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Actelion Hit With RICO Suit Over Blood Pressure Drugs

By **Adam Lidgett**

Law360 (December 5, 2022, 8:47 PM EST) -- Actelion is facing a lawsuit in California federal court accusing the pharmaceutical company of scheming to hike the price of drugs to treat a form of high blood pressure that affects the lungs, saying health insurers overpaid for the medications.

A group of plaintiffs including MSP Recovery Claims Series LLC, a payment recovery company, filed a **complaint** against Actelion Pharmaceuticals US Inc. on Friday, saying certain health plans like Medicare Advantage and Medicaid paid more than they should have for a variety of pulmonary arterial hypertension drugs.

The alleged scheme gave Actelion the ability "to raise their prices to supra-competitive levels, without concern of their product not being dispensed due to patient financial restrictions which caused the over-dispensing of supra-competitively priced drugs," the proposed class action alleged.

Specifically, the complaint alleged that Actelion used a nonprofit to carry out the alleged scheme, bribing the entity to give pharmacies what the suit said were "kickbacks." Both parties created a scenario where the nonprofit had a fund serving patients with the condition, and Actelion would be the only financial backer of the fund, according to the suit.

The payments Actelion allegedly made flouted federal kickback prohibitions, according to the suit, which claimed that "Actelion ensured that the large sums of money ... improperly influenced [the nonprofit's] practices."

Actelion also "funneled MA plan and Medicaid plan patients away from Actelion's free drug program," the suit said, using a shorthand term for Medicare Advantage. The suit accused the defendants of violating the Racketeer Influenced and Corrupt Organizations Act and various state consumer protection statutes.

"Defendants excluded individuals from participating in Actelion's free drug program because the individuals were eligible for participation in the federal health programs," the complaint alleged. "In other words, defendants treated customers differently based on eligibility for participation in the federal health programs."

Janpaul Portal, an attorney for MSP Recovery, said in a statement to Law360 on Monday that "this case is based on what MSP Recovery has identified as a pervasive conspiratorial scheme orchestrated by Actelion Pharmaceuticals US Inc. to increase the costs of Actelion's products to supra-competitive prices using an illegal co-payment scheme to circumvent congressional safeguards."

"Actelion utilized [other defendants] as illegal conduits to defraud Medicare Advantage and Medicaid health plans by billing and collecting tens of millions of dollars in the sale of their Actelion drugs used to treat pulmonary arterial hypertension," Portal said.

Representatives for Actelion were not immediately available for comment on Monday.

The plaintiffs are represented by Alex R. Straus of Milberg Coleman Bryson Phillips Grossman PLLC, John W. Cleary and Janpaul Portal of MSP Recovery Law Firm, and Shereef H. Akeel, Adam S. Akeel, Sam R. Simkins, Daniel W. Cermak and Hayden E. Pendergrass of Akeel & Valentine PLC.

Counsel information for the defendants was not immediately available on Monday.

The case is MSP Recovery Claims, Series LLC et al. v. Actelion Pharmaceuticals US Inc. et al., case number 3:22-cv-07604, in the U.S. District Court for the District of Northern California.

--Editing by John C. Davenport.

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