



State of North Carolina

Department of Justice

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ATTORNEY GENERAL

May 5, 2003

North Carolina Senate President Pro Tempore Marc Basnight
North Carolina House of Representatives Speaker James Black
North Carolina House of Representatives Speaker Richard T. Morgan
Co-Chairs, Joint Legislative Commission on Governmental Affairs

Senator Scott Thomas
Representative R. Phillip Haire
Representative Joe L. Kiser
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 Agreements in Life, Inc. and LifeScan, Inc.

Gentlemen:

G.S. §114-2.5 requires the Attorney General to report to the Joint Committee 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 CRS 433.320) recoveries in these cases are shared on a pro-rata basis by the State and Federal governments.

On November 18, 2002 a Settlement Agreement was executed between Life, Inc., the United States Attorney's Office for the Eastern District of North Carolina, the United States Department of Health and Human Services, and the North Carolina Department of Justice. Life, Inc. operated Intermediate Care Facilities for the Mentally Retarded (ICF/MR) and provided ICF/MR services that were paid by the Medicaid Program. The State and Federal governments alleged that Life, Inc. submitted a cost report to the Medicaid Program for the fiscal year ending June 30, 1995 that failed to disclose that Life, Inc. and a leasing company, Victory Contract Services, Inc. (Victory), were related parties and that included unallowable costs for Life, Inc. leasing equipment and vehicles from Victory in excess of the cost to Victory. Pursuant to the Settlement Agreement, the United States received restitution and penalties in the amount of \$84,857.94 and the North Carolina Medicaid Program received \$18,114.06. The North Carolina

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Fund for Medical Assistance (Medicaid Program) will receive the full amount of the State share of the settlement proceeds. A portion of this amount will be returned to the affected counties based upon their financial participation in the Medicaid Program.

On March 20, 2003 a Settlement Agreement was executed between LifeScan, Inc. and the North Carolina Department of Justice. The State and Federal governments alleged that LifeScan, a subsidiary of Johnson & Johnson, Co., violated the federal Food and Drug Administration (FDA) statutes by marketing a defective blood glucose monitoring device which the company failed to disclose to customers or the FDA. The settlement covers the time period from July 1, 1996 to June 30, 1998. The United States received restitution and penalties in the amount of \$46,791.17. The North Carolina Medicaid Program received restitution and interest of \$16,464.95. 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 amount of \$16,464.94 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,


Julia White
Chief of Staff

JW:mkd

cc: Jim Johnson, Director of Fiscal Research