



HEALTH CARE NEWS

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SPITZER TARGETS ILLEGAL PRICING SCHEME FOR DRUGS

Cites Bribery, Kickbacks, and False Statements by Leading Drug Companies

Attorney General Eliot Spitzer has sued three leading pharmaceutical manufacturers - GlaxoSmithKline, Pharmacia and Aventis - for illegally inflating prescription drug prices in schemes that cost consumers and taxpayers tens of millions of dollars.

In this first-of-a-kind set of lawsuits, Spitzer is charging the three drug companies with consumer fraud, commercial bribery and making false statements to government health plans. New York is the first to attack the companies' pricing schemes by alleging bribery and false statements.

"New Yorkers face a health care crisis - a crisis driven to a large degree by the enormous growth in the cost of prescription drugs. This cost explosion is eroding individuals' health care and is a large factor in the massive state deficit. With this action, we are sending a strong signal that New York will use the law to bring health care costs under control," Spitzer said.

New York's lawsuits focus on the companies' reporting of the "average wholesale price" and various measurements used to calculate that figure which government health plans, such as Medicare, Medicaid and EPIC, use in determining reimbursement for amounts for particular drugs. The companies are alleged to have reported an inflated average wholesale price in relation to the price charged to doctors, pharmacists and other health care providers. The companies exploit this "spread" to market their drugs, improperly inducing doctors to prescribe drugs and thereby increase the companies' market share.

"We are seeking restitution for consumers and the state, plus new reforms that will help maintain the integrity of the doctor-patient relationship, by making sure that medical decisions are based on sound clinical guidelines, not on whether a manufacturer's drug delivers higher compensation to a provider," Spitzer said.

Many of the drugs involved at issue are used in treating cancer, including a class of drugs known as anti-emetics, which help cancer patients deal with the side effects of chemotherapy. In some cases, the consumer's cost (after insurance) is higher than what the doctor actually pays for the drug. For example, although New York Medicare beneficiaries are responsible for \$8.60 of the \$43.02 total Medicare payment for Pharmacia's Adriamycin, some doctors have paid no more than \$7.40 for this drug.

The legal action seeks to stop the companies' fraudulent practices and provide restitution to New York residents and the state. The total amount of the claim is unknown at this time but is expected to be in the tens of millions of dollars. The lawsuits were filed in Albany County Supreme Court.

STATE SUES UNLICENCED HEALTH INSURER

Attorney General Eliot Spitzer and State Superintendent of Insurance Gregory V. Serio filed a lawsuit against Millennium Business Association of America (Millennium) and others for operating an unauthorized health insurance plan.

The lawsuit alleges that Millennium marketed and administered Universal Value Care, a health insurance plan, without a licence and without sufficient reserve funds to pay consumer claims, potentially leaving plan members liable for health care bills. Millennium has nearly 200 policy holders, mostly on Long Island and the New York City area.

"With health care costs soaring, we need to beware of companies that play fast and loose with the law by offering cut rate coverage that does not live up to its promises or the law," Attorney General Spitzer said. "Unfortunately, many vulnerable consumers will be tempted by the lure of lower premiums, only to find out that the coverage they were promised is not there when they are sick and they need it the most."

Upon filing of the lawsuit on February 10, 2003, Judge Joseph R. Cannizzaro of the Albany County Supreme Court issued an order temporarily restraining Millennium and the other defendants from operating the unlicensed health plan and freezing all plan assets pending a full hearing. The lawsuit seeks to permanently enjoin Millennium and the other defendants from operating an unlicensed plan, and to provide restitution to affected consumers.



DID YOU KNOW?

You can get assistance by calling the Health Care Bureau's Helpline at 1-800-771-7755, Option 3

