

## Case resolved before high-court hearing on mail-order Rx mandates

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**Tanya Albert Henry**

Contributing News Writer

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The parties to a case in the U.S. Supreme Court dealing with a mail-order pharmacy program that created a host of problems for patients have reached an agreement. Oral arguments in the case, *CVS Pharmacy Inc. et al. v. John Doe One et al.*, were set for Dec. 7.

The AMA had joined a friend-of-the-court brief in the case, in which people with HIV sued CVS Pharmacy Inc. on behalf of themselves and others. They alleged that the company's mandatory mail-in pharmacy program for specialty medications, including HIV medications, violated anti-discrimination provisions and that it had an especially negative impact on them. The 9th U.S. Circuit Court of Appeals agreed with the patients' position.

After agreeing to dismiss the case, CVS Health and several organizations representing people with disabilities announced in November that they were "working together to seek policy solutions to protect equitable access to health care for all Americans and continue to protect the fundamental rights of people with disabilities."

In the joint statement, American Association of People with Disabilities CEO Maria Town said "we look forward to working collaboratively with CVS Health to find solutions that will ensure that health benefits are equally available and affordable to people with disabilities."

The AMA had joined the Center for Health Law and Policy Innovation of Harvard Law School and nearly two dozen other medical associations, HIV advocacy organizations and health systems to file an amicus brief (PDF) in the case. With the brief, the organizations asked the Supreme Court to uphold the appellate court decision and outlined the medical reasons why it is important that patients not have to rely solely on a mail-order program to get their lifesaving medication.

"Mandated mail-order pharmacy programs disrupt access to treatment," the brief told the court.

The brief cited the AMA policy on medication access that supports patients having access to the medication their physicians prescribe and opposes “pharmacy practices that interfere with patient access to medication by refusing or discouraging legitimate requests to transfer prescriptions to a new pharmacy’ including the ‘transfer of prescriptions from mail-order to local retail pharmacies.”

## **Patient health, safety at risk**

Mailing medications can mean a delay in patients receiving their medication, especially with documented slowdowns in the U.S. Postal Service. And if medication is lost or delayed in the mail, patients are often unable to order another refill from their insurance company and many cannot afford the high list price of antiretroviral therapy, the brief said.

That delay can mean patients do not begin treating their HIV as quickly as they otherwise would. Studies have shown that patients do better the quicker they begin their treatment, the brief informs the court. Delayed medication also opens up patients to developing drug resistance, which can manifest when antiretroviral therapy is interrupted.

## **Privacy, connections also at risk**

Patients face stigmatization, discrimination and even violence because of their HIV diagnoses and have a higher risk of having their private health information shared with others when prescriptions are mailed.

“In 2018, CVS Caremark was sued for sending mailers to 6,000 participants in Ohio’s AIDS Drug Assistance Program,” the brief notes. “The mailers included a public notation of ‘PM 6402 HIV’ above the participants’ names and addresses, disclosing their HIV status.”

And receiving orders by mail disrupts “the critical physician-pharmacist-patient” relationship.

“People living with HIV need the advice and support of their physicians and their pharmacists—working in tandem—to maximize their chances of remaining adherent to their course of treatment,” the brief said.

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