

ACT 156 - 2024

BOARD OF LEGISLATORS COUNTY OF WESTCHESTER

Your Committee is in receipt of a proposed Act, which if enacted by your Board, would Request to authorize the County Attorney to commence an action on behalf of the County of Westchester against certain drug manufacturers and pharmacy benefit managers for anticompetitive activities and unlawful, unfair, and deceptive business practices related to insulin and other diabetic medication in the United States.

Because the conduct dates back to approximately 2003 and covers insulin medication widely used, the County's spending on these products – and thus potential damages in this suit, which can be trebled – is significant.

Lawsuits have already been filed against three drug manufacturers – Eli Lilly, Novo Nordisk and Sanofi-Aventis – and pharmacy benefit managers (“PBMs”) by various state attorneys general and counties throughout the nation seeking injunctive relief, punitive damages, restitution, disgorgement, penalties and other legal and equitable monetary remedies. The Judicial Panel on Multidistrict Litigation consolidated all federal Insulin Pricing Scheme lawsuits in the District of New Jersey before Judge Brian Martinotti.

It is alleged that since at least 2003, the manufacturers have been conspiring to artificially inflate their list prices and making undisclosed kickbacks to PBMs under the guise of rebates, discounts, credits or administrative fees.

The payments served as a quid pro quo for inclusion and favorable placement on the PBM formularies. The revenues generated by certain PBMS greatly surpassed the fair market value of the services they provided, and the kickbacks they received far exceeded the fair market value of those services.

The causes of action against the manufacturer and PBMs will include violations of the Racketeer Influenced and Corrupt Organizations Act (“RICO”), deceptive and unfair trade

practices, civil conspiracy, and unjust enrichment. Potential remedies sought will include compensatory damages, injunctive relief and punitive damages.

Your Committee has carefully considered the subject matter and the attached act and recommends authorizing the County Attorney to commence an action on behalf of the County of Westchester against certain drug manufacturers and pharmacy benefit managers for anticompetitive activities and unlawful, unfair, and deceptive business practices related to insulin and other diabetic medication in the United States.

An affirmative vote of a majority of the Board is required to pass this legislation.

Dated: White Plains, New York
September 4th, 2024

James J. Kelly
John J. ...
...
...
...
...
...
...
...

Demetrius ...
...
...
...

COMMITTEE ON

Budget & Appropriations

Law & Major Contracts

Dated: September 4, 2024
White Plains, New York

The following members attended the meeting remotely and approved this item out of Committee with an affirmative vote. Their electronic signature was authorized and is below.

Emiljana Ulag

COMMITTEE ON

Law & Major Contracts

FISCAL IMPACT STATEMENT

SUBJECT: County v. Manufacturers of Insulin NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND AIRPORT FUND SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ _____ -

Total Current Year Revenue \$ _____ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations Other (explain)

Identify Accounts: N/A

Potential Related Operating Budget Expenses: Annual Amount N/A

Describe: An act authorizing the County Attorney to commence an action on behalf of the County of Westchester against certain drug manufactures and pharmacy benefit managers for anticompetitive activities and unlawful, unfair and deceptive businesses practices related to insulin.

Potential Related Operating Budget Revenues: Annual Amount N/A

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: N/A

Next Four Years: N/A

Prepared by: Patricia Haggerty

Title: Sr. Budget Analyst

Department: Budget

Date: July 25, 2024

Reviewed By: *Christine Ruppel*

Budget Director

Date: 7/25/24

ACT NO. 156 - 2024

AN ACT authorizing the County Attorney to commence an action on behalf of the County of Westchester against certain drug manufacturers and pharmacy benefit managers for anticompetitive activities and unlawful, unfair, and deceptive business practices related to insulin and other diabetic medication in the United States.

BE IT ENACTED by the Board of Legislators of the County of Westchester as follows:

Section 1. The County Attorney is hereby authorized to commence an action on behalf of the County of Westchester against certain drug manufacturers and pharmacy benefit managers for anticompetitive activities and unlawful, unfair, and deceptive business practices related to insulin and other diabetic medication in the United States.

Section 2. The County Attorney or his duly designated representative is hereby authorized to undertake such legal proceedings and prepare all documents necessary or desirable to accomplish the purpose of this Act.

Section 3. This Act shall take effect immediately.

STATE OF NEW YORK)
) ss.
WESTCHESTER COUNTY)

I HEREBY CERTIFY that I have compared the foregoing Act, Act No. 156 - 2024, with the original on file in my office, and that the same is a correct transcript therefrom, and of the whole, of the said original Act, which was duly adopted by the County Board of Legislators, of the County of Westchester on September 16, 2024, and approved by the County Executive on September 17, 2024.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Corporate Seal of said County Board of Legislators on this 18th day of September, 2024.



Malika Vanderberg

The Clerk of the Westchester County
Board of Legislators

County of Westchester, New York

