Workers' Comp

The Impact of Rutledge v PCMA on Workers' Compensation

December 11, 2020
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On December 10, 2020, the US Supreme Court issued a long-awaited ruling on Rutledge v Pharmacy Care Management Association (PCMA), a case spawned by Arkansas Act 900 regulating pharmacy benefit managers (PBMs). The ruling upholds the ability of individual states to regulate PBMs. However, because Arkansas does not include workers' compensation PBMs in its registration requirements and has already enacted PBM regulations, **the ruling does not change the workers' compensation landscape.**

Background of the Lawsuit

PCMA, representing the PBMs, sued to prevent the law from taking effect. PCMA claimed that Act 900 was pre-empted by the federal ERISA law governing employee benefit plans. The Court held that Act 900 is not pre-empted by ERISA, and Arkansas' PBM regulations will therefore remain in effect.

- In its ruling, the Court noted that the provisions of Act 900 do not have “a connection with or reference to” an ERISA plan.
- The Court further noted that Act 900 does not have an impermissible connection with an ERISA plan because the state law does not “govern[s] a central matter of plan administration or interfere[s] with nationally uniform plan administration.”
- The ruling upholds the ability of individual states to regulate PBMs.

For the last several years, states have been trying to get a handle on drug pricing, reimbursement to pharmacies and cost sharing paid by consumers. States are unable to place any meaningful control on the prices charged by manufacturers since they are federally regulated. Consequently, PBMs and other entities in the supply chain have become the focus of state legislators and regulators.

Arkansas, like some other states, does not include workers' compensation PBMs in its registration requirements. Most of the practices addressed in the legislation are not found in workers' compensation since there is no cost sharing by the injured worker, reimbursement rules are established by the state regulators, and workers' compensation PBMs have little if any incentive or ability to create restrictive formularies to maximize rebate revenue. Injured workers are entitled to all necessary care reasonably required to treat a compensable injury, which include access to necessary prescription medications. Additionally, most states have a generic mandate in their workers' compensation systems and generics typically are not eligible or practical for rebate programs.

Ruling Impact on Workers' Compensation

So, what does the US Supreme Court ruling in Rutledge v PCMA mean for workers' compensation?

Given that Arkansas, and other states, have already enacted PBM regulations, this ruling does not change the current landscape. However, the ruling could open the way for other states currently lacking any type of PBM regulation to move forward on adopting new laws. It could also embolden states to become more aggressive in their regulation on how PBMs do business.

As we approach the new year and a new round of legislative sessions, our government affairs team will be actively monitoring new legislation impacting our customers and the services we provide, including PBM laws. Should you have any questions about this alert or any proposed law or regulation, please contact Brian Allen, Vice President of Government Affairs at Brian.Allen@mitchell.com or at 801.903.5754.

The US Supreme Court ruling can be found here.

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