



## State of North Carolina

Department of Justice  
PO Box 629  
Raleigh, North Carolina  
27602

Phone: (919) 716-6400  
Fax: (919) 716-6750

ROY COOPER  
ATTORNEY GENERAL

September 17, 2009

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

Senator John Snow  
Senator Ellie Kinnaird  
Representative Alice Bordsen  
Representative Jimmy Love  
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 GlaxoSmithKline  
(Amoxil)

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

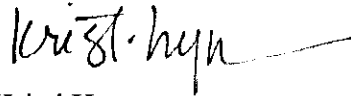
On August 30, 2006 the Attorney General reported to the General Assembly an August 10, 2006 Settlement Agreement between Smithkline Beecham Corporation, d/b/a Glaxosmithkline ("GSK") and the State of North Carolina regarding the alleged off-label marketing of the prescription drugs Zofran and Kytril. Subsequently, it was then discovered that GSK had allegedly engaged in the same conduct with respect to another of its products, Amoxil, which is an antibiotic primarily used for treating ear infections, sinusitis, and strep throat in children and is GSK's brand amoxicillin product. Particularly when this drug is purchased and administered by physicians, it is subject to the same pricing spreads, that is, significant

differences between the price that the manufacturer sells the product and the price at which Medicaid reimburses the product, that were the subject of the Zofran/Kytril settlement.

GSK assisted in the discovery and investigation of this matter. GSK agreed to settle the Amoxil issue by adding an addendum to the Zofran/Kytril settlement. On June 4, 2008, the State of North Carolina received a supplemental payment from GSK pursuant to an Addendum to the earlier GSK State Settlement and Release. Under the terms of the Addendum, the State of North Carolina recovered \$408,105.00. Of that amount, the federal government received \$259,111.69 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina Medicaid Program received \$148,993.31 as restitution and interest.

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", with a long horizontal flourish extending to the right.

Kristi Hyman  
Chief of Staff

KH:kds

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