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J&J Accused of Mismanaging Its Employees' Drug Benefits

The novel lawsuit by a J&J worker alleges employees overpaid for some drugs

By [Melanie Evans](#) [Follow](#) and [Anna Wilde Mathews](#) [Follow](#)

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A [Johnson & Johnson](#) employee has accused the company of mismanaging its workers' prescription-drug benefits, a new tack in efforts to hold employers accountable for high medicine costs.

The lawsuit, filed Monday in a federal court in New Jersey, alleged J&J didn't make enough effort to get its workers a good deal for prescription drugs, and the employees overpaid for some generic drugs designated as specialty medications by millions of dollars.

The lawsuit asks J&J to make good on losses to the employees' health plan from alleged mismanagement, but doesn't stipulate a sum.

J&J, of New Brunswick, N.J., declined to comment.

The suit, which lawyers said was among the first of its type to be filed, opens a new front in a growing battle over transparency and cost in the management of employers' health and drug benefits.

Already, some big employers have sued the insurers that administer their health benefits, alleging that they didn't fully disclose how the money was being used and mismanaged the funds.

"This is the first suit of its kind that we're aware of," Elizabeth Mitchell, chief executive of the Purchaser Business Group on Health, which represents employers, said about the J&J lawsuit. "It definitely will not be the last."

Mitchell said her group has been holding educational sessions with members for months, urging them to take steps to get ahead of potential legal scrutiny around their health and drug benefit setups.

J&J is among employers that directly fund their workers' health benefits, rather than paying premiums to an insurance company to do it. Under the federal Employee Retirement Income Security Act of 1974, such employers have a fiduciary duty to prudently manage the funds.

The lawsuit was brought by Ann Lewandowski, who was J&J's healthcare policy and advocacy director for Wisconsin and Minnesota but is now, the suit said, on leave in a dispute over reasonable accommodation for a medical condition.

Fairmark Partners, a Washington, D.C.-based firm that received backing from a philanthropy founded by ex-energy trader John Arnold for [antitrust lawsuits against hospitals](#), filed the lawsuit on Lewandowski's behalf.

The lawsuit alleged J&J violated the company's fiduciary duty under Erisa. J&J's mismanagement of the drug benefits resulted in "higher payments for prescription drugs, higher premiums, higher deductibles, higher coinsurance, higher copays, and lower wages or limited wage growth," the lawsuit said.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ANN LEWANDOWSKI, on her own behalf
and on behalf of all others similarly situated,

Plaintiff,

v.

JOHNSON AND JOHNSON, THE
PENSION & BENEFITS COMMITTEE OF
JOHNSON AND JOHNSON, PETER
FASOLO, WARREN LUTHER, LISA
BLAIR DAVIS, and DOES 1-20.

Defendants.

Civil Action No. _____

JURY TRIAL DEMANDED

CLASS ACTION COMPLAINT

Plaintiff Ann Lewandowski, individually, and on behalf of all others similarly situated, brings this action under 29 U.S.C. § 1132 against Defendants Johnson and Johnson; The Pension & Benefits Committee of Johnson and Johnson; and the members of the Pension & Benefits Committee of Johnson and Johnson, including Peter Fasolo, Warren Luther, and Lisa Blair Davis, for breaches of fiduciary duties and other violations under the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. §§ 1001-1461, and states as follows: