



## State of North Carolina

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August 17, 2010

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 Intermune, Inc.

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.

A Settlement Agreement has been executed between Intermune, Inc. ("Intermune") and the State of North Carolina. Intermune is a Delaware corporation headquartered in Brisbane, California that marketed and sold pharmaceutical products in the United States including a drug sold under the trade name Actimmune. Actimmune is approved for the treatment of two rare diseases, chronic granulomatous disease and severe, malignant osteopetrosis. The settlement resolves allegations that from January 2001 through June 2003, Intermune promoted the sale and use of Actimmune for the treatment of idiopathic pulmonary fibrosis, a use for which the Food and Drug Administration ("FDA") has not approved Actimmune, that this use was not a medically-accepted indication, and that the Medicaid Program did not cover Actimmune

dispensed for this use.

Under the terms of North Carolina's settlement, the State of North Carolina recovered \$569,740.05. Of that amount, the federal government received \$350,162.23 to satisfy North Carolina's obligation to return the federal portion of Medicaid recoveries to the federal government. The North Carolina Medicaid Program received \$211,216.82 as restitution and interest. Pursuant to G.S. § 108A-70.12(b)(3), the North Carolina Department of Justice will receive \$8,361.00 for investigative costs.

We will be happy to respond to any questions you may have regarding this report.

Very truly yours,

  
Kristi Hyman  
Chief of Staff

KH:ng

cc: Kristine Leggett, NCGA Fiscal Research Division  
Nels Roseland, NCDOJ, Deputy Chief of Staff