

## **CVS Caremark Corporation Settles FTC Deceptive Pricing Charges** **Many Seniors and Disabled Consumers Hit** **With Higher Prices for Prescription Drugs**

### [CVS Caremark Corporation](#)

(<http://www.ftc.gov/os/caselist/1123210/120112cvssagreeorder.pdf>) will pay \$5 million to settle Federal Trade Commission charges that it misrepresented the prices of certain Medicare Part D prescription drugs – including drugs used to treat breast cancer symptoms and epilepsy – at CVS and Walgreens pharmacies. The allegedly deceptive claims caused many seniors and disabled consumers to pay significantly more for their drugs than they expected and pushed them into the "donut hole" – a term referring to the coverage gap where none of their drug costs are reimbursed – sooner than they anticipated or planned. The settlement will bar deceptive claims related to Medicare Part D drug prices and require CVS Caremark to pay \$5 million to reimburse affected Medicare Part D consumers for the price discrepancy.

"This settlement puts money back in the pockets of older Americans who struggle to pay for their medications," said FTC Chairman Jon Leibowitz. "With the cost of health care on the rise, the FTC is especially focused on protecting consumers from any deceptive claims that would cause them to pay more than they should."

According to the FTC [complaint](#)

(<http://www.ftc.gov/os/caselist/1123210/120112cvscmpt.pdf>), CVS Caremark offers Medicare Part D prescription drug plans through subsidiaries like RxAmerica, which CVS Caremark acquired in October 2008. Many consumers choose their Medicare Part D drug plans by looking up plan benefits and drug prices on RxAmerica's website, by going to the Centers for Medicare & Medicaid Services website and using the web-based tool Plan Finder, or by visiting other third-party websites where such information is posted.

The FTC charged that from 2007 through at least November 2008, RxAmerica posted on its website and supplied for posting to Plan Finder and third-party websites incorrect prices for Medicare Part D prescription drugs at two pharmacy chains, CVS and Walgreens. In some instances, the actual prices for these drugs were as much as 10 times more than the posted prices. As a consequence of the deceptive price claims, many elderly and disabled consumers chose RxAmerica plans and paid significantly more than they expected for their drugs at CVS and Walgreens, the FTC alleged.

The proposed settlement order bars CVS Caremark from misrepresenting the price or cost of Medicare Part D prescription drugs or other prices or costs associated with Medicare Part D prescription drug plans. It requires that CVS Caremark pay \$5 million in consumer refunds. The FTC will be mailing checks to eligible consumers who were harmed by these misrepresentations after the order becomes final. The settlement also contains standard record-keeping provisions to allow the FTC to monitor compliance with its order.

After a thorough and comprehensive review of other consumer protection and competition issues in this matter, the FTC issued a [letter](http://www.ftc.gov/os/closings/120112cvsclosingletter.pdf) (<http://www.ftc.gov/os/closings/120112cvsclosingletter.pdf>) closing the investigation.

The Commission vote to accept the consent agreement package containing the proposed consent order for public comment was 4-0. The Commission voted separately, also by a 4-0 margin, to close the investigation into other consumer protection and competition issues, and to approve and issue the closing letter. The FTC will publish a description of the consent agreement package in the Federal Register shortly. The agreement will be subject to public comment for 30 days, beginning today and continuing through Feb. 13, 2012, after which the Commission will decide whether to make the proposed consent order final. Interested parties can submit written comments electronically or in paper form by following the instructions in the "Invitation To Comment" part of the "Supplementary Information" section. Comments in electronic form should be submitted using the following Web link: <https://ftcpublic.commentworks.com/ftc/cvscaremarkcorpconsent> and following the instructions on the web-based form. Comments in paper form should be mailed or delivered to: Federal Trade Commission, Office of the Secretary, Room H-113 (Annex D), 600 Pennsylvania Avenue, N.W., Washington, DC 20580. The FTC is requesting that any comment filed in paper form near the end of the public comment period be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

**NOTE:** The Commission issues an administrative complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. The complaint is not a finding or ruling that the respondent has actually violated the law. A consent agreement is for settlement purposes only and does not constitute an admission by the respondent that the law has been violated. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of up to \$16,000.

The Federal Trade Commission works for consumers to prevent fraudulent, deceptive, and unfair business practices and to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC's online [Complaint Assistant](https://www.ftccomplaintassistant.gov/) (<https://www.ftccomplaintassistant.gov/>) or call 1-877-FTC-HELP (1-877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 2,000 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's website provides free information on a variety of [consumer topics](http://www.ftc.gov/bcp/consumer.shtm) (<http://www.ftc.gov/bcp/consumer.shtm>). Like the FTC on [Facebook](#) and follow us on [Twitter](#).

Letter: <http://www.ftc.gov/os/closings/120112cvsclosingletter.pdf>