

Attorney General's office joins lawsuits against pharmaceutical manufacturer for

The Delaware Attorney General's Office announced today that it is joining the federal government, 14 states, and the District of Columbia in two whistleblower lawsuits in federal district court against the drug manufacturer Wyeth. The suits allege that Wyeth knowingly failed to report accurate pricing for its drugs Protonix Oral and Protonix IV and avoided paying hundreds of millions of dollars in rebates due to the Medicaid Program.

Congress created the Medicaid Drug Rebate Program in order to ensure that Medicaid received the benefit of the same discounts offered by drug manufacturers to large commercial customers in the marketplace. Under the program, drug manufacturers of branded drugs are required to report certain drug pricing information to the government, including the "Best Price" offered for their drugs, and to pay rebates to state Medicaid programs based on those reported prices. The Medicaid Program is one of the largest purchasers of drugs in the United States and the nation's provider of health insurance to the poor and the disabled.

Between 2000 and 2006, Wyeth offered steep discounts to thousands of hospitals nationwide for Protonix Oral and Protonix IV, which belong to a class of drugs known as proton pump inhibitors and are used to suppress stomach acid. These discounts were

offered to hospitals under a bundled pricing arrangement known as the Protonix Performance Agreement in order to gain access to the lucrative retail outpatient market. Under the Protonix Performance Agreement, hospitals that placed both products on their formularies and attained certain market share requirements were entitled to up to a 94% discount off the list price of Protonix Oral and up to 80% off the list price of Protonix IV.

Although Wyeth was required under the Medicaid Drug Rebate Program to determine the effective prices paid by hospitals under this arrangement and to pass along the lowest prices to state Medicaid programs, it failed to do so and therefore avoided paying hundreds of millions of dollars to Medicaid in rebates.

The Delaware Medicaid Fraud Control Unit played a significant role in the investigation of the allegations, including subpoenaing hundreds of thousands of documents from Wyeth and coordinating the review of those documents. Delawareans are urged to report suspected Medicaid fraud to the Attorney General's Medicaid Fraud Control Unit at (302) 577-5000.

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