



State of North Carolina

ROY COOPER
ATTORNEY GENERAL

Department of Justice
PO Box 629
Raleigh, North Carolina
27602

Phone: (919) 716-6400
Fax: (919) 716-6750

August 22, 2012

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 Harry Brown
Senator Thom Goolsby
Representative James Boles, Jr.
Representative Leo Daughtry
Representative Pat Hurley
Representative Shirley B. Randleman
Co-Chairs, Appropriations Subcommittees 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 McKesson Corporation

Dear Members:

Section 114-2.5 of the North Carolina General Statutes 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 matter. 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.

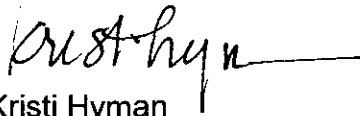
A Settlement Agreement has been executed between McKesson Corporation ("McKesson") and the State of North Carolina. McKesson is a Delaware corporation with its principal place of business in San Francisco, California. McKesson is a wholesaler of pharmaceutical products. The settlement resolves allegations that from August 1, 2001 through March 31, 2005, McKesson knowingly increased, to 25% over

Wholesale Acquisition Cost ("WAC") or over Direct Price ("DP"), the markups it reported to First DataBank ("FDB") for all brand-name, self administered prescription pharmaceuticals, without regard to the lower markups suggested by drug manufacturers for such drugs, and knowingly reported such 25% markups to FDB, when in fact: (1) prices with such markups did not accurately reflect the prices that McKesson actually charged its customers for such drugs; (2) McKesson knew that reporting such false and inflated markups to FDB would cause FDB to publish false and inflated Average Wholesale Prices ("AWPs") for such drugs; (3) McKesson knew that FDB described its published AWPs as being the product of wholesaler surveys and as reflecting actual prices that wholesalers charged their customers; and (4) McKesson knew that the State would and did use the published AWPs to reimburse providers for such drugs.

Under the terms of North Carolina's settlement, the State of North Carolina will recover \$21,842,255.15. Of that amount, the federal government will receive \$14,363,870.79 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 \$7,185,174.44 as restitution and interest. Pursuant to G.S. § 108A-70.12(b)(3), the North Carolina Department of Justice will receive \$293,207.92 for investigative costs.

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Kristi Hyman", followed by a horizontal line.

Kristi Hyman
Chief of Staff

KH:ng

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