

PUBLIC

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

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In the Matter of)	
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Caremark Rx, LLC,)	
)	
Zinc Health Services, LLC,)	
)	
Express Scripts, Inc.,)	
)	
Evernorth Health, Inc.,)	
)	DOCKET NO. 9437
Medco Health Services, Inc.,)	
)	
Ascent Health Services LLC,)	
)	
OptumRx, Inc.,)	
)	
OptumRx Holdings, LLC, and)	
)	
Emisar Pharma Services LLC,)	
)	
Respondents.)	
)	

ORDER ISSUING AMENDED SCHEDULING ORDER #3

The parties’ December 23, 2025 joint motion seeking issuance of an Amended Scheduling Order is **GRANTED**. The Amended Scheduling Order is revised as follows:

October 1— November 19, 2025	Stay Order in Effect due to Government Shutdown.
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December 5, 2025	Deadline for parties to serve document requests, interrogatories, and subpoenas <i>duces tecum</i> , except for discovery directed to witnesses who did not appear on either side's preliminary lists—provided that the discovery is propounded within two weeks of that witness's disclosure.
December 5, 2025	Deadline for parties to serve discovery for purposes of authenticity and admissibility of exhibits.
December 23, 2025	<p>Deadline for Complaint Counsel to remove placeholders from its preliminary proposed witness list for all non-party witnesses and any witnesses affiliated with a Respondent group that has substantially completed document productions by December 9, 2025.</p> <p>For any Respondent group that has not substantially completed document production by December 9, 2025, the deadline for Complaint Counsel to remove placeholders for witnesses affiliated with that Respondent group is two weeks after the date that Respondent group has substantially completed its document production.</p>
January 9, 2026	Deadline for Respondents to remove placeholders from their preliminary proposed witness list.
January 15, 2026	Joint Status Report #1.
January 23, 2026	Deadline for parties to serve subpoenas <i>ad testificandum</i> , except for discovery directed to witnesses who did not appear on either side's preliminary lists—provided that the discovery is propounded within two weeks of that witness's disclosure.
February 2, 2026	Deadline for parties to serve requests for admissions, except for requests for admissions for purposes of authenticity and admissibility of documents.
March 2, 2026	Close of fact discovery, except for discovery permitted under Rule 3.24(a)(4), depositions of experts, and discovery for purposes of authenticity and admissibility of exhibits.
March 18, 2026	Complaint Counsel serves expert witness reports.
March 27, 2026	Joint Status Report #2, including parties' proposed stipulations of fact.

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April 1, 2026	<p>Complaint Counsel serves final proposed witness and exhibit lists, including depositions, copies of all proposed exhibits (except for demonstrative, illustrative, or summary exhibits and expert-related exhibits), the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.</p> <p>Complaint Counsel's final proposed witness list shall include no more than 25 fact witnesses.</p> <p>Complaint Counsel provides the Administrative Law Judge (ALJ) with courtesy copies of final proposed witness and exhibit lists, the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including expert witnesses.</p>
April 15, 2026	Respondents serve expert witness reports. Respondents' expert reports shall include (without limitation) rebuttal, if any, to Complaint Counsel's expert witness report(s).
April 24, 2026	<p>Respondents serve final proposed witness and exhibit lists, including depositions, copies of all proposed exhibits (except for demonstrative, illustrative, or summary exhibits and expert-related exhibits), the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness.</p> <p>Respondents' final proposed witness list shall include no more than 15 fact witnesses per Respondent group. Respondent groups may examine other Respondent group's witnesses.</p> <p>Respondents provide the ALJ with courtesy copies of final proposed witness and exhibit lists, the basis of admissibility for each proposed exhibit, and a brief summary of the testimony of each witness, including expert witnesses.</p>
April 28, 2026	Case Management Conference #1 at 10:00 a.m. Eastern Time.
May 1, 2026	Parties intending to offer confidential materials of an opposing party or non-party as evidence at the hearing must

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	provide notice to the opposing party or non-party, pursuant to 16 C.F.R. § 3.45(b). ¹
May 6, 2026	Complaint Counsel to identify rebuttal expert witness(es) and serve rebuttal expert witness report(s). Any such reports are to be limited to rebuttal of matters set forth in Respondents' expert witness reports. If material outside the scope of fair rebuttal is presented, Respondents will have the right to seek appropriate relief (such as striking Complaint Counsel's rebuttal expert witness report(s) or seeking leave to submit surrebuttal expert witness report(s)).
May 15, 2026	Joint Status Report #3, which shall include, if not already determined, the parties' positions on an equitable allocation of time at the Evidentiary Hearing and any related Hearing procedures.
May 18, 2026	Case Management Conference #2 at 10:00 a.m. Eastern Time.
May 19, 2026	Deadline to file motions for <i>in camera</i> treatment of proposed trial exhibits. <i>See</i> Additional Provision 18.
May 26, 2026	Deadline for parties to depose expert witnesses (including rebuttal expert witnesses) and exchange expert-related proposed exhibits.
May 26, 2026	Deadline for parties to file responses to motions for <i>in camera</i> treatment of proposed exhibits. <i>See</i> Additional Provision 18.
May 26, 2026	Complaint Counsel files pretrial brief supported by legal authority.
May 27, 2026	Deadline for parties to file motions <i>in limine</i> to preclude admission of evidence. <i>See</i> Additional Provision 19.

¹ The Standard Protective Order states that if a party or third party wishes *in camera* treatment for a document or transcript that a party intends to introduce into evidence, that party or third party shall file an appropriate motion with the ALJ within five days after it receives notice of a party's intent to introduce such material. Appendix A to Commission Rule 3.31. Commission Rule 3.45(b) states that parties who seek to use material obtained from a third party subject to confidentiality restrictions must demonstrate that the third party has been given at least ten days' notice of the proposed use of such material. To resolve this apparent conflict, this Scheduling Order requires that the parties provide at least ten days' notice to the opposing party or third parties to allow for the filing of motions for *in camera* treatment.

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June 2, 2026	Deadline for parties to file responses to motions <i>in limine</i> to preclude admission of evidence. <i>See</i> Additional Provision 19.
June 2, 2026	<p>Parties exchange objections to final proposed witness lists and exhibit lists, serving courtesy copies on the ALJ.</p> <p>Parties are to review the Commission's Rules on the admissibility of evidence before filing objections to exhibits and only raise objections that are necessary and valid.</p>
June 9, 2026	Parties exchange proposed stipulations as to law, facts (beyond those previously stipulated), the admissibility of proposed exhibits, and the expertise of any expert witnesses.
June 9, 2026	Each Respondent group files its pretrial brief supported by legal authority.
June 15, 2026	<p>Final prehearing conference begins at 10:00 a.m. Eastern Time. The parties shall meet and confer prior to the final prehearing conference regarding trial logistics and proposed stipulations as to law, facts, admissibility of exhibits, and expertise of any expert witnesses.</p> <p>To the extent the parties have agreed to stipulate to any issues of law, facts, admissibility of exhibits, and/or expertise of any expert witnesses, the parties shall prepare a list of such stipulations and submit a copy of the stipulations to the ALJ one business day prior to the final prehearing conference. At the final prehearing conference, the parties' list of stipulations shall be marked as "JX1" and signed by each party, and the list shall be offered into evidence as a joint exhibit. No signature by the ALJ is required. Any subsequent stipulations may be offered as agreed to by the parties.</p> <p>Also at the final prehearing conference, the parties may present any objections to the final proposed witness lists and proposed exhibits. All proposed exhibits will be admitted or excluded to the extent practicable. To the extent the parties agree to the admissibility of proposed exhibits, the parties shall prepare a list identifying each proposed exhibit to which admissibility is stipulated, which shall be offered into evidence as a joint exhibit marked as "JX2" and signed by each party. No signature by the ALJ is required.</p>
June 17, 2026	Evidentiary Hearing begins at 10:00 a.m. Eastern Time.

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All Additional Provisions in the September 29, 2025 Amended
Scheduling Order are unchanged and remain in effect.

ORDERED:

Jay L. Himes
Jay L. Himes
Administrative Law Judge

Date: December 29, 2025