



May 11, 2016

MADIGAN: WYETH AND PFIZER TO PAY \$784 MILLION TO RESOLVE ALLEGATIONS OF UNDERPAYING MEDICAID REBATES

Chicago — Attorney General Lisa Madigan today announced a \$784.6 million settlement with Wyeth pharmaceutical company, a subsidiary of Pfizer Inc., to resolve allegations that Wyeth knowingly underpaid rebates owed under the Medicaid Drug Rebate Program for sales of Protonix Oral and Protonix IV. Illinois will receive more than \$4.8 million under the settlement.

The settlement stems from two whistleblower lawsuits filed in the U.S. District Court for the District of Massachusetts. Madigan intervened in the lawsuits along with the United States, 34 other states and the District of Columbia.

“Wyeth took advantage of the state Medicaid program and Illinois taxpayers,” Madigan said.

The Medicaid Prescription Drug Rebate Program was enacted by Congress in 1990 as a cost containment measure for Medicaid’s payment for outpatient drugs. The program requires participating pharmaceutical manufacturers to pay quarterly rebates to state Medicaid programs for each of its drugs sold to pharmacies that were reimbursed by Medicaid. The quarterly rebate was determined from each pharmaceutical manufacturer’s reported “best price,” or the lowest price for which it sold a covered drug in a particular quarter.

In court filings, the government plaintiffs alleged that from the third quarter 2001 through 2006, Wyeth sold Protonix Oral tablets and Protonix IV, which inhibit production of gastric acid, to hospitals at discounted prices. The governments alleged that Wyeth’s contracts with the hospitals created a bundled sale under the terms of the Medicaid Drug Rebate Agreement by linking discounts available to participating hospitals for Protonix IV to discounts on Protonix Oral tablets. However, Wyeth did not treat the sales of Protonix Oral tablets and Protonix IV as bundled within the meaning of the Medicaid Drug Rebate Program and therefore failed to properly allocate the discounts available under the contract. As a result of this failure, Wyeth falsely reported its best prices for Protonix Oral tablets and Protonix IV, causing the rebate to be understated. The governments alleged that Wyeth concealed, avoided or decreased its obligation to pay Medicaid Drug Rebates to the states for Protonix Oral tablets and Protonix IV.

The state settlements were negotiated by a team of states with the Department of Justice, the U.S. Attorney’s Office for the District of Massachusetts, and the U.S. Department of Health and Human Services Office of Inspector General.

Assistant Attorney General Joe Chervin handled the case for Madigan’s Medicaid Fraud Bureau.

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