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Prescription Drugs | Medco Ordered To Pay \$7.8M to Ohio Teachers Retirement System

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An Ohio jury has ordered pharmacy benefit manager [Medco Health Solutions](#) to pay the board of the [State Teachers Retirement System of Ohio](#), a former client, \$7.8 million for breach of fiduciary duty and fraud, the *Wall Street Journal* reports (Martinez, *Wall Street Journal*, 12/20). The lawsuit, filed by the Ohio attorney general in 2003, alleges that Medco overcharged the retirement system from 1981 to 2002 (*Kaiser Daily Health Policy Report*, 11/10). According to the lawsuit, filed in the Court of Common Pleas in Hamilton County, Ohio, Medco also improperly withheld pharmaceutical company rebates from the retirement system. The lawsuit sought \$153 million in damages. After nearly three days of deliberations, the jury decided that Medco breached fiduciary duty to the retirement system in the amount of \$915,000. The jury also found Medco liable for "constructive fraud" and awarded the retirement system related damages of \$6.9 million. The jury did not reach a decision on punitive damages or on the issue of whether Medco improperly withheld rebates from the retirement system. In addition, the jury found [Merck](#) liable because Merck owned Medco until 2003, but Medco has agreed to indemnify Merck in such cases. Medco plans to appeal the decision. "The verdict is the first time a U.S. jury has recognized that a company managing pharmacy benefits has a legal duty to act in the best interest of retirees and pensioners," Ohio Attorney General Jim Petro (R) said in a statement. The Medco general counsel said in a statement, "Although the award was a fraction of the claim made by the plaintiffs, we believe there are multiple grounds for Medco to successfully reverse this decision on appeal." A Merck spokesperson said, "We believe this case was wrongly decided. There was no evidence produced in this case against Merck and no basis on which to conclude that Merck's conduct" was illegal (*Wall Street Journal*, 12/20).