HIV Discrimination Lawsuit Against CVS Can Proceed, Court Rules

Five people with HIV claim that being required to use a CVS pharmacy “causes them substantial difficulties and puts their privacy at risk.”

December 15, 2020 By Trent Straube

A federal appeals court ruled that five Californians with HIV can move forward with their discrimination lawsuit against CVS Caremark over the requirement that they obtain their medications at a CVS store or through a mail-order service in order to get their discounts.

The five plaintiffs claim that they no longer have access to the unique and personal knowledge and counseling of their preferred pharmacists, who understand possible drug side effects and interactions as well as the nuanced medical histories of their clients. What’s more, the plaintiffs say their privacy is at risk when they pick up prescriptions at a CVS store or have them delivered to their home, according to a press release from Consumer Watchdog, whose attorneys, along with lawyers from Whatley Kallas LLP, represent the plaintiffs. The lawsuit also points out that mail-order prescriptions can be unreliable and that people with HIV need dependable access to their lifesaving medications.

The five plaintiffs are referred to as John Does because they chose to remain anonymous due to HIV stigma.

The lawsuit was originally filed in San Francisco in 2018, reports the San Francisco Chronicle. A lower court ruling had found that because all clients, regardless of HIV status, were required to use the CVS stores, the plaintiffs didn’t sufficiently show the program violated the antidiscrimination protections of the Affordable Care Act (ACA, or Obamacare).

This month, according to Consumer Watchdog, the appeals court found that the John Does adequately alleged that the CVS mail-order program “causes them substantial difficulties and puts their privacy at risk.” Therefore, they can try to prove their allegations in court.

You can read the full 9th Circuit Court opinion here. The decision returns the case to the U.S. District Court for the Northern District of California in San Francisco for further action.

A CVS spokesperson stressed to the Chronicle that the company allows clients to choose where their medications should be delivered and that moving forward CVS would try to have the case

dismissed.

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