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Cigna sued over mail-order HIV drug program

BY TOM BROWN

(Reuters) - Cigna Corp has been hit with a lawsuit claiming that the health insurer discriminates against people with HIV/AIDS by forcing them to get some of their medications exclusively from its own mail-order pharmacy as part of a scheme to boost profits.

The suit, filed on Monday in federal court in the Southern District of Florida, was brought by the advocacy group Consumer Watchdog. It alleges that Cigna's policy violates the Affordable Care Act, President Barack Obama's signature healthcare law, by discriminating against people based on their medical condition.

The lawsuit, which seeks class-action status, demands unspecified compensatory and statutory damages and a court order forcing Cigna to end the mail-order program in its current form.

Cigna spokeswoman Karen Eldred said the company had no comment on the lawsuit, which was brought on behalf of a Fort Lauderdale man identified as John Doe.

Cigna introduced the policy of providing high-cost specialty medications solely by mail order last year, according to Alan Mansfield, a lawyer at Whatley Kallas representing Consumer Watchdog.

The Affordable Care Act bars insurance companies from turning away people with pre-existing conditions such as HIV/AIDS, who are more expensive to cover because they require lifelong treatments.

The lawsuit claims Cigna's policy violates the Affordable Care Act by discriminating against patients in need of expensive HIV/AIDS prescriptions by forcing them into the mail-order system. In doing so, Mansfield said, Cigna is taking neighborhood pharmacies out of the equation, eliminating fees it would otherwise have to share with them and channeling business to its wholly owned subsidiary, Tel-Drug Inc, the mail-order drug provider.

If the Florida plaintiff were to opt out of the program, preferring to get his drugs from a local pharmacy, it would be considered out of network and the man would face out-of-pocket costs of about \$2,000 per month, Mansfield said.

Following the settlement of lawsuits Consumer Watchdog reached with United Healthcare and Anthem Blue Cross in July 2014 and June 2013, respectively, HIV and AIDS patients now have the right to opt out of similar mail-order drug programs run by those health insurers, Mansfield said.

At least 7,000 people could join in the class-action suit against Cigna, Mansfield said.

"One of the things we noted in the complaint was how much Cigna's revenues and profits increased since they started increasing the amount of drugs that are required by mail order," Mansfield said. "They clearly profit substantially as a result of shifting."

In addition to boosting profits, the suit says Cigna is discouraging people with HIV and AIDS from choosing its health insurance, or keeping it, by putting issues such as patients' privacy at risk.

"Class Members who live in apartment buildings or who will be required to have medications delivered to their work place have expressed alarm that neighbors and co-workers, who do not know that the recipient has HIV/AIDS, will come to suspect that they are ill," the complaint says.

The case is John Doe, on behalf of himself and all others similarly situated plaintiffs, v. Cigna Health and Life Insurance Co; Tel-Drug Inc, Tel-Drug of Pennsylvania LLC; and DOES 1-10, inclusive, in U.S. District Court for the Southern District of Florida, No. 15-60894.

For the plaintiff: Joe Whatley, Jr, Edith Kallas and Alan Mansfield of Whatley Kallas; Peter Prieto, Aaron Podhurst, John Gravante III and Matthew Weinshall of Podhurst Orseck.

