



## State of North Carolina

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ATTORNEY GENERAL

Department of Justice  
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November 9, 2004

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 Agreement for Schering Plough

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 being paid to the State. Pursuant to this 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 5, 2004 a Settlement Agreement was executed between Schering Plough Corporation and the North Carolina Department of Justice. The State alleged that Schering Plough violated the federal Medicaid drug rebate statute by failing to report "best price" information and their resulting failure to pay sufficient rebates to the North Carolina Medicaid Program in connection with pricing concessions given to certain health maintenance organizations. The settlement covers the time period from January 1, 1998 through December 31, 2000.

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The United States received restitution and penalties in the amount of \$9,699,102.18. North Carolina received restitution and penalties in the total amount of \$5,794,799.87. The North Carolina Medicaid Program received restitution of \$2,897,399.33. 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 \$2,897,399.93 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. Please feel free to contact me at (919) 716-6400.

Very truly yours,

Julia White  
Chief of Staff

JW:mkd

cc: Jim Johnson, NCGA Fiscal Research Division  
Chloe Gossage, NCGA Fiscal Research Division  
Nels Roseland, NCDOJ Chief Fiscal Officer