Mar 4, 2020

Contact Kylie Mason

Phone 850-245-0150

OFFICE OF THE ATTORNEY GENERAL STATE OF FLORIDA

Florida Attorney General's Office News Release

AG Moody Joins Multistate Coalition in Defending States' Rights to Regulate the Rising Cost of Rx Drug

TALLAHASSEE, Fla.—Attorney General Ashley Moody joined a multistate coalition of 38 attorneys general in filing an amicus brief in the United States Supreme Court supporting states' rights to regulate and address the rising cost of prescription drugs. In Rutledge v. Pharmaceutical Care Management Association, Attorney General Moody and the other attorneys general argue that in order to protect the well-being of consumers, states must retain the authority to regulate Pharmacy Benefit Managers. This brief supports the position that federal law does not prevent states from regulating PBMs. The brief argues that regulation of the prescription drug market, including PBMs, is a critical tool for states to protect residents and address the access and affordability of prescription drugs.

Attorney General Ashley Moody said, "Maintaining control over our state's prescription drug market is important in keeping healthcare costs affordable for Floridians. I'm proud to join 37 other attorneys general in filing this brief to make sure our state retains the right to make decisions regarding the citizens of Florida."

PBMs act as intermediaries between pharmacies, drug manufacturers, health insurance plans and consumers. Among other things, PBMs develop prescription drug formularies, contract with pharmacies, negotiate discounts with drug manufacturers and process prescription drug claims.

In 2015, the state of Arkansas implemented a law that regulated the reimbursement rates PBMs pay to pharmacies. Under the law, PBMs must raise their reimbursement rate for a drug if that rate falls below the pharmacy's wholesale costs. The law also created an appeals process for pharmacies to challenge these reimbursement rates. The law was challenged by the PCMA, a PBM trade association, which argued that the Employment Retirement Income Security Act prevents the state of Arkansas from implementing the law. Arkansas has asked the U.S. Supreme Court to reverse a lower court judgment that held the law invalid.

In the filing, the coalition of attorneys general argue that state laws regulating PBMs are not preempted by federal law. Regulation is critical to the states' ability to improve the transparency of prescription drug marketplaces and to protect consumers' access to affordable prescription drugs, especially those in underserved, rural and isolated communities. To date, nearly every state has enacted laws that regulate PBMs in some way, including 44 new or amended laws in the last five years. In addition, the attorneys general assert that the regulation of PBMs promotes healthcare access and affordability for residents—taking away a state's ability to regulate would create confusion and uncertainty in the market and harm patients.

In filing the brief, Attorney General Moody joins the attorneys general of: Alabama, Alaska,

California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Montana, Nebraska, Nevada, North Dakota, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington and Wisconsin.