



**JOSH STEIN**  
**ATTORNEY GENERAL**

**STATE OF NORTH CAROLINA**  
**DEPARTMENT OF JUSTICE**

**SETH DEARMIN**  
**CHIEF OF STAFF**

April 30, 2018

North Carolina Senate President Pro Tempore Phil Berger  
North Carolina House of Representatives Speaker Tim Moore  
Co-Chairs, Joint Legislative Commission on Governmental Operations

Senator Warren Daniel  
Senator Shirley Randleman  
Senator Norman W. Sanderson  
Representative James Boles, Jr.  
Representative Ted Davis, Jr.  
Representative Allen McNeill  
Representative Rena W. Turner  
Co-Chairs, Appropriations Subcommittee 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 Kmart Corporation

Dear Members:

Section 114-2.5 of the North Carolina General Statutes 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 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 has been executed between Kmart and the State of North Carolina.

The settlement resolves allegations that from September 1, 2004 through December 31, 2016, Kmart failed to include discounted generic drug prices when billing the Medicaid program.

Under the terms of North Carolina's settlement, the State of North Carolina will recover \$932,492.11. Of that amount the federal government will receive \$628,144.59 for North

Carolina's federal portion of Medicaid recoveries. Pursuant to G.S. § 1-610, the qui tam plaintiffs whose whistleblower actions brought this matter to the government's attention will receive \$91,592.48 of North Carolina's recovery. The North Carolina Medicaid Program will receive \$99,750.20 as restitution. 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 \$105,090.35 will be paid to the Civil Penalty Forfeiture Fund for the support of North Carolina public schools. Pursuant to G.S. § 115C-457.2 and G.S. § 1-608(c), the North Carolina Department of Justice will receive \$7,914.49 for investigative costs and costs of collection.

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

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Seth Dearmin', followed by a horizontal line.

Seth Dearmin  
Chief of Staff

SD:ng

cc: John Poteat, NCGA Fiscal Research Division