

Clinics Barred From Gilead HIV Drug Program For Now

By Adam Lidgett

Law360 (December 1, 2020, 7:25 PM EST) -- A series of health care clinics accused of ripping off a Gilead Sciences program meant to help uninsured people obtain free HIV prevention medication has been preliminarily barred by a Florida federal judge from enrolling patients in the program.

U.S. District Judge Kathleen M. Williams on Monday granted Gilead's motion for a preliminary injunction, which mirrored a temporary restraining order she issued after the complaint was filed in early November. Monday's order covered various defendants, including Doctors United Group, Priority Health Medical Center Inc., Well Care LLC, Florimed Medical Center Corp., Alliance Medical Center and an array of individuals.

The defendant companies listed in Monday's decision had agreed in some way to a preliminary injunction that reflected the earlier restraining order, according to court documents.

The judge's order enjoined those parties from enrolling individuals who were prescribed HIV prevention drugs Truvada or Descovy in Gilead's Medication Assistance Program, which the pharmaceutical company calls a "charitable endeavor." It also barred them from trying to get reimbursements from the program, among other things.

Gilead said in a statement to Law360 on Tuesday that it was "taking the necessary actions to protect the integrity of this important patient assistance program and the health of impacted Floridians and their larger community and are pleased with the judge's ruling."

"We are committed to providing Gilead medications to all people who can benefit from them regardless of income and insurance coverage and will continue to ensure that people in need of our medicines can access them," Gilead added.

The suit names dozens of companies and individuals, alleging that they're part of two health care networks' "parallel schemes" which raked in \$43 million worth of profits through the resale of HIV treatment medication — Truvada and Descovy — to prevent infection, known as pre-exposure prophylaxis, or PrEP.



Geoffrey Potter
Gilead's Lead Attorney

Gilead said it found out about the alleged scheme when it noticed that some of the defendants were prescribing "enormous volumes" of PrEP medication to a "suspiciously" large number of MAP patients. The company then began to receive fraud reports from numerous whistleblowers.

The defendants "employ crews of van drivers who stalk the streets of Florida, searching for people who earn low incomes or are homeless whom they can recruit to bring to defendants' clinics for so-called 'wellness checks' in exchange for a \$10 payment or other similarly small payments," the suit claimed. Once the recruits were brought to clinics run by the defendants, they were subjected to blood tests and consultations.

The recruits were then "indiscriminately" prescribed PrEP, even if they said they don't need or want it, the suit said. The defendants would then submit bogus MAP enrollments for the recruits.

The defendants then have the meds sent directly to the clinics, which would offer recruits an additional \$10 each time they came back to pick up their medication, according to the suit.

In many cases, the recruits never return, but the clinics would continue to file for prescription refills and "stockpile" the medications, leading to a "room full of medication" that the recruits don't want, the suit alleged. For those who do pick up their medications, the clinics attempt to buy the drugs back, claiming that they may have dangerous side effects.

The clinics would then repackage the drugs, and "once they have bought back the PrEP medication from recruits, the clinic defendants either return the dispensed medication to the pharmacy defendants to be redispensed to someone else for additional reimbursements, or sell the medication on the black market," the suit claimed.

After the scheme was run from beginning to end, the defendants would send the van drivers back to recruit the same people who just completed the process, generating duplicative MAP enrollments, according to the suit.

"The first time my client learned of the alleged scheme was when he was served with the plaintiffs' complaint last month," Florimed Medical Center's attorney Kyle B. Teal said in a statement to Law360 on Tuesday. "He's done nothing wrong and he looks forward to full vindication once this case is heard on the merits."

Paul D. Petruzzi, Alliance Medical Center's attorney, said in a statement to Law360 that "drug diversion and health care fraud cases are generally not uncommon in South Florida."

"My clients have already agreed to a preliminary injunction and look forward to working with Gilead to put this matter behind them," Petruzzi said. "And also, just by way of observation, I've never seen this many federal criminal defense lawyers in a civil case."

Henry P. Bell, an attorney for Doctors United, told Law360 that his client agreed to the preliminary injunction.

"We're investigating this, and we'll respond accordingly," he added.

Counsel for other defendants covered by the preliminary injunction did not immediately respond to requests for comment.

Gilead is represented by P. Jan Kubicz and Franklin G. Monsour of Squire Patton Boggs (US) LLP, and Geoffrey Potter, Jonah Knobler, Joshua Kipnees, Timothy A. Waters, R. James Madigan III, Jared S. Buszin, Devon Hercher and Jacob Chefitz of Patterson Belknap Webb & Tyler LLP.

Doctors United is represented by Henry P. Bell and Javier Angel Reyes of Bell Rosquete Reyes Esteban PLLC.

Priority Health Medical Center is represented by David M. Trontz of Donet McMillan & Trontz PA.

Well Care LLC is represented by Kenneth R. Noble III of the Noble Law Firm PA.

Florimed Medical Center is represented by Kyle B. Teal of Buchanan Ingersoll & Rooney PC.

Alliance Medical Center is represented by Paul D. Petruzzi of the Law Offices of Paul D. Petruzzi PA.

The case is Gilead Sciences Inc. et al. v. AJC Medical Group Inc. et al., 1:20-cv-24523, in the U.S. District Court for the Southern District of Florida.

--Additional reporting by Dave Simpson. Editing by Steven Edelstone.