

LEGAL UPDATE



ERISA Fiduciary Breach Claims Dismissed in J&J Lawsuit

On Jan. 24, 2025, a U.S. District Court for the District of New Jersey [dismissed](#) two claims in a class-action lawsuit filed against Johnson & Johnson (J&J), which alleged that the company breached its fiduciary duties under the Employee Retirement Income Security Act (ERISA) by mismanaging its prescription drug benefits plan, costing the plan and its participants millions of dollars due to higher out-of-pocket costs for prescription drugs and higher premiums, among other things.

Legal Landscape

For employers, the J&J lawsuit highlights the importance of adhering to their fiduciary duties when managing their health plans. Under ERISA's strict fiduciary standards, employers must prudently select and monitor their third-party service providers, including pharmacy benefit managers (PBMs). After the J&J lawsuit was filed, similar fiduciary litigation involving the management of prescription drug benefits followed. These cases are still making their way through the court system as scrutiny of the PBM industry intensifies.

Court Ruling

In dismissing the two fiduciary breach claims, the court ruled that the plaintiff (an employee of J&J) lacked standing to bring a lawsuit. To have standing, a plaintiff must show that:

- They suffered an injury in fact that is concrete, nonhypothetical, particularized, and actual or imminent;
- The injury was likely caused by the defendant; and
- There is a substantial likelihood that the injury can be remedied by a judicial decision.

Court Dismissal

The court found the plaintiff's first claim, that she paid more in premiums due to the defendants' purported breach of fiduciary duty during the plans' negotiation process, did not sufficiently show evidence of an injury and was "at best, speculative and hypothetical." Further, the outcome of the lawsuit would not affect the plaintiff's future benefit payments, and the plaintiff failed to show that the defendants' specific conduct resulted in higher premiums.

Regarding the plaintiff's second claim that she paid higher prices for drugs under the plans and thus paid more out of pocket, the court acknowledged that she suffered an injury that was traceable to the defendants' alleged ERISA violations. Notwithstanding, the plaintiff lacked standing based on this injury because a favorable decision would not be able to compensate her for the money she already paid, given that she had reached her prescription drug cap for each year asserted in the complaint. The court reasoned that, even if the defendants were to reimburse her out-of-pocket costs on a given drug, that money "would be owed to her insurance carrier to reimburse it for its expenditures on *other* drugs that same year."

CURRENT IMPACT

The court granted the plaintiff leave to file an amended complaint within 30 days to address the deficiencies identified in the court's order.

While the J&J ruling can be viewed favorably for employers in their roles as plan sponsors, the outcome of the fiduciary litigation that was filed after the J&J case remains to be seen. Factors such as plan design and the specific allegations regarding how the defendants breached their fiduciary duties could result in different outcomes.