

Roche Diagnostics, Pharmacies End Fraud Suit for \$43 Million

By Mary Anne Pazanowski 2021-02-24

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- Roche accused retail pharmacies of insurance fraud
- Sold strips not intended for retail sale directly to consumers



Priority Healthcare Corp. will pay Roche Diagnostics Corp. \$43 million to settle a suit alleging it violated federal law by filing fraudulent insurance claims for diabetic test strips that led Roche to improperly pay insurers rebates for the product. Roche accused Priority, a collection of pharmacies located in Alabama, Mississippi, and Arkansas, of selling directly to consumers thousands of boxes of test strips not intended for retail sale, then improperly collecting reimbursements for the higher cost of retail test strips from insurers and pharmacy benefits managers.

The device maker [asked](#) the U.S. District Court for the Northern District of Alabama Tuesday to enter a permanent injunction and consent judgment reflecting its agreement with Priority and several individual defendants.

In addition to the \$43 million payment, the defendants agreed to stop buying, selling, distributing, or dispensing Roche's Accu-Check test strips, which help people with diabetes monitor their blood sugar levels.

Health insurance and government programs normally pay for these test strips. They are covered under either pharmacy benefits programs, like a prescription drug, or under medical benefits programs, like wheelchairs and other devices.

Pharmacy benefits programs pay for strips retail pharmacies buy from authorized wholesalers and sell to consumers. Roche gives insurers and PBMs rebates for these products, which cost more than test strips sold only to providers and mail-order

distributors. The latter are known as “not-for-retail” strips, and they are paid for as medical benefits.

Priority Care obtained thousands of boxes of not-for-retail test strips, sold them to consumers, then sought reimbursement of the higher retail test strip cost from insurers and PBMs. The insurers and PBMs, in turn, requested and received rebates from Roche, the company [said](#).

The motion was presented to Chief Judge Karon O. Bowdre, who is presiding over the litigation.

Lanier Ford Shaver & Payne PC and Patterson Belknap Webb & Tyler LLP represent Roche. Bainbridge Mims Rogers & Smith LLP represents Priority.

The case is [Roche Diagnostics Corp. v. Priority Healthcare Corp.](#), N.D. Ala., No. 18-cv-1479, motion filed 2/23/21.

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