



March 20, 2024

**Sent Via Email and U.S. Mail**

Brian Hermreck  
Strategic Account Director  
CVS Health  
2100 E Lake Cook Rd  
Buffalo Grove, Illinois 60089

Re: Addressing Caremark's Failure to Disclose Conflicts of Interest

Dear Mr. Hermreck:

I write to address the failure of CaremarkPCS Health, L.L.C. ("Caremark"), to disclose certain conflicts of interest to the North Carolina State Health Plan for Teachers and State Employees ("Plan"; together, the "Parties") prior to action taken by the Plan's Pharmacy and Therapeutics Committee ("P&T Committee").

The Plan seeks to foster an environment of transparency and openness in all of its business, and desires vendors who support and cooperate with that goal. To this end, the contract between the Parties, which is comprised of the items delineated in Section 4.13 of Request for Proposal 270-20210521PBMS ("Contract"), requires Caremark to disclose certain of its business relationships to the Plan when those relationships may create a conflict of interest. Section 2.8(p) of the Contract defines a conflict of interest as:

Situations or circumstances through which [Caremark], or entities or individuals closely affiliated with Caremark, will derive, or reasonably may be perceived as deriving, direct financial or pecuniary benefit from its performance of this Contract other than through the compensation received according to the Contract for performance of the Contract, or that might impair, or reasonably be perceived as impairing, [Caremark]'s ability to perform this Contract in the best interests of the State.

Moreover, Section 4.15 of the Contract provides that "[b]y signing the Execution Page, [Caremark] certifies that it shall not take any action or *acquire any interest*, either directly or indirectly, that will conflict in any manner or degree with the performance of its Services during the term of the Contract." To ensure Caremark complies with these requirements, the Contract requires Caremark to:

a) Disclose any relationship to any business or associate with whom [Caremark] is currently doing business that creates or may give the appearance of a Conflict of Interest related to this RFP.

....

f) Notify the Plan in writing within fifteen (15) calendar days of any material change in disclosures or certifications made under this section for the duration of the contract.

Contract, Section 4.15(a), (f). Thus, if one of Caremark's business relationships creates or gives the appearance of a conflict of interest, Caremark is required to notify the Plan in writing of that relationship. The Bylaws of the P&T Committee likewise reflect the Plan's goal of transparency by requiring disclosure of conflicts of interest related to the P&T Committee's business as well.

In August of 2023, Plan staff received Caremark's broadly distributed marketing email regarding the launch of Cordavis, Ltd. ("Cordavis"), a wholly-owned subsidiary of CVS Health<sup>1</sup> that would work with manufacturers to bring biosimilar products to market. Although this email contained information about the relationship between CVS Health and Cordavis, it was not sufficient to qualify as notice of a conflict of interest under the Contract.

During the October 11, 2023, meeting of the P&T Committee, Caremark recommended that the Plan add Hyrimoz, a biosimilar for Humira, to the formulary with coverage effective January 1, 2024. Hyrimoz is manufactured by Sandoz, Inc., in conjunction with Cordavis. At this meeting, the P&T Committee accepted Caremark's recommendation. Caremark did not disclose any conflicts of interest before or during this meeting.

As early as February 15, 2024, Caremark recommended that the Plan exclude Humira from the Plan's formulary, thus removing coverage of Humira under the Plan. At this time, Caremark still did not disclose any conflicts of interest related to Hyrimoz and Cordavis. During the February 21 Meeting, representatives from Caremark reiterated the recommendation to exclude Humira from the formulary.

Again, no conflicts of interest were disclosed. At this time, a member of the P&T Committee expressed concern about Hyrimoz and the relationship between Cordavis and CVS Health. When asked, representatives from Caremark admitted that every time Hyrimoz is purchased, a portion of the payment will go to Cordavis. The P&T Committee voted to accept Caremark's recommendation to exclude Humira at this meeting.

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<sup>1</sup> As you know, Caremark, the entity with which the Plan is contracted, is also a wholly-owned subsidiary of CVS Health.

Such a business relationship is a clear conflict of interest and must have been disclosed when it arose. The terms of the Contract, as outlined above, are structured as such in order to foster a culture of ongoing disclosure in the Plan's relationships with its vendors, rather than leaving conflicts of interest to be discovered by the Plan on an individual basis as they become relevant.

Doing so is important to the Plan because it gives the Plan a complete and accurate picture of the situation before it, which allows the Plan to make the best, most informed decision on behalf of its members. Being deprived of this information harms the Plan by impeding staff in the proper performance of their duties, including those who have fiduciary duties to the Plan.

After discussion with representatives from Caremark before the February 21 Meeting, it is the Plan's understanding that Caremark would disclose conflicts more appropriately per the terms of the Contract. If Caremark has failed to disclose any other conflicts of interest that must be disclosed under the Contract, the Plan requests that Caremark update its disclosures made pursuant to Section 4.15(a) of the Contract within fifteen (15) days.

The Plan also requests that, (1) at least fifteen (15) days prior to any meetings of the Plan's Board of Trustees or the P&T Committee in which Caremark is participating, or (2) prior to execution of any Administrative Decision Memos, Caremark notify the Plan, in writing, of any known or suspected conflicts of interest that Caremark has which are relevant to the business occurring or described therein.

Sincerely,

A handwritten signature in black ink, appearing to read "Sam Watts", with a stylized flourish at the end.

Sam Watts  
Executive Administrator  
North Carolina State Health Plan  
for Teachers and State Employees