



State of North Carolina

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North Carolina Senate President Pro Tempore Phil Berger
North Carolina House of Representatives Speaker Thom Tillis
Co-Chairs, Joint Legislative Commission on Governmental Operations

Senator Stan Bingham
Senator Thom Goolsby
Senator Buck Newton
Representative Jamie Boles
Representative N. Leo Daughtry
Representative John Faircloth
Representative Pat Hurley
Co-Chairs, Appropriations Subcommittee on Justice and Public Safety

North Carolina General Assembly
Raleigh, North Carolina 27601-1096

Re: G.S. §114-2.5; Report on Settlement Agreement for Kmart Corporation
G.S. §114-2.5; Report on Settlement Agreement for Wyeth
Pharmaceuticals, Inc.
G.S. §114-2.5; Report on Settlement Agreement for Ranbaxy, Inc.
G.S. §114-2.5; Report on Settlement Agreement for Amgen, Inc.

Dear Members:

G.S. §114-2.5 requires the Attorney General to report to the Joint Legislative Commission on Governmental Operations and the Chairs of the Appropriations Subcommittees on Justice and Public Safety regarding all settlements and court orders which result in more than \$75,000.00 being paid to the State. Pursuant to that statute, I am writing regarding the settlement of claims for Medicaid reimbursement to the State and Federal governments in the above-referenced matters. Pursuant to federal law (42 C.F.R. § 433.320) recoveries in these cases are shared on a pro rata basis by the State and Federal governments.

Kmart Corporation

A Settlement Agreement has been executed between Kmart and the State of North Carolina. Kmart is a Michigan corporation with its principal place of business in Hoffman Estates, Illinois. Kmart, within its retail stores, operated a national pharmacy chain in 46 states and 3 territories of the United States. The settlement resolves allegations that from January 1, 2004 through October 17, 2005, Kmart billed Medicaid for certain full prescriptions when those prescriptions were only partially dispensed.

Under the terms of North Carolina's settlement, the State of North Carolina will recover \$99,127.64. Of that amount the federal government will receive \$63,474.98 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina Medicaid Program will receive \$25,039.14 as restitution and interest. In addition, pursuant to Article IX, Section 7 of the North Carolina Constitution and G.S. § 115C-457.1, the penalty portion of the settlement in the amount of \$9,205.34 will be paid to the Civil Penalty Forfeiture Fund for the support of North Carolina public schools. Pursuant to G.S. § 115C-457.2 and G.S. § 108A-70.12(b)(3), the North Carolina Department of Justice will receive \$1,408.18 for investigative costs and costs of collection.

Wyeth Pharmaceuticals, Inc.

A Settlement Agreement has been executed between Wyeth Pharmaceuticals and the State of North Carolina. Wyeth Pharmaceuticals, Inc. is a Delaware corporation headquartered in Collegeville, Pennsylvania. In October 2009, Pfizer, Inc. acquired Wyeth and Wyeth became a wholly owned subsidiary of Pfizer, Inc. Wyeth distributed, marketed and sold pharmaceutical products in the United States, including one sold under the trade name Rapamune. The settlement resolves allegations that from September 1999 through December 2011, Wyeth knowingly promoted the sale and use of Rapamune for uses for which it had not been approved by the Food and Drug Administration, including for use in connection with solid organ transplant patients other than kidney transplant patients, which were not medically-accepted indications, and were not covered by Medicaid.

Under the terms of North Carolina's settlement, the State of North Carolina will recover \$1,284,729.11. Of that amount the federal government will receive \$853,811.38 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina Medicaid Program will receive \$208,994.57 as restitution and interest. In addition, pursuant to Article IX, Section 7 of the North Carolina Constitution and G.S. § 115C-457.1, the penalty portion of the settlement in the amount of \$205,016.36 will be paid to the Civil Penalty Forfeiture Fund for the support of North Carolina public schools. Pursuant to G.S. § 115C-457.2 and G.S. § 108A-70.12(b)(3), the North Carolina Department of Justice will receive \$16,906.80 for investigative costs and costs of collection.

Ranbaxy, Inc.

A Settlement Agreement has been executed between Ranbaxy, Inc. and the State of North Carolina. Ranbaxy is a Delaware corporation. Ranbaxy distributed and sold pharmaceutical products in the United States that were manufactured at its facilities in Paonta Sahib, India and Dewas, India. The settlement resolves allegations that from April 1, 2003 through September 16, 2010, Ranbaxy knowingly submitted false statements to the FDA and failed to comply with current Good Manufacturing Practices resulting in systematic deficiencies in manufacturing plants located in Paonta, India and Dewas, India.

Under the terms of North Carolina's settlement, the State of North Carolina will recover \$8,792,991.10. Of that amount the federal government will receive \$5,760,106.46 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. Pursuant to G.S. § 1-610, the qui tam plaintiffs whose whistleblower actions brought this matter to the government's attention will receive \$626,875.38 of North Carolina's recovery. The North Carolina Medicaid Program will receive \$1,180,193.25 as restitution and interest. In addition, pursuant to Article IX, Section 7 of the North Carolina Constitution and G.S. § 115C-457.1, the penalty portion of the settlement in the amount of \$1,132,429.49 will be paid to the Civil Penalty Forfeiture Fund for the support of North Carolina public schools. Pursuant to G.S. § 115C-457.2 and G.S. § 108A-70.12(b)(3), the North Carolina Department of Justice will receive \$93,386.52 for investigative costs and costs of collection.

Amgen, Inc.

A Settlement Agreement has been executed between Amgen, Inc. and the State of North Carolina. Amgen is a Delaware corporation with its principal place of business in California. Amgen developed, manufactured, distributed, marketed and sold biologic products in the United States, including Enbrel, Aranesp, Epogen, Neulasta, Neupogen and Sensipar. The settlement resolves allegations that from January 1, 2001 through September 30, 2011, Amgen engaged in various illegal marketing practices to promote sales of Aranesp, Enbrel, Epogen, Neulasta, Neupogen and Sensipar and inaccurately reported and manipulated prices for these drugs.

Under the terms of North Carolina's settlement, the State of North Carolina will recover \$370,524.18. Of that amount the federal government will receive \$248,593.39 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina Medicaid Program will receive \$90,247.49 as restitution and interest. In addition, pursuant to Article IX, Section 7 of the North Carolina Constitution and G.S. § 115C-457.1, the penalty portion of the settlement in the amount of \$26,880.42 will be paid to the Civil Penalty Forfeiture Fund for the support of North Carolina public schools. Pursuant to G.S. § 115C-457.2 and G.S. § 108A-70.12(b)(3), the North Carolina Department of Justice will receive \$4,802.88 for investigative costs and costs of collection.

We will be happy to respond to any questions you may have regarding this report.

Very truly yours,


Kristi Hyman
Chief of Staff

cc: Kristine Leggett, NCGA Fiscal Research Division
Christy Agner, NCDOJ, Legislative Liaison
Nels Roseland, NCDOJ, Deputy Chief of Staff