

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

COVENTRY HEALTH CARE, INC., et al.,
Plaintiffs,
v.
CAREMARK, INC.,
Defendant.
Civil Action No. 3:09-cv-1009
Judge Thomas A. Wiseman, Jr.

ORDER

Before the Court is Defendant Caremark, Inc.'s Motion for Summary Judgment (Doc. No. 79), asserting that Caremark is entitled to judgment as a matter of law in its favor, both as to Coventry's claims in its Complaint and as to Caremark's own counterclaims. In their response to Caremark's motion, Plaintiffs concede that the claim for a declaratory judgment has been mooted by the termination of the parties' contractual relationship, but otherwise denies that Caremark is entitled to summary judgment.

Given Plaintiffs' concession, the Court hereby GRANTS summary judgment to Caremark with respect to the declaratory injunction claim only, and that claim is DISMISSED.

As for the other claims pending in this matter, the Court finds as a matter of federal law that Caremark's assertion that it was required by law to process and pay all DoD pharmacy claims as if they were "in-network" is not entirely accurate, as discussed in greater detail in the accompanying Memorandum Opinion. Further, the facts viewed in the light most favorable to Coventry, for purposes of summary judgment, lead the Court to conclude that Caremark has not established either that it did not breach the parties' contract or that Coventry waived Caremark's compliance with the agreement in regards to the treatment of DoD pharmacy claims. Caremark's motion for summary judgment is therefore DENIED insofar as it seeks judgment in its favor as to Plaintiffs' breach-of-contract claims and Caremark's own counterclaims for breach of contract and declaratory judgment.

It is so ORDERED. This matter remains set for trial to begin May 10, 2011.

Thomas A. Wiseman, Jr.
Senior U.S. District Judge