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## LabCorp Hit With Antitrust Suit Over Del. Medicaid Services

By **RJ Vogt**

Law360 (April 24, 2018, 8:03 PM EDT) -- A Delaware health care laboratory services startup has hit LabCorp and one of the state's Medicaid service management organizations with a \$50 million antitrust and fraud lawsuit, claiming the government contractor conspired to make LabCorp the state's only Medicaid lab service provider at the expense of patients.

Prescient Medicine Holdings LLC specifically said on Friday that AmeriHealth Inc. delayed approving its application to provide lab services for one of Delaware's largest nonprofits before eventually revealing that it had decided to work exclusively with Laboratory Corporation of America Holdings.

"The conspiracy ... has become even more egregious as various health care providers in Delaware have expressed dissatisfaction with the services being provided by LabCorp, [and] have contracted directly with Prescient to provide laboratory services only to be thwarted by AmeriHealth's apparent 'business decision' to have only one 'in network' laboratory service provider — LabCorp," the complaint said. "The end result for health care providers and Medicaid patients in Delaware ... [is] poorer quality and higher priced healthcare."

The complaint also noted that Prescient is not the only health care company to accuse LabCorp of anti-competitive Sherman Act violations, citing a separate suit in Pennsylvania federal court that claims LabCorp entered into an exclusive dealing agreement with that state's most dominant health care provider.

Counsel for Prescient, Daniel W. Tarpey of Tarpey Wix LLC, told Law360 on Tuesday that the "old boys club" of laboratory testing services is one of the problems contributing to America's soaring health care costs.

"These collusive efforts are preventing groundbreaking tests from getting out into the market," Tarpey said.

Representatives for LabCorp declined to comment Tuesday and representatives for AmeriHealth did not immediately respond to a request for comment.

According to Prescient, LabCorp's dominant U.S. market share creates a barrier to market entry for startups like itself. Founded in 2014, the company says it provides "cutting edge" lab services that include "predictive insights so doctors and patients have data they need."

One such service is LifeKit Predict, an advanced genetic testing that assists providers in identifying individual risk for addiction, including a patient's risk of growing addicted to opioids. Prescient said Connections Community Support Programs Inc. — which provides health care, housing and employment opportunities to vulnerable Delaware citizens including the homeless and incarcerated — expressed interest in the service and eventually decided to replace LabCorp with Prescient in early January.

But despite having signed a contract with Connections, Prescient's application for "in network" status with AmeriHealth — submitted in December 2017 — remained unapproved, according to Friday's filing. The company said AmeriHealth purposefully stalled the process before eventually sending an

email to inform Prescient that AmeriHealth had decided to only grant "in network" status to LabCorp.

Meanwhile, Prescient claims LabCorp Vice President of Sales Michael Schooley repeatedly lied about Prescient's capabilities to Connections. Specifically, the company alleges Schooley told Connections multiple times that if the organization decided to go with Prescient, "millions of dollars of Connections' claims relating to laboratory services would not be reimbursed."

Connections ended up going back to its deal with LabCorp after Prescient lost its bid for "in network approval," a loss of business Prescient says cost an expected \$50 million in revenue.

Prescient alleges that LabCorp and AmeriHealth's conduct violated the Sherman Act, the Clayton Act and the Delaware Deceptive Trade Practices Act, as well as constituted fraud, conspiracy, tortious and deliberate interference and business defamation. The suit seeks an injunction requiring AmeriHealth to grant Prescient "in network" status.

Prescient is represented by Richard H. Cross Jr. of Cross & Simon LLC, and Daniel W. Tarpey and Matthew M. Showel of Tarpey Wix LLC.

Counsel information for the defendants was not yet available.

The case is Prescient Medicine Holdings LLC v. Laboratory Corporation of America Holdings et al., case number 1:18-cv-00600, in the U.S. District Court for the District of Delaware.

The separate case in Pennsylvania is Medical Diagnostic Laboratories LLC v. Independence Blue Cross et al., case number 2:16-cv-05855, in the U.S. District Court for the Eastern District of Pennsylvania.

--Editing by Jack Karp.

*Correction: An earlier story misstated the amount of damages sought. The error has been corrected.*

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