

Pharmaceutical Companies Enlist Prominent Legal Firms to Counter Medicare Pricing Initiative



In a strategic move to counter Medicare's drug price negotiation initiative, prominent pharmaceutical giants have enlisted top-tier legal firms, drawing on legal expertise garnered from health litigation, Supreme Court proceedings, and federal policymaking. This orchestrated response is seen as the latest effort by the industry to combat federal health programs, with parallels drawn to the unified push against the Affordable Care Act's implementation.

Leading law firms such as [Jones Day](#), [King & Spalding](#), and [Covington & Burling LLP](#) are at the forefront, spearheading seven lawsuits on behalf of drug manufacturers and major trade groups. Their objective is to thwart the Biden administration's unprecedented plan to implement drug price negotiation. Approximately 40 attorneys from various firms have joined forces to tackle these cases.

The legal teams assembled for these suits include notable figures like a former solicitor general, Supreme Court clerks, and former Justice Department officials. Their collective expertise is perceived as a formidable force poised to challenge a complex government initiative.

Experts note that these companies are leveraging the prowess of their chosen law firms, described as "heavy hitters" by Andrew Twinamatsiko, Associate Director of the Health Policy and the Law Initiative at Georgetown University's O'Neill Institute. With substantial financial resources at their disposal, these billion-dollar corporations are able to secure the services of highly experienced attorneys, many of whom have previously litigated cases up to the Supreme Court.

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Merck & Co. Inc., Bristol-Myers Squibb Co., Astellas Pharma Inc., Johnson & Johnson, and Boehringer Ingelheim have already filed lawsuits. Anticipation looms regarding potential additional lawsuits after Medicare releases its roster of the initial ten prescription drugs slated for price negotiations, set to commence in 2026.

The Pharmaceutical Research and Manufacturers of America along with the US Chamber of Commerce have independently filed suits, asserting the program's unconstitutionality. In contrast, the Biden administration hails the initiative as a groundbreaking policy aimed at curbing both Medicare expenditure and American citizens' prescription drug costs.

Notably, Medicare's spending on medications reached a staggering \$216 billion in 2021, as analyzed by KFF. The inception of the drug price negotiation program in 2022 via the Inflation Reduction Act underscores the efforts to control these mounting costs.

The Department of Justice (DOJ) attorneys representing the Centers for Medicare & Medicaid Services have criticized the plaintiffs and their motions, deeming them lacking in merit. DOJ attorneys assert that drug manufacturers initially lobbied strenuously against granting the Secretary a seat at the negotiation table. With legislative endeavors to this effect having failed, manufacturers and interest groups have turned to the courts, filing multiple suits across the nation to challenge the statute's constitutionality.

As the legal battles ensue, pharmaceutical industry players are utilizing every available resource to impede Medicare's authority to negotiate drug prices. The onus is on their legal representatives to persuade the courts to align with their stance.

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Jeff Lowe, Principal and Managing Partner at law firm adviser group Jeffrey Lowe Partners LLC, underscores the exceptional caliber of the attorneys engaged in these cases, stating that they are among the most accomplished in their field.

Major drugmakers are marshaling their legal forces in a display of industry unity against governmental measures. The outcome of these lawsuits stands to significantly impact the landscape of drug pricing and federal health policies, with implications that reverberate throughout the healthcare sector.

Don't be a silent ninja! Let us know your thoughts in the comment section below.