



News Release

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Attorney General Slatery Announces \$784.6 Million Settlement with Wyeth and Pfizer *Tennessee to receive more than \$30 million in settlement*

Attorney General Herbert H. Slatery III today announced that Tennessee reached an agreement in principle to settle allegations against Wyeth, a wholly owned subsidiary of Pfizer, Inc. The settlement will resolve allegations that Wyeth knowingly underpaid rebates owed under the Medicaid Drug Rebate Program for the sales of Protonix Oral and Protonix IV between 2001 and 2006. Under the settlement Wyeth agreed to pay \$784.6 million to the United States and the States. Over \$371 million of this amount will go to the Medicaid Program. Tennessee will receive an estimated \$30.4 million under the settlement.

“When companies knowingly attempt to game the system, there are consequences,” Attorney General Slatery said. “Our office will continue to work with our state and federal partners in pursuing those who seek to profit at the expense of Tennessee taxpayers.”

The settlement stems from two whistleblower lawsuits, *U.S., al., ex rel. Kieff v. Wyeth Pharmaceuticals, Inc.*, Civ. No. 03-cv-12366, and *U.S., , et al., ex rel. William St. John LaCorte v. Wyeth*, Civ. No. 06-cv-11724 which were filed in the United States District Court for the District of Massachusetts. The United States, 35 states and the District of Columbia intervened in the lawsuits.

Wyeth, Inc. was a Delaware corporation with its headquarters in Madison, New Jersey. Pfizer, Inc. is a Delaware corporation headquartered in New York, New York. Pfizer acquired Wyeth, Inc., in 2009, after the conduct alleged in the lawsuits. At all relevant times, Wyeth distributed, marketed and/or sold pharmaceutical products in the United States, including Protonix Oral and intravenous Protonix IV. Protonix Oral and Protonix IV are in a class of drugs called Proton Pump Inhibitors which inhibit the production of gastric acid.



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 Medicaid Drug Rebate 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 their court filings, the government plaintiffs alleged that during the third quarter 2001 through 2006, Wyeth sold Protonix Oral tablets and Protonix IV 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 those drugs 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" causing the Unit Rebate Amount for Protonix Oral tablets and Protonix IV, which is used to determine the quarterly rebate to pay the State for each drug, to be understated. The governments alleged that Wyeth concealed, avoided or decreased its obligation to pay Medicaid Drug Rebates to the State for Protonix Oral tablets and Protonix IV.

"Our Medicaid Fraud Control Unit is designed to protect Tennesseans from fraud and abuse," said TBI Director Mark Gwyn. "When there is abuse in the system that wastes taxpayer money, we pay attention, and work with our federal and state partners to hold these parties accountable for their actions."

Because the Medicaid program is jointly funded by the federal and State governments, Pfizer will pay in excess of \$413 million of the \$784.6 million to the United States. The State settlements were negotiated by a team of States led by representatives from the Office of the Attorneys General for New York, North Carolina, Indiana and the Commonwealth of Massachusetts working with the Department of Justice, the United States Attorney's Office for the District of Massachusetts, and the United States Department of Health and Human Services Office of Inspector General.