

Employee Benefits Complaint vs. Johnson & Johnson Dismissed for Second Time

Lack of standing again doomed the case that had been amended twice, but the plaintiffs were granted leave to amend it again.

Reported by [JAMES VAN BRAMER](#)

A federal judge in New Jersey once again dismissed a complaint accusing Johnson & Johnson Inc. of mismanaging its employee health plans' prescription drug benefits, ruling that the plaintiffs failed to show they suffered any concrete injury that would give them standing to sue.

In a 13-page opinion, U.S. District Judge Zahid Quraishi granted Johnson & Johnson's latest motion to dismiss two counts of the second amended complaint filed by former employees Ann Lewandowski and Robert Gregory. Quraishi found that the plaintiffs' allegations of higher premiums and out-of-pocket costs remained too speculative to establish an "injury in fact"; therefore, the plaintiffs lacked standing to sue.

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The court's decision marks the second time Quraishi has dismissed the case, though he allowed the plaintiffs leave to file another amended complaint within 30 days to address deficiencies identified in the ruling.

According to Andrew Oringer, general counsel at the Wagner Law Group, granting the plaintiffs an additional chance to refile could be significant, as it suggests the possibility of revising the complaint to demonstrate standing.

"Judges are not anxious to kill potentially valid claims based on procedural grounds, particularly where the insufficiency might be fixable," he says.

PBMs on Lawmakers' Mind

The question of pharmacy benefit managers has caught the attention of Congress and President Donald Trump, who has previously criticized the price of prescription drugs.

U.S. Senate Finance Committee Chair Mike Crapo, R-Idaho, and Ranking Member Ron Wyden, D-Oregon, introduced on Thursday a bill to address some of the issues raised in the complaint. The [Pharmacy Benefit Manager Price Transparency and Accountability Act](#) aims to address market distortions and enhance transparency within federal prescription drug programs, ultimately reducing costs for patients at the pharmacy counter.

"Congress is looking at this to try to figure out if it needs to either change or clarify or add to the rules that apply to these situations," Oringer says. "The president has made a big deal out of the problem of the price of prescription drugs, and these kinds of cases play into that concern. So it's significant judicially—and it's significant politically."

The attention also follows the Federal Trade Commission's January publication of a second interim report on prescription drug middlemen. The report focused on the influence pharmacy benefit managers have had on price markups for drugs treating cancer and HIV, among other illnesses.

The FTC's first interim report, published in July 2024, preceded the commission's administrative [lawsuit against the "big three" PBMs](#)—Caremark Rx, Express Scripts and Optum Rx—and their affiliated group purchasing organizations for engaging in anticompetitive and unfair rebating practices that have artificially inflated the list price of insulin drugs. The case is ongoing.

Allegations of Fiduciary Breach

Lewandowski and Gregory sued Johnson & Johnson and its pension and benefits committee in February 2024, alleging fiduciary breaches under the Employee Retirement Income Security Act. They claimed the company breached its fiduciary duties by mismanaging prescription drug benefits, which forced employees and retirees to pay far more for certain drugs than the prices available at retail pharmacies.

The plaintiffs alleged that the company's health plans paid prices that were 250 times higher than some generic medications and steered participants toward expensive mail-order pharmacies. They contended that the mismanagement inflated premiums, deductibles, copays and other costs for plan participants.

Procedural History and Prior Rulings

Lewandowski filed the original complaint in February 2024, which Johnson & Johnson moved to dismiss. After amendments, the court partially granted and partially denied an [earlier dismissal motion in January 2025](#). The plaintiffs then filed a second amended complaint in March 2025, adding Gregory as a co-plaintiff and expanding claims about premium and out-of-pocket costs.

In the latest ruling, Quraishi found that the plaintiffs' revisions still did not establish a direct link between Johnson & Johnson's alleged plan mismanagement and their own financial harm.

Court's Reasoning

Citing recent case law—including [Navarro v. Wells Fargo & Co.](#) and [Knudsen v. MetLife Group Inc.](#)—Quraishi concluded that participants in a defined benefit health plan like Johnson & Johnson's do not experience individualized injury from alleged fiduciary mismanagement, because their benefits do not fluctuate based on plan expenses.

The judge wrote that the plaintiffs' claims of higher premiums and out-of-pocket expenses "remain too speculative," noting that contribution rates paid by participants could be influenced by many unrelated factors, such as medical costs and administrative expenses. Even if Johnson & Johnson had overpaid for certain drugs, Quraishi wrote, it was "too speculative that the allegedly excessive fees had any effect at all" on the plaintiffs' costs.

The court also rejected the plaintiffs' argument that any savings from correcting alleged mismanagement would necessarily lower premiums, finding that Johnson & Johnson retained discretion to set contribution rates regardless of plan expenses.

Since Quraishi dismissed the case without prejudice, the plaintiffs have leave to file a third amended complaint within 30 days.

The ruling leaves only one remaining claim intact: Lewandowski's allegation that Johnson & Johnson failed to provide certain plan documents upon request, which was not challenged in the latest motion.

Tags

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