



State of North Carolina

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

Senator John Snow
Senator Ellie Kinnaird
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 SmithKline Beecham Corporation d/b/a GlaxoSmithKline

Dear Members:

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 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 CRS 433.320) recoveries in these cases are shared on a pro-rata basis by the State and Federal governments.

On August 10, 2006 a Settlement Agreement was executed between SmithKline Beecham Corporation d/b/a GlaxoSmithKline ("GSK") and the North Carolina Department of Justice. GSK is a manufacturer of pharmaceutical products with operations in Research Triangle Park, North Carolina and Philadelphia, Pennsylvania. GSK marketed and sold pharmaceutical products nationwide including the prescription drugs Zofran and Kytril, which are injectable anti nausea drugs used in connection with chemotherapy, for which the Medicare and Medicaid Programs made payment. The settlement covers the time period from January 1, 1994 through December 31, 2002. The State and Federal governments alleged that GSK increased its reported

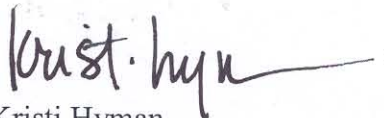
bench mark pricing data used by Medicare and Medicaid to set reimbursement amounts for its drugs Zofran and Kytril to create a "spread" between what purchasers actually paid and what Federal and State health care programs would pay. This "spread" could then be offered as an inducement to physicians and other drug purchasers to choose GSK products.

Pursuant to the Settlement Agreement, the United States and 38 states received restitution, penalties, and interest in the amount of \$149 million. Of this amount, North Carolina received restitution, penalties, and interest in the total amount of \$445,212.02. Of this amount, the North Carolina Medicaid Program received restitution and interest in the amount of \$222,606.01. 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 \$218,242.94 will be paid to the Civil Penalty Forfeiture Fund for the support of the public schools and \$4,363.07 to the North Carolina Department of Justice pursuant to N.C.G.S. 115C-457.2 for the costs of collection.

The settlement further requires GSK to report to the North Carolina Medicaid Program two certified and federally defined prices that are currently used in connection with the Medicaid rebate program and Medicare Part B reimbursement. Such prices were not previously available to the State, which can now use them to evaluate what it is paying for drugs and to determine if alternative reimbursement methodologies are necessary. GSK must also enter into a Corporate Integrity Agreement with the Office of the Inspector General of the U.S. Department of Health and Human Services, and submit to monitoring of the company's compliance with the agreement.

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 long horizontal flourish.

Kristi Hyman
Chief of Staff

KH:kds

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