



## State of North Carolina

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February 6, 2006

North Carolina Senate President Pro Tempore Marc Basnight  
North Carolina House of Representatives Speaker James Black  
Co-Chairs, Joint Legislative Commission on Governmental Operations  
North Carolina General Assembly  
Raleigh, North Carolina 27601-1096

RE: G.S. §114-2.5; Reports on Settlement Agreement for Serono, Inc.

Gentlemen:

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 on the payments being received by the State or a state agency. 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 CRS 433.320) recoveries in these cases are shared on a pro-rata basis by the State and Federal governments.

On October 19, 2005 a Settlement Agreement was executed between Serono, Inc. and the North Carolina Department of Justice. Serono, Inc. is a manufacturer of pharmaceutical products and is headquartered in Rockland, Massachusetts. Serono, Inc. manufactured and provided drugs for which the Medicaid Program made payment. The settlement covers the time period from January 1, 1997 through December 31, 2004. The State and Federal governments alleged that Serono, Inc. caused claims to be submitted to the Medicare and Medicaid Programs for the drug Serostim which were not reimbursable because they were tainted by illegal payments to physicians to influence prescribing of Serostim for uses not approved by the FDA. Pursuant to the Settlement Agreement, the United States received restitution, penalties, and interest in the amount of \$80,031.60. North Carolina received restitution, penalties, and interest in the total amount of \$40,980.70. The North Carolina Medicaid Program received restitution and interest in the amount of \$17,552.83. A portion of the state share will be returned to the affected counties based upon their financial participation in the Medicaid Program. 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 \$23,427.87 will be paid to the Civil Penalty Forfeiture Fund for

the support of the public schools.

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

Very truly yours,

Kristi Hyman  
Chief of Staff

KH:kds

cc: Denise Thomas, NCGA Fiscal Research Division  
Nels Roseland, NCDOJ, Deputy Chief of Staff