PUBLIC

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of **Caremark Rx, LLC;** **Zinc Health Services, LLC;** **Express Scripts, Inc.;** **Evernorth Health, Inc.;** **Medco Health Services, Inc.;** **Ascent Health Services LLC;** **OptumRx, Inc.;** **OptumRx Holdings, LLC;** and **Emisar Pharma Services LLC.**	**Docket No. 9437**

ESI RESPONDENTS' MOTION FOR DISCOVERY PURSUANT TO RULE 3.36

Pursuant to Rule 3.36 of the Commission's Rules of Practice, 16 C.F.R. § 3.36, Respondents Express Scripts, Inc., Evernorth Health, Inc., Medco Health Services, Inc., and Ascent Health Services LLC (together the "ESI Respondents") respectfully move for an order authorizing the issuance of subpoenas *duces tecum* to the Department of Defense ("DoD"). The DoD is the largest U.S. government agency and employs millions of civilians and active-duty military personnel. DoD also oversees the Defense Health Agency ("DHA"), which administers the TRICARE health care program for millions of active and retired uniformed service people and their families. Since 2003, Express Scripts, Inc. has proudly been the PBM provider for TRICARE and operated the TRICARE Home Delivery/Mail Order Pharmacy, helping DoD meet its statutory obligation to deliver certain prescription medications to the nation's veterans and their families in "an effective, efficient" manner. *See* 10 U.S.C. § 1074g(a)(9)(A); 32 C.F.R. § 199.21(h)(iv). In subsequent years, DoD has elected to renew and expand its relationship with Express Scripts, Inc.

DoD also directly negotiates rebates and creates formularies using many of the same practices which the FTC contests in this Action. Express Scripts' role is to administer TRICARE pursuant to DoD's rebate and formulary decisions. The rebates and formulary decisions at play for one of ESI Respondents' largest clients are relevant to this litigation, and ESI Respondents cannot get this information from anyone but DoD. The subpoena therefore requests a clearly defined, relevant set of documents on DoD's plan that are narrowed to minimize the burden to DoD. Complaint Counsel indicated that it takes no position on ESI Respondents' motion for a subpoena containing these requests.

I. INTRODUCTION

The FTC's complaint alleges that Respondents' conduct—including the offering of exclusionary formularies and the use of rebates—has increased prices in the relevant market and harmed consumers and clients, including "government entities." Compl. ¶¶ 28, 125, 214-33. There is no question that TRICARE is one of Express Scripts' largest and most important contracts. *See In re Nat'l Prescription Opiate Litig.*, 2023 WL 166006, at *2-3 (N.D. Ohio Jan. 12, 2023) ("The contract between the DoD and ESI is substantial—the DoD is ESI's second largest client[.]"). Express Scripts works so closely with DoD in administering TRICARE that federal courts consider Express Scripts to "essentially act as the statutory alter ego of the federal government" when it serves DoD. *See Cnty. Bd. of Arlington Cty. v. Express Scripts Pharmacy, Inc.*, 996 F.3d 243, 253-54 (4th Cir. 2021); *In re Nat'l Prescription Opiate Litig.*, No. 1:17-MD-2804, 2023 WL 166006, at *8 (N.D. Ohio Jan. 12, 2023).

While DoD relies on ESI Respondents for formulary and rebate administration, pharmacy negotiations and contracting, and the operation of mail pharmacy and pharmacy networks, DoD also negotiates its own rebates with manufacturers and constructs its own formulary. In doing so,

DoD acts in a manner that balances both the "relative clinical effectiveness" and "relative cost effectiveness" congressional requirements. *See e.g.*, 10 U.S.C. § 1074g(a)(2)(A), § 1074g(b); 32 C.F.R. § 199.21(a)(3). That DoD must consider these factors when utilizing formularies and engaging in manufacturer rebate negotiations is relevant to ESI Respondents' defense: DoD engages in conduct similar to ESI Respondents. As such, DoD, including the DHA, possesses pivotal information on the fairness of rebating and formulary allegations at issue in the complaint. ESI Respondents seek information to support their defenses that they could not obtain without a subpoena to DoD and do so through a subpoena that is drafted to minimize burden to DoD.

II. ARGUMENT

The grant of a 3.36 motion for a subpoena is appropriate where the requested subpoena is: (1) "reasonably expected to yield information relevant to . . . [a respondent's] defenses"; (2) reasonable in scope; (3) specified with reasonable particularity; and (4) not reasonably obtainable by other means. *See* 16 C.F.R. §§ 3.31(c), 3.36(b), 3.37(a). ESI Respondents' proposed subpoena satisfies these requirements:

- Documents sufficient to show DoD's decisions on the potential use, use, quality, or value of closed Formularies, preferred Formulary status, or Formulary tiering, negotiated by, or obtained for any DHA plan;

- Documents sufficient to show DOD's considerations related to the design or evaluation of DHA pharmaceutical benefit plans, including without limitation Documents relating to members' premiums and out-of-pocket costs for prescription drugs, including deductibles, coinsurance, copay obligations or any programs or initiatives considered, used or designed to reduce or mitigate the out-of-pocket costs paid by members for Insulin Products or Other Referenced Drugs;

- Documents sufficient to show DoD's considerations related to the use of Rebates received by, on behalf of, or in connection with any DHA plans, including without limitation Documents referring or relating to decisions to use or not use pharmaceutical Rebates to reduce premiums or other dimensions of member cost, provide point-of-sale discounts for members, expand benefits, or otherwise deliver value to members;

- For any Insulin Product or Other Referenced Drug product, all Documents and Data related to the Price paid by DoD, including but not limited to DHA, including without limitation Documents and Data relating to the Net Price or List Price of such drugs;

- For any Insulin Product or Other Referenced Drug product, all Documents and Data related to the out-of-pocket expenses of DHA plan members;

- For any Insulin Product or Other Referenced Drug product, all Documents and Data related to DoD plan Formulary inclusion or exclusion, and any related valuation, of any low WAC drug;

- For any Insulin Product or Other Referenced Drug product, all related Documents and Data concerning Rebates or discount agreements and payments that DoD, including but not limited to DHA, negotiated or obtained for any DHA plan.

A. The Requested Discovery Is Relevant

ESI Respondents seek to defend themselves in this litigation by, among other things, proving that the conduct alleged in the Complaint—including the use of rebates and exclusive formularies to lower the net costs for plans—is procompetitive and benefits customers. The adoption of rebates and formulary practices by government plan providers, who are statutorily mandated to balance cost and clinical considerations, is plainly relevant to ESI Respondents' defenses and FTC's allegations concerning the "fairness" of such conduct. The government not only relies on PBMs, it also independently uses rebate negotiation and makes formulary product decisions to lower costs, which is the at-issue conduct the FTC alleges is "unfair." *See In re MSC Software Corp.*, 2002 WL 31433985, at *2 (FTC May 9, 2002) (granting 3.36 motion to seek discovery on the government, including the DoD, as a user of an at-issue product). The attached requests are intended to capture documents related to these facets of DoD's practices.

B. The Discovery Is Reasonable In Scope, Stated With Particularity, And Cannot Be Otherwise Obtained

The requested discovery is reasonable in scope and stated with particularity. 16 C.F.R. §§ 3.36(b)(1), 3.37(a). The requested discovery is limited to discrete topics and specific types of

materials to allow identification of readily accessible responsive materials. The requests are also narrowly tailored to support Respondents' defense and rebut the FTC's allegations, are targeted in scope, and will impose only a limited burden. *See In re Intel Corp.*, 2010 WL 2544424, at *3 (FTC June 9, 2010). The documents sought are held by the DoD, or DHA, including non-public information related to the determination on how to structure rebate negotiation and sharing, the decision on how to place drugs on their formulary and related rationale, and other relevant internal evidence related to the allegations in this case. *See In re Axon Enters., Inc.*, 2020 WL5701022, at *1 (FTC Sept. 17, 2020) (granting 3.36 motion where only government agencies would have the requested information). Beyond the requested subpoena, ESI Respondents cannot otherwise request these materials. 16 C.F.R. § 3.36(b)(3).

III. CONCLUSION

An order should authorize the subpoena attached as Exhibit A.

Dated: December 17, 2024

Respectfully submitted,

/s/ Margot Campbell
Margot Campbell
Charles F. Rule
Daniel J. Howley
Derek W. Moore
Rebecca Weinstein
RULE GARZA HOWLEY LLP
901 7th Street NW
Washington, D.C. 20001
(202) 843-9280
campbell@rulegarza.com
rule@rulegarza.com
howley@rulegarza.com
moore@rulegarza.com
weinstein@rulegarza.com

Jennifer Milici
Perry A. Lange
John W. O'Toole
WILMER CUTLER PICKERING
HALE AND DORR LLP
2100 Pennsylvania Ave. NW
Washington, D.C. 20037
Telephone: (202) 663-6000
Facsimile: (202) 663-6363
jennifer.milici@wilmerhale.com
perry.lange@wilmerhale.com
john.otoole@wilmerhale.com

Counsel for Express Scripts, Inc., Evernorth Health, Inc., Medco Health Services, Inc., and Ascent Health Services LLC

CONFERENCE STATEMENT

Pursuant to Paragraph 4 of the Scheduling Order entered in this matter on October 23, 2024, I hereby certify that counsel for ESI Respondents conferred by teleconference with Complaint Counsel on December 2, 2024. On December 3, 2024, Complaint Counsel informed ESI Respondents that they take no position on this motion.

/s/ Margot Campbell

Counsel for Express Scripts, Inc., Evernorth Health, Inc., Medco Health Services, Inc., and Ascent Health Services LLC

EXHIBIT A

Subpoena for Production of Documentary Material

Provided by the Secretary of the Federal Trade Commission, and
Issued Pursuant to Commission Rule 3.34(b), 16 C.F.R. § 3.34(b)(2010)

1. TO

Lloyd J. Austin, Secretary of Defense
C/O DoD OIG, Office of General Counsel
4800 Mark Center Drive, Suite 15K26
Alexandria, VA 22350-1500

2. FROM

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things, at the date and time specified in Item 5, and at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION

Rule Garza Howley LLP
901 7th St., NW Suite 600
Washington, DC 20001
202.843.9280

4. MATERIAL WILL BE PRODUCED TO

Counsel for Respondents Express Scripts, Inc., Evernorth Health, Inc., Medco Health Services, Inc., and Ascent Health Services LLC

5. DATE AND TIME OF PRODUCTION

TBD

6. SUBJECT OF PROCEEDING

In the Matter of Caremark Rx, LLC, et al. ("Insulin"), FTC Dkt. No. 9437

7. MATERIAL TO BE PRODUCED

See attached Subpoena Duces Tecum Attachment to Lloyd J. Austin, Secretary of Defense

8. ADMINISTRATIVE LAW JUDGE

The Honorable D. Michael Chappell
Federal Trade Commission
Washington, D.C. 20580

9. COUNSEL AND PARTY ISSUING SUBPOENA.

Counsel for Respondents Express Scripts, Inc., Evernorth Health, Inc., Medco Health Services, Inc., and Ascent Health Services LLC
Margot Campbell, Esq.
Rule Garza Howley LLP
901 7th St., NW Suite 600
Washington, DC 20001
202.843.9280

DATE SIGNED

SIGNATURE OF COUNSEL ISSUING SUBPOENA

INSTRUCTIONS AND NOTICES

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply. This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

PETITION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any petition to limit or quash this subpoena be filed within the earlier of ten days after service thereof or the time for compliance therewith. The original and twelve copies of the petition must be filed with the Secretary of the Federal Trade Commission, and one copy should be sent to the Commission Counsel named in Item 9.

YOUR RIGHTS TO REGULATORY ENFORCEMENT FAIRNESS

The FTC has a longstanding commitment to a fair regulatory enforcement environment. If you are a small business (under Small Business Administration standards), you have a right to contact the Small Business Administration's National Ombudsman at 1-888-REGFAIR (1-888-734-3247) or www.sba.gov/ombudsman regarding the fairness of the compliance and enforcement activities of the agency. You should understand, however, that the National Ombudsman cannot change, stop, or delay a federal agency enforcement action.

The FTC strictly forbids retaliatory acts by its employees, and you will not be penalized for expressing a concern about these activities.

TRAVEL EXPENSES

Use the enclosed travel voucher to claim compensation to which you are entitled as a witness for the Commission. The completed travel voucher and this subpoena should be presented to Commission Counsel for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Commission Counsel. Witness travelers can contact the FTC travel office for guidance at (202) 326-3299 or travel@ftc.gov. PLEASE NOTE: Reimbursement for necessary transportation, lodging, and per diem expenses cannot exceed the maximum allowed for such expenses by an employee of the federal government.

A copy of the Commission's Rules of Practice is available online at http://bit.ly/FTCsRulesofPractice. Paper copies are available upon request.

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In the Matter of **Caremark Rx, LLC;** **Zinc Health Services, LLC;** **Express Scripts, Inc.;** **Evernorth Health, Inc.;** **Medco Health Services, Inc.;** **Ascent Health Services LLC;** **OptumRx, Inc.;** **OptumRx Holdings, LLC;** and **Emisar Pharma Services LLC.**	**Docket No. 9437**

ESI RESPONDENTS' SUBPOENA *DUCES TECUM* ATTACHMENT TO THE DEPARTMENT OF DEFENSE

Pursuant to Rules 3.34 and 3.36 of the Federal Trade Commission's Rules of Practice (16 C.F.R. §§ 3.34, 3.36), Respondents Express Scripts, Inc., Evernorth Health, Inc., Medco Health Services, Inc., and Ascent Health Services LLC (collectively, "ESI Respondents"), by and through their attorneys, request that the Department of Defense ("DoD"), and its staff produce all Documents, Data, electronically stored information, and other materials in their possession, custody, or control that are responsive to the requests made below.

DEFINITIONS

1. "Action" means the above-captioned litigation, *In the Matter of Caremark Rx, LLC, et al.*, FTC Docket No. 9437 (F.T.C.).
2. The terms "all," "any," and "each" shall be construed as encompassing any and all; and "every" means each and every.

3. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the discovery request all responses that might otherwise be construed to be outside of its scope. The use of the singular form of any word includes the plural and vice versa.
4. The terms "concerning" and "regarding" mean to comprise, reflect, record, memorialize, embody, discuss, contradict, evaluate, consider, review or report on, concern, refer to, or relate to the subject matter of the Request or to have been created, generated or maintained in connection with or as a result of the subject matter of the Request.
5. "Data" shall mean any recorded information, including but not limited to, all spreadsheets, databases, images, audio or video files, logs, metadata, or any other material that captures information. "Data" encompasses structured data (such as databases or tables), unstructured data (such as email or word processing files), and any embedded or associated metadata. It shall also include all drafts, versions, deletions, and hidden or deleted information, whether stored on local computers, servers, cloud storage, mobile devices, or other data storage locations.
6. "DHA" means the Defense Health Agency.
7. The terms "discuss" or "discussing" means in whole or in part constituting, containing, describing, or addressing the designated subject matter, regardless of the length of the treatment or detail of analysis of the subject matter, but not merely referring to the designated subject matter without elaboration. In addition, a Document that "discusses" another Document includes the other Document itself (e.g., a Document that "discusses" an agreement or contract includes the agreement or contract itself). Further, these terms include

any operating or financial Data about the designated subject matter where such data are separately set out as in a chart, listing, table, or graph.

8. "Document(s)" mean any information, on paper or in electronic format, including written, printed, recorded, and graphic materials of every kind, in the possession, custody, or control of DoD. The term "Documents" includes, without limitation: computer files; email messages; text messages; instant messages and chat logs; group chats; voicemails and other audio files; calendar entries; schedulers; drafts of documents; metadata and other bibliographic or historical Data describing or relating to documents created, revised, or distributed electronically; notes of Meetings or telephone calls; and copies of documents the originals of which are not in the possession, custody, or control of DoD. This term includes the transmittal or transfer of communications and information (in the form of facts, ideas, inquiries, or otherwise) by any means, including email, instant messages, text messages, iMessages, WhatsApp Messages, Telegram, and Signal messages. "Document(s)" include the original and, separately, each non-identical copy (including, but not limited to, non-identical copies containing unique notes, inserted material, or attachments).
9. "DoD," "You," "Your," or "Yours" means the Department of Defense and any other Person acting or purporting to act on behalf of or under the direction, authorization, or control of the Department of Defense, including staff and advisors and employees of the DHA.
10. "Formulary" means a Payor's, Health Care Provider's, or PBM's list of medicines, drugs, or pharmaceutical products that are approved to be prescribed, covered, or reimbursed at a hospital, in a particular health system, or under the pharmaceutical benefit of a health insurance policy.

11. "Health Care Provider" refers to any doctor, hospital, clinic, or other Person or entity that provides health care services.
12. "Insulin Product" means each insulin pharmaceutical and related device, equipment, or other mechanical part approved by the U.S. Food and Drug Administration to treat diabetes, including those Insulin Products marketed in pen, cartridge, or vial presentations in the United States.
13. "List Price" means the WAC price at which an Insulin Product is listed.
14. "Meeting" means an assembly of two or more people, in-person or via telephone, voiceover-IP, video, video conferencing, or other similar means of communication.
15. "Other Referenced Drugs" means any of the drugs named in the Complaint in this Action, and their unbranded, biosimilar or generic alternatives, including but not limited to treatments for Hepatitis C, autoimmune diseases, and inflammatory conditions, including but not limited to Epclusa/Harvoni, Cyltezo, Amjevita, Enbrel, and Taltz.
16. "Payor" means any entity, other than the receiving patient, that pays or reimburses in whole or in part for the administration or sale of a pharmaceutical product. Payors include, but are not limited to, Plan Sponsors, federal and state government programs such as TRICARE, Medicare, and Medicaid; private insurers and health-maintenance organizations (HMOs); and health-and-welfare funds.
17. "PBM" or "Pharmacy Benefit Manager" means any entity that negotiates Rebate agreements; creates or manages a Formulary; or otherwise deals with pharmaceutical manufacturers or sellers and serves as a third-party administrator of a Payor's or Plan Sponsor's Pharmacy Benefit Plan.

18. "Person" includes DoD and means any natural person, corporate entity, sole proprietorship, partnership, association, governmental entity, or trust, including any individuals employed by, serving as the agent of, or are otherwise contracted or affiliated with the Person or any subsidiaries thereof.
19. "Pharmacy" refers to any entity, including mail-order vendors, retail vendors, hospitals, clinics, and inpatient facilities, that dispenses pharmaceutical products to patients, including pursuant to a prescription issued by a Health Care Provider.
20. "Pharmacy Benefit Plan" means a plan that provides insurance coverage to a patient for certain drugs from Pharmacies and other drug sources, often service by a PBM.
21. "Plan Sponsor" means the financial entities (e.g., Self-Funded employers, insurance companies, union health plans, government) that pay for prescription drugs through Pharmacy Benefit Plans.
22. "Price" or "Pricing," when used with regard to one or more products, means the amount charged by the supplier for such product(s) or the amount paid by the buyer of such product(s) to the seller, whether or not the seller is the manufacturer of the product(s). The terms "price" and "pricing" also include amounts denominated as price, gross price, net price, average price, unit price, effective price, dead net price, Rebate, package price, bundled price, discount, credit, charge or chargeback, allowance, debit, or any other payment or receipt of anything of value incurred in whole or in part as a result of the sale of the applicable product.
23. "Rebate" means a retrospective payment returning a portion of the List Price paid for a drug to the direct or indirect purchaser, including without limitation any refunds or discounts.

24. The terms "relate," "related to," and "relating to" mean, in whole or in part, addressing, analyzing, concerning, constituting, containing, commenting on, discussing, describing, identifying, referring to, reflecting, reporting on, stating, or dealing with.
25. "Wholesale Acquisition Cost" or "WAC" means the pharmaceutical manufacturer's price for a drug to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, Rebates or reductions in Price, as reported in wholesale price guides or other publications of drug pricing data.

INSTRUCTIONS

1. ESI Respondents seek production of the Documents set forth in the numbered Requests below that are in Your possession, custody, or control. A Document is to be deemed in Your possession, custody, or control if You (a) own such Document in whole or in part; (b) have a right by contract, statute or otherwise, to use, access, inspect, examine, or copy such Document on any terms; or (c) have an express or implied understanding that You may use, access, inspect, examine or copy such Document on any terms.
2. In addition to the specific instructions set forth below, these Requests incorporate by reference all provisions of the Protective Order Governing Confidential Material, as entered by Chief Administrative Law Judge Chappell on October 1, 2024 ("Protective Order"). Subject to a valid claim of privilege, please produce the entire Document if any part of that Document is responsive.
3. Any alteration of a responsive Document, including any marginal notes, handwritten notes, underlining, stamps, drafts, revisions, modifications, and other versions of a responsive Document is a separate and distinct Document and it must be produced in addition to the unaltered responsive Document.

4. No part of a Request may be left unanswered, or Documents not produced, merely because a different portion of a Request is objected to. Where an objection is made to any Request, or subpart thereof, the objection must state with specificity all grounds for the objection. If an objection is made to any Request, the response shall state whether Documents are being withheld from production on the basis of such objection, or whether inspection and production of the responsive Documents will occur not withstanding such objection.
5. For any Document withheld or redacted, in whole or in part, based on any claim of privilege or work product protection, You shall, pursuant to 16 C.F.R. § 3.38A and any additional provisions as detailed in the Protective Order, produce a privilege log that describes the nature of Documents, communications, or tangible things not produced or disclosed, in a manner that will enable Counsel for ESI Respondents to assess the claim of privilege.
6. If no Document responsive to a Request exists, please state so in Your response.
7. Each Document should be produced in the manner, form and position in which it is kept in the ordinary course of business.
8. Unless otherwise stated, each request covers Documents and information from January 1, 2017, through the close of fact discovery in this Action.

REQUESTS FOR PRODUCTION

DOCUMENT REQUEST NO. 1

Documents sufficient to show DoD's, including but not limited to DHA's, decisions on the potential use, use, quality, or value of closed Formularies, preferred Formulary status, or Formulary tiering, negotiated by, or obtained for any DHA plan.

DOCUMENT REQUEST NO. 2

Documents sufficient to show DoD's, including but not limited to DHA's, considerations related to the design or evaluation of DHA pharmaceutical benefit plans, including without limitation Documents relating to members' premiums and out-of-pocket costs for prescription drugs, including deductibles, coinsurance, copay obligations or any programs or initiatives considered, used or designed to reduce or mitigate the out-of-pocket costs paid by members for Insulin Products or Other Referenced Drugs.

DOCUMENT REQUEST NO. 3

Documents sufficient to show DoD's, including but not limited to DHA's, considerations related to the use of Rebates received by, on behalf of, or in connection with any DHA plans, including without limitation Documents referring or relating to decisions to use or not use pharmaceutical Rebates to reduce premiums or other dimensions of member cost, provide point-of-sale discounts for members, expand benefits, or otherwise deliver value to members.

DOCUMENT REQUEST NO. 4

For any Insulin Product or Other Referenced Drug product, all Documents and Data related to the Price paid by DoD, including but not limited to DHA, including without limitation Documents and Data relating to the Net Price or List Price of such drugs.

DOCUMENT REQUEST NO. 5

For any Insulin Product or Other Referenced Drug product, all Documents and Data related to the out-of-pocket expenses of DHA plan members.

DOCUMENT REQUEST NO. 6

For any Insulin Product or Other Referenced Drug product, all Documents and Data related to DoD plan Formulary inclusion or exclusion, and any related valuation, of any low WAC drug.

DOCUMENT REQUEST NO. 7

For any Insulin Product or Other Referenced Drug product, all related Documents and Data concerning Rebates or discount agreements and payments that DoD, including but not limited to DHA, negotiated or obtained for any DHA plan.

Dated: December 17, 2024

Respectfully submitted,

/s/ Margot Campbell
Margot Campbell
Charles F. Rule
Daniel J. Howley
Derek W. Moore
Rebecca Weinstein
RULE GARZA HOWLEY LLP
901 7th Street NW
Washington, D.C. 20001
(202) 843-9280
campbell@rulegarza.com
rule@rulegarza.com
howley@rulegarza.com
moore@rulegarza.com
weinstein@rulegarza.com

Jennifer Milici
Perry A. Lange
John W. O'Toole
WILMER CUTLER PICKERING
HALE AND DORR LLP
2100 Pennsylvania Ave. NW
Washington, D.C. 20037
Telephone: (202) 663-6000
Facsimile: (202) 663-6363
jennifer.milici@wilmerhale.com
perry.lange@wilmerhale.com
john.otoole@wilmerhale.com

Counsel for Express Scripts, Inc., Evernorth Health, Inc., Medco Health Services, Inc., and Ascent Health Services LLC

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[PROPOSED] ORDER ON ESI RESPONDENTS' MOTION FOR DISCOVERY PURSUANT TO RULE 3.36

Upon consideration of ESI Respondents' Motion for Discovery Pursuant to Rule 3.36:

IT IS HEREBY ORDERED that ESI Respondents' motion is GRANTED.

IT IS HEREBY FURTHER ORDERED that ESI Respondents are authorized to issue the subpoena to the Department of Defense attached as Exhibit A of the Motion.

ORDERED:

_____

D. Michael Chappell
Chief Administrative Law Judge

Date: _____

PUBLIC

CERTIFICATE OF SERVICE

I hereby certify that on December 17, 2024, I filed the foregoing document electronically using the FTC's E-Filing system, which will send notification of filing to:

April Tabor
Secretary
Federal Trade Commission
600 Pennsylvania Ave., NW, Rm H-113
Washington, DC 20580
ElectronicFilings@ftc.gov

The Honorable D. Michael Chappell
Office of Administrative Law Judges
Federal Trade Commission
600 Pennsylvania Ave. NW, Rm. H-110
Washington, DC 20580
oalj@ftc.gov

I further certify that on December 17, 2024, I caused the foregoing document to be served via email to:

Rebecca L. Egeland
Bradley S. Albert
Armine Black
Federal Trade Commission
600 Pennsylvania Ave. NW
Washington, DC 20580
Email: regeland@ftc.gov
Tel: (202) 326-2990
regeland@ftc.gov
balbert@ftc.gov
ablack1@ftc.gov
1035-Insulin-DL@ftc.gov

Counsel Supporting the Complaint

Mike Cowie
Rani A. Habash
DECHERT LLP
1900 K Street NW
Washington, DC 20006
Tel: 202-261-3339
mike.cowie@dechert.com
rani.habash@dechert.com

Enu Mainigi
Craig Singer
Steven Psyer
WILLIAMS & CONNOLY LLP
680 Maine Ave. SW
Washington, DC 20024
Tel: 202-434-5420
emaingini@wc.com
csigner@wc.com
spyser@wc.com

Counsel for Respondents Caremark Rx LLC; Zinc Health Services, LLC

Sophia A. Hansell
Michael J. Perry
Matthew C. Parrott
GIBSON, DUNN & CRUTCHER LLP
1700 M Street NW
Washington, DC 20006
Tel: 202-887-3625
SHansell@gibsondunn.com
MJPerry@gibsondunn.com
MParrott@gibsondunn.com

Counsel for Respondents OptumRx, Inc.; OptumRx Holdings, LLC; and Emisar Pharma Services LLC