumer Watchdog's lead staff attorney. The plaintiff wants Cigna to establish an opt-out program and also seeks attorneys' fees.

Whatley Kallas and Consumer Watchdog previously secured opt-out rights for HIV/AIDS patients through settlements with United Healthcare in May 2014 in the U.S. District Court for the Central District of California and Anthem Blue Cross in May 2013 in San Diego Superior Court. The lawyers **filed a similar lawsuit** against Aetna in December in U.S. District Court for the Southern District of California.

"We hope that Cigna will promptly allow class members to opt-out of mail-order," Flanagan said Tuesday.

The plaintiff is represented by Aaron S. Podhurst, John Gravante III and Matthew Weinshall of Podhurst Orseck; Edith M. Kallas, Joe R. Whatley Jr. and Alan Mansfield of Whatley Kallas LLP; and Jerry Flanagan of Consumer Watchdog.

The case is Doe v. Cigna Health and Life Insurance Company et. al., case number 0:15-cv-60894 in the U.S. District Court for the Southern District of Florida.