



Jan 31 2008
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James E. Fosler
Fosler Law Group, Inc.
737 West Fifth Avenue, Suite 205
Anchorage, Alaska 99501
Telephone: (907) 277-1557
Fax: (907) 277-1657

Attorneys for Plaintiff State of Alaska

[Additional counsel appear on signature page]

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT ANCHORAGE

STATE OF ALASKA,)	
)	
Plaintiff,)	Case No.: 3AN-06-12026 CI
vs.)	
)	
ALPHARMA BRANDED PRODUCTS)	
DIVISION INC., et al.)	
)	
Defendants.)	

ALASKA'S RESPONSE TO DEFENDANTS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS

Plaintiff State of Alaska (Alaska), pursuant to Rules 26 and 34, Alaska Rules of Civil Procedure, hereby responds to Defendants' First Set of Requests for Production of Documents.

General Objections

- Alaska objects to any request that seeks documents already in the possession, custody or control of Defendants.

2. Alaska objects to any request that seeks documents available to Defendants in the public domain.

3. Alaska objects to any request that seeks documents to support Defendants' "government knowledge" defense on the grounds that such documents are not relevant to any valid claim or defense in this matter and hence will not be admissible at trial and their production is not reasonably calculated to lead to the discovery of admissible evidence. See Alaska's Motion to Strike filed in this matter.

4. Alaska objects to any request that seeks the production of documents by any branch, department, division or office of the State of Alaska other than the Department of Health and Social Services, Division of Healthcare Services on the ground of undue burden unless persons assisting in the response to this discovery have specific knowledge of the existence and location of documents responsive to a request that are not within the immediate custody of that Division.

5. Alaska objects to the production of any document created outside the time frame of January 1, 1993 through September 30, 2006 - the period for which Alaska seeks to recover damages in this matter - except for requested documents reflecting or relating to Alaska's determination of its provider reimbursement rates on the grounds that such documents are not relevant to any valid claim or defense in this matter and hence will not be admissible at trial and their production is not reasonably calculated to lead to the discovery of admissible evidence.

6. Alaska objects to the production of documents reflecting payments or payment formulas of Alaska Departments or Divisions other than the Department of Health and Social Services, Division of Health Care Services on the grounds that such documents are not relevant to any valid claim or defense in this matter and hence will not be admissible at trial and their production is not reasonably calculated to lead to the discovery of admissible evidence.

7. Alaska objects to and will not comply with any Definition or General Instruction that places an obligation on Alaska that differs in any way from the obligations imposed on Alaska by the Alaska Rules of Civil Procedure.

REQUESTS

REQUEST FOR PRODUCTION NO. 1:

All Documents created, maintained, or received by You under 42 U.S.C. § 1396a(a)(30), 42 U.S.C. § 1396a(a)(54), 42 C.F.R. § 447.201 et seq., or 42 C.F.R. § 447.333.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 2:

All Documents constituting or Concerning a “state plan for medical assistance” (42 C.F.R. 430.0 et seq.), any proposed or adopted amendments thereto, and any Findings and/or support Related thereto.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 3:

All Documents Concerning reimbursement for pharmaceutical ingredient costs as a means of subsidizing other medical services, procedures, costs, or equipment under 42 U.S.C. § 1396a(a)(30).

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 4:

All Documents Concerning reimbursement for pharmaceutical ingredient costs as a means of ensuring equal access to care for Medicaid beneficiaries under 42 U.S.C. § 1396a(a)(30).

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 5:

All Documents constituting or Concerning any requests, surveys, or other efforts conducted by You, or on Your behalf, to determine that the State is in compliance with 42 U.S.C. § 1136(a)(a)(30).

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 6:

All Documents Concerning the consideration or setting of dispensing fees, or changes in those fees, including, but not limited to, consideration required by 42 C.F.R. § 447.331-333.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 7:

All Documents relating to procedures, protocols, directives or actions taken (or not taken) by You to ensure that pharmacists and physicians are reimbursed at their usual and

customary charge under Medicaid if it is lower than the State-determined EAC or the rates set forth in the Alaska Medicaid physician fee schedule as required by 42 C.F.R. § 447.331.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 8:

All Documents Concerning any proposed or actual changes to Your Reimbursement Methodologies for prescription drugs under Alaska Medicaid, including, but not limited to, the use of (or change to) discounts off benchmark prices such as AWP, WAC, or Direct Price; the use of ASPs, AMPs, or other prices self-reported by pharmaceutical manufacturers; the implementation or utilization of a SMAC, including the use of, change of, or deletion of a MAC price, the FUL, or the DOJ Medicaid AWPs, or reimbursement based on information supplied by providers regarding their acquisition cost.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 9:

All Documents Relating to the Reimbursement Rate(s) under Alaska Medicaid for prescription drugs, since the inception of the Alaska Medicaid prescription drug benefit. This request includes, but is not limited to Documents reflecting the time periods during

which You utilized such rate(s), any actual or proposed increase, decrease or change in the reimbursement formula, and all Documents Concerning any reasons for such actual or proposed increase, decrease or change.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 10:

All Documents Relating to the establishment of a Reimbursement Rate(s) under Alaska Medicaid for prescription drugs. This request includes, but is not limited to comments, publications, discussions, hearings, surveys, analysis and reports Concerning any proposed reimbursement rate(s), and the reasons for adopting or rejecting such rate(s).

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 11:

All Documents received as public comments Relating to any proposed or contemplated change in the reimbursement of prescription drugs by Alaska Medicaid.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 12:

All Documents Concerning the proposal, modification or promulgation of any regulations or enactment of legislation Concerning Your reimbursement for pharmaceutical products by Alaska Medicaid, including, but not limited to, all comments on proposed or final regulations, all drafts of proposed or final regulations, and all memoranda, correspondence, analyses or other Documents Concerning proposed or final regulations.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 13:

All Documents Concerning the proposal, modification or promulgation of any regulations or enactment of legislation Concerning Your Alaska Medicaid reimbursement formula for pharmaceutical products, including, but not limited to, all comments on proposed or final regulations, all drafts of proposed or final regulations, and all memoranda, correspondence, analyses or other Documents Concerning proposed or final regulations.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 14:

All Documents Concerning any executive, judicial, legislative or administrative efforts to establish or alter the method, level, or formula for reimbursement of pharmaceutical products by Alaska Medicaid, or any efforts by any providers, or any professional, industry-related, or public group, organization or association, or individual acting on behalf of or related to providers.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 15:

All Documents that reflect, discuss, memorialize or otherwise Relate to Your decision to incorporate the use of AWP or Direct Price as a benchmark price for Your reimbursement under Alaska Medicaid.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 16:

All Documents constituting or Concerning Communications between You and any provider or any organization or association acting on behalf of or Related to providers, such as the National Association of Chain Drug Stores, the American Society of Clinical

Oncology, the Alaska Pharmacists' Association, the Alaska Board of Pharmacy, or the National Community Pharmacy Association (formerly National Association of Retail Druggists), Concerning:

- a.) reimbursement rates for pharmaceutical drugs under Medicaid;
- b.) changes, or proposed changes, in the rate of reimbursement for pharmaceutical drugs under Medicaid; and
- c.) Actual Acquisition Costs of pharmaceutical drugs.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 17:

All Documents constituting or Concerning Communications with physicians, pharmacists, nurses, consulting agencies or any other third party with whom You consulted, or who were involved in any other way in Your decision to use AWP as a basis for prescription drug reimbursement under Alaska Medicaid, including, but not limited to, consulting agreements, contracts, surveys, reports, and meeting minutes.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 18:

All Documents constituting or Concerning internal Communications, including Communications within Alaska Medicaid and with the Governor's office and legislature, Concerning:

- a.) the use of Direct Price or AWP as a basis for or component of reimbursement by Alaska Medicaid;
- b.) how Direct Price or AWP is determined or calculated for reimbursement by Alaska Medicaid; and
- c.) the use of some figure other than Direct Price or AWP as a basis for reimbursement by Alaska Medicaid.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 19:

All Documents constituting or Concerning Communications among members of APHSA, NASMD, the National Association of Attorneys General, MMCAP, NAMFCU, and any other multi-state public health association or organization Relating to:

- a.) the use of AWP or Direct Price as a basis for reimbursement by Alaska Medicaid;

- b.) how AWP or Direct Price is determined or calculated for reimbursement by Alaska Medicaid; and
- c.) the use of some figures other than AWP or Direct Price as a basis for reimbursement by Alaska Medicaid.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 20:

All Documents relating to Your decision to reimburse physicians for physician-administered drugs under Alaska Medicaid according to a fee schedule, including, but not limited to, all Documents relied upon in making Your decision.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 21:

All Documents Describing, explaining, or Concerning Your methodology for reimbursement of physician-administered drugs.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 22:

All documents describing, explaining, or concerning your method of calculating reimbursement amounts for subject drugs, including, but not limited to, guidelines, instructions, provider manuals and the like.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 23:

All Documents, from January 1984 to the present, Relating to the definition, meaning or calculation of AAC, AWP, DP, EAC, FAC, FUL, MAC, MAIC, Suggested Wholesale Price (“SWP”), or WAC, including, but not limited to, prices used to set FAC, FUL, or MAC.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties except Alaska cannot respond to the request for documents relating to CDP, MAIC or FAC because the acronyms are not defined.

REQUEST FOR PRODUCTION NO. 24:

All Documents, from January 1984 to the present, Relating to Alaska's knowledge that the average Actual Acquisition Cost for prescription drugs was lower than the Subject Drugs' published AWP, WAC, or DP.

RESPONSE:

Alaska objects to this request on the ground that it seeks documents solely to support Defendants' "government knowledge" defense. As set forth in Alaska's motion to strike that defense, the defense is without merit as a matter of law. Consequently, the requested documents are not relevant to any valid claim or defense in this matter and hence will not be admissible at trial and their production is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 25:

All Documents, from January 1984 to the present, constituting or Concerning Your efforts (or efforts conducted on Your behalf) to determine Providers' Actual Acquisition Costs for the Subject Drugs. This request includes, but is not limited to: requests for information, surveys, reports, analyses, hearings, comments, correspondence, notes and memoranda generated or reviewed by You or on Your behalf.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 26:

All Documents, from January 1984 to the present, constituting or Concerning Your efforts (or efforts conducted on Your behalf) to determine Providers' actual dispensing cost for the Subject Drugs. This request includes, but is not limited to: requests for information, surveys, reports, analyses, hearings, comments, correspondence, notes and memoranda generated or reviewed by You or on Your behalf.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 27:

All Documents Concerning any requests by You for any information Concerning the prices, costs, or reimbursement for Subject Drugs, including, but not limited to, contracts, memoranda of understanding, agreements, provider contracts, or Communications Concerning the calculation, monitoring, tracking, processing, or payment of claims for Subject Drugs.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 28:

All Documents reflecting or Concerning Your comments relating to, Your participation or involvement in, or response to any studies, reports, analyses, or papers regarding reimbursement of pharmaceutical products.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 29:

Documents sufficient to evidence the amounts paid for the Subject Drugs by all Alaska government entities, departments and agencies that have purchased the Subject Drugs, including, but not limited to, the Alaska Department of Corrections, Department of Military & Veteran's Affairs, University of Alaska, DHSS, or any entity within DHSS's control, including, but not limited to: Public Health, Health Care Services, Children's Services, Juvenile Justice, Public Assistance, Senior and Disabilities Services, Alaska Pioneer Homes, and Behavioral Health or their precursors, whether purchased directly or indirectly from manufacturers, wholesalers, or other entities, and the methodologies used to determine such prices.

RESPONSE:

Alaska objects to this request on the grounds that the requested documents are not relevant to any valid claim or defense in this matter and hence will not be admissible at trial

and their production is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 30:

All Documents Concerning the State's retention and use of a PBM in connection with any state run program to provide or pay for pharmaceutical products, including, without limitation, the State's request for proposal, the PBMs' bids, the State's evaluation of the PBMs' bids, the contract with the PBM, and reports created by the PBM for the State.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 31:

All Documents (including data) Concerning Medicaid Rebates, discounts, or reimbursements for the Subject Drugs, including, but not limited to:

- a.) all Documents Concerning the unit rebate amount for any of the Subject Drugs;
- b.) all transactional data relating to the Subject Drugs;
- c.) any data dictionaries that explain the data fields produced in response to this Request.
- d.) all Communications between You and the federal government Concerning utilization and "per-unit" rebate data.

RESPONSE:

Alaska objects to this request on the ground that the responsive documents are confidential pursuant to federal law and may not be disclosed in the absence of a court order. Further Alaska objects to this request on the grounds that the requested documents are not relevant to any valid claim or defense in this matter and hence will not be admissible at trial and their production is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 32:

All claims data Related to the Subject Drugs, including, but not limited to:

- a.) pharmacy claims data;
- b.) medical claims data;
- c.) all service codes data associated with the administration of those Subject Drugs that are physician-administered drugs; and
- d.) drug pricing files.

For each category listed above in this Request, please provide complete claims data with Related file layouts, field definitions or valid values for all fields, data dictionaries, manuals, source tables, relationship tables, and business rules. This data is requested in electronic form used by SQL Server, Microsoft Access, Microsoft Excel, or a delimited file that can be readily uploaded into one of those programs. The complete claims data

requested includes all fields, other than individual patient identifiers, contained on the Provider's claim submission and all additional fields added to process the claim, including:

- a.) Identifier: claim number, sequence number representing each line item of the claim, and other identifying information;
- b.) Provider type: pharmacy, outpatient hospital, physician crossover, etc.
- c.) Claim Type: any available claim type information including, but not limited to, any information that indicates whether Alaska Medicaid is the secondary payor including Medicare Crossover Claims;
- d.) Transaction Type: all available transaction type information, such as correction, cancellation, etc., identifiers, and source transaction information (e.g., if one claim corrects another claim, information about which claim is being corrected);
- e.) Status: all status information, including the payment code indicating whether the claim has been accepted, processed, and/or paid and the type of program the claim will be processed under (e.g., Medicaid, Managed Care, etc.);
- f.) Dates: all available dates, including the date service was provided, the date the claim was received, and the date the claim was paid;

- g.) Basis of payment: coding within the claim payment transaction which identifies the reference point from which the claim payment amount is determined (e.g., AWP, WAC, acquisition cost, usual & customary, EAC, FUL, MAC, Billed Amount, Charges, etc.);
- h.) Provider: all information for all relevant Providers, including number, name, address, contact information, and area/field of practice (where relevant);
- i.) Product: all product information, including:
 - (i) NDC whenever available. Provide all 11 digits (do not drop leading or trailing 0's) and ideally in three separate fields – labeler (first five digits), product (next four digits) and package size (final two digits);
 - (ii) Name;
 - (iii) Type (e.g., single source, multi-source);
 - (iv) Therapeutic class; and
 - (v) Related items like diagnosis codes, place of service, and type of service (where relevant).

- j.) Units: all units information with decimals in the correct position, including submitted units, allowed units, and unit of measure (e.g., capsule vs. bottle, milliliter, etc.);
- k.) Other Data for Payment: any other data used to determine the amount of the payment not listed above (e.g., channel of procurement, etc.);
- l.) Payments: all fields related to billed amounts, payment limit amounts, allowed amount, and actual amounts paid along with the bases for the payment, all with decimals in the correct position, including:
 - (i) Billed Charges;
 - (ii) Basis of payment (e.g. billed charges, ingredient cost, EAC, FUL, MAC, Billed Amount, acquisition cost, AWP, WAC, etc.);
 - (iii) Dispensing fee;
 - (iv) Allowed Amount or contracted amount; any other payment amount (e.g., inventory management fee/profit factor, delivery fee, generic incentive fee, etc.);
 - (v) Any amounts used to reduce amount paid (e.g., co-insurance or co-payment or other payments received from other payors and

the number, name, and other information associated with such payors, co-insurance, co-payment, deductible); and

(vi) Amount paid

m.) Comments: all other memo or free-form fields (e.g., Item 19 of the HCFA-1500).

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 33:

All Documents constituting, Related to, or Concerning any Communication or negotiation by You, or on Your behalf, with any Defendant Concerning reimbursement, rebates, discounts, or pricing of pharmaceutical products.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 34:

All Documents, including, but not limited to, memoranda, contracts, agreements or Communications Concerning the pricing, cost or reimbursement of pharmaceutical drug products, between You and any Publisher.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 35:

All Documents from January 1984 to the present Concerning Communications between You and any other state Concerning pharmaceutical reimbursement, including, but not limited to, Communications Concerning dispensing fees, physician fee schedules, usual and customary charges, AAC, AWP, AMP, MAC, WAC, Direct Price, EAC, Best Price, FUL, FAC, or other prices, costs, reimbursement rates, or other benchmarks for pharmaceutical drug pricing.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 36:

All Documents Concerning any internal or external, governmental or private, formal or informal, reports, assessments, studies, surveys, analyses, reviews or audits conducted regarding the pricing, cost or reimbursement of pharmaceutical products in Alaska, including, but not limited to:

- a.) December 1988 Myers & Stauffer Report: *The Cost of Dispensing Pharmaceutical Prescriptions in the State of Alaska;*

- b.) April 18, 1988 Dittman Research Corporation Survey: *Medicaid Program Review*;
- c.) January 16, 1989 *Report of the Pharmacy Program Steering Committee*;
- d.) March 25, 1989 Richard Verne Associates Report: *State of Alaska Estimated Acquisition ("EAC") Cost Drug Survey*; and
- e.) 1989 State sponsored ingredient cost survey

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 37:

All Documents from January 1984 to the present relating to Communications between You and the federal government, including, but not limited to, the OIG, the General Accounting Office, CMS, and the Department of Health and Human Services, and their predecessor agencies, Concerning:

- a.) the pricing of prescription drugs;
- b.) AWP for prescription drugs;
- c.) Direct Price for prescription drugs;
- d.) MAC or MAIC for prescription drugs;

- e.) FUL for prescription drugs;
- f.) EAC for prescription drugs;
- g.) WAC for prescription drugs;
- h.) proposed alternative reimbursement methodologies;
- i.) reimbursement methodologies considered or used by other states or state agencies; and
- j.) the processing of prescription drug reimbursement claims submitted by Alaska health care providers.

RESPONSE:

Alaska incorporates its response to Request for Production No. 24.

REQUEST FOR PRODUCTION NO. 38:

All Documents Concerning the pricing of Subject Drugs prepared by any Federal Agency, including, but not limited to, reports, memoranda, or analyses prepared by the United States Department of Justice or HHS-OIG.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 39:

All Documents Concerning the revised AWP prices provided by the United States Department of Justice and National Association of Medicaid Fraud Control Units in 2000, including, but not limited to, Documents Concerning Your decision to use or not to use the revised AWP prices in reimbursing pharmaceutical products.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 40:

All Documents relating to HCFA's 1988 decision to disapprove Medicaid State Plans that base reimbursement for pharmaceutical products on an undiscounted AWP.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 41:

All Documents that Relate or refer to any of the following:

- a.) 1984 HHS-OIG report indicating that on average, pharmacists buy pharmaceutical products at AWP – 15.9%. See Department of Health & Human Services, Office of the Inspector General, *Changes to the*

Medicaid Prescription Drug Program Could Save Millions (A-06-40216) (Sept. 1984);

- b.) 1989 HHS-OIG report indicating that on average, pharmacists buy pharmaceutical products at AWP – 15.5%. See Department of Health & Human Services, Office of the Inspector General, *Use of Average Wholesale Prices in Reimbursing Pharmacies Participating in Medicaid and the Medicare Prescription Drug Program* (A-06-89-00037) (Oct. 1989);
- c.) 1989 HCFA Medicaid Manual indicating that pharmacies buy pharmaceutical products at AWP minus 10% to 20%;
- d.) 1996 HHS-OIG report indicating potential for significant Medicare savings. See Department of Health & Human Services, Office of the Inspector General, *Appropriateness of Medicare Prescription Drug Allowances* (03-95-00420) (May 1996);
- d.) 1996 HHS-OIG report indicating potential for significant Medicare savings. See Department of Health & Human Services, Office of the Inspector General, *Review of Pharmacy Acquisition Costs for Drugs Reimbursed Under the Medicaid Prescription Drug Program of the California Department of Health Services* (A-06-95-00062) (May

- 1996), including all Documents Related to June Gibbs Brown's May 31, 1996 letter to Bruce C. Vladeck (Dkt. No. 2051-2);
- e.) 1997 HHS-OIG report indicating that on average, pharmacies buy pharmaceutical products at AWP – 18.3%. See Department of Health & Human Services, Office of the Inspector General, *Medicaid Pharmacy – Actual Acquisition Cost of Prescription Drug Products for Brand Name Drugs* (A-06-96-00030) (Apr. 1997);
 - f.) 1997 HHS-OIG report indicating that on average, pharmacists buy generic drugs at AWP – 42%. See Department of Health & Human Services, Office of Inspector General, *Medicaid Pharmacy – Actual Acquisition Cost of Generic Prescription Drug Products* (A-06-97-00011) (Aug. 1997);
 - g.) 2001 HHS-OIG report indicating that AWP bears little to no resemblance to actual wholesale prices. See Department of Health & Human Services, Office of the Inspector General, *Medicare Reimbursement of Prescription Drugs* (03-01-00310) (Jan. 2001);
 - h.) 2001 HHS-OIG report indicating that continued reliance on average wholesale prices as a reimbursement metric is flawed. See Department of Health & Human Services, Office of the Inspector General,

Medicaid's Use of Revised Average Wholesale Prices (03-01-00010)

(Sept. 2001);

- i.) 2001 HHS-OIG report indicating that pharmacy actual acquisition cost was an average 21.84% below AWP. See Department of Health & Human Services, Office of the Inspector General, *Medicaid Pharmacy – Actual Acquisition Cost of Brand Name Prescription Drug Products (A-06-00-00023)* (Aug. 2001);
- j.) 2002 HHS-OIG report, *Medicaid Pharmacy – Actual Acquisition Cost of Generic Prescription Drug Products (A-06-01-00053)*, Mar. 2002);
- k.) 2002 HHS-OIG report, *Medicaid Pharmacy – Additional Analyses of the Actual Acquisition Cost of Prescription Drug Products (A-06-02-00041)* (Sept. 2002);
- l.) 2003 HHS-OIG report, *Audit of the Medicaid Drug Rebate Program in Alaska (A-10-03-00006)* (July 2003)

RESPONSE:

Alaska incorporates its response to Request for Production No. 24.

REQUEST FOR PRODUCTION NO. 42:

All Documents Relating to any reports undertaken by or on behalf of any branch of Alaska state government Regarding AWP.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 43:

All Documents reflecting the actual or estimated losses, damages, or alleged overpayments made by You as a result of Defendants' alleged conduct.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 44:

All Documents Concerning any action, administrative or otherwise, considered or taken by You, or on Your behalf, to recover the alleged overpayments from Providers who received alleged overpaid amounts for drug reimbursement.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 45:

All Documents relating to the total annual dollar figure and corresponding percentage of any Alaska Medicaid Beneficiary co-payments uncollected by Alaska Providers since the inception of each program.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 46:

All Documents received by You from third-party sources Concerning reimbursement for prescription drugs and/or the pricing of prescription drugs, including, but not limited to, the Alaska Pharmacists Association, the Alaska Board of Pharmacy, the National Association of State Medicaid Directors, NAMFCU, any state MFCU, APHSA, the National Association of Attorneys General, the American Society of Consultant Pharmacists, and the American Pharmacists Association.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 47:

All Documents and data given to You through formal or informal requests from third-parties, including, but not limited to, retail drug chain stores, providers, and provider groups, Concerning the prices, costs, or reimbursement for Subject Drugs.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 48:

All National Coverage Decisions, Local Medical Review Policies, and Local Coverage Determinations for prescription drugs in effect for Alaska Medicaid Carriers and Fiscal Intermediaries.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 49:

All Documents Concerning any proceedings, including, but not limited to, lawsuits, administrative or legislative proceedings, or criminal or civil investigations, in which Your employees or agents have testified, provided statements, or been interviewed Concerning the pricing or reimbursement of pharmaceutical products, or access to care.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 50:

Organizational charts or similar Document(s) that name or Describe Your current or former employees involved in, or in any way responsible for the administration or oversight of Your Medicaid program and any other State pharmacy program, including, but not limited to, all directors or similar officials from 1987 to the present.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 51:

Documents sufficient to Describe Your Document retention or destruction policies, including any changes to, or departures from, such policies, and Documents demonstrating that You have complied with such policies.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 52:

All Communications, including bids and requests for proposals, with outside lawyers to potentially handle this case, and the contracts and terms of engagement of such lawyers.

RESPONSE:

Alaska objects to this request on the grounds that the responsive documents are subject to the attorney/client privilege. Further, they are not relevant to any valid claim or defense in this matter and hence will not be admissible at trial and their production is not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 53:

All Documents Relating to consideration or actual establishment of a MAC program in Alaska.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 54:

All Documents Concerning any action, administrative or otherwise, considered, rejected, or taken by You, to implement any cost savings measures regarding prescription drugs, including, without limitation, use of managed care organizations, pharmacy benefit managers, supplemental rebate agreements, prior authorization requirements, participation in MMCAP or other group purchasing organizations.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 55:

All Documents that constitute, Concern, refer, or Relate to any Communications between You and any Publisher regarding the meaning, interpretation, or intended use of the pricing information provided by the Publisher.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 56:

All Documents Concerning Alaska Medicaid's and/or the State of Alaska's assurances, as required by 42 C.F.R. § 447.333, to HCFA and/or CMS that Alaska Medicaid's expenditures for Multiple Source Drugs listed in accordance with 42 C.F.R. § 447.332(a) are in accordance with upper limits specified in 42 C.F.R. § 447.332(b), including, but not limited to, the assurances provided to HCFA/CMS and all Documents supporting such assurances.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 57:

All Documents that reflect, discuss, memorialize or otherwise Relate to any Alaska Medicaid reimbursement calculation methodologies considered, proposed or adopted by You or any other Person with respect to pharmaceutical products, including, but not limited to, discounts off of benchmark prices, such as AWP, Direct Price, WAC, or pricing based on MAC, MAIC, FAC, FUL or any other pricing that was not based on a formula derived from a pricing benchmark such as AWP, Direct Price, or WAC.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 58:

All Documents Concerning the effects or potential effects various reimbursement amounts or methodologies, including percentage discounts off a benchmark, including AWP, Direct Price, or WAC, adopted, considered or rejected by You have, or were having, on beneficiary access to medicine or medical treatment, including, but not limited to, and internal or external assessments, studies, analyses, reviews, plans, reports, or audits conducted by You or on Your behalf (whether or not performed at Your discretion).

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 59:

All Documents that reflect, discuss, memorialize or otherwise Relate to any reimbursement calculation methodologies considered, proposed or adopted by You or any other Person with respect to the Alaska Medicaid physician fee schedule and/or J Code reimbursement for physician-administered drugs.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 60:

All Documents that reflect, discuss, memorialize or otherwise Relate to any reimbursement calculation methodologies considered, proposed or adopted by Alaska Medicaid or any other Alaska state entity with respect to calculating the EAC of a Multiple Source Drug and the period of time during which such methodology was in use, including Your decision to rely or not rely on AWP, WAC, AAC and/or Direct Price.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 61:

All Communications between You and any Medicaid or other Financial Intermediary, including, but not limited to, EDS, Concerning Your reimbursement of pharmaceutical products, providers' acquisition costs, or any allegation contained in Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 62:

All Documents relating to Your consideration (whether or not implemented) to use a pricing figure other than AWP or Direct Price as a benchmark price for reimbursement, such as WAC, ASP, AMP or some other alternative pricing figure.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 63:

All Communications between You and any provider, including physicians and pharmacies, Concerning the amounts paid by physicians and pharmacies to acquire pharmaceutical products covered under the Alaska Medicaid program.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 64:

Any Provider claim forms submitted to You that You allege contain a false claim for which You seek damages.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 65:

All Documents Concerning CMS policy or practices for setting, changing or calculating FULs, including understanding of prices used to set FULs.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 66:

All Documents Concerning any allegation that any Federal Upper Limit for a Subject Drug was inflated.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 67:

All Documents in Your possession that refer or Relate to, or Concern in any way any knowledge by You before the Complaint was filed that Defendants reported false or inflated prices for their products to the Pricing Compendia; utilized the spread to seize market share and fraudulently increase their profits; or gave providers discounts, rebates, off-invoice pricing, free goods, charge backs, volume discounts, credit memos, "consulting" fees, debt forgiveness, educational and promotional grants, and / or other financial incentives for dispensing the Subject Drugs.

RESPONSE:

Alaska incorporates its response to Request for Production No. 24.

REQUEST FOR PRODUCTION NO. 68:

All Documents reflecting the actual or estimated total amount You paid in reimbursements for Defendants' Subject Drugs for all fiscal years for which You are claiming damages.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 69:

All Documents reflecting the actual or estimated amount You allege that You overpaid in reimbursements for Defendants' Subject Drugs for all fiscal years for which You are claiming damages.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 70:

Documents sufficient to Identify any efforts by You, through an action, administrative proceeding, or otherwise, to recover alleged overpayments from the Providers who allegedly received excessive amounts of reimbursement as a direct or

indirect result of alleged inflated AWP, Direct Prices, or WACs. This request includes but is not limited to Documents sufficient to identify each such action, the relevant Provider, the amount of the alleged overreimbursement and the outcome of such effort.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 71:

The First DataBank Customer Program Specifications in effect during the period for which You claim damages, and all Documents Concerning such Customer Program Specifications, any data element, algorithm or other information described therein, and file organization layout and specifications, handbooks and manuals.

RESPONSE:

Alaska incorporates its response to Request for Production No. 24.

REQUEST FOR PRODUCTION NO. 72:

All Documents sent to or received from the Listservs "MMA_STATES," "PHARMACY_MMA-L," NMPAAtalk@listbot.com, or any other Listserv to which You subscribe or belong that distributes Communications Concerning drug pricing, including, but not limited to, Documents sufficient to identify each Person who subscribed or belonged to each such Listserv.

RESPONSE:

Alaska incorporates its response to Request for Production No. 24.

REQUEST FOR PRODUCTION NO. 73:

Documents Relating to the Alaska MAC list or prices, including, but not limited to:

- (a) Alaska MAC lists or prices in effect since the inception of the MAC program;
- (b) Documents sufficient to show the period during which each Alaska MAC list was in effect;
- (c) Documents reflecting the Reimbursement Rate applicable to each drug on the Alaska MAC list; and
- (d) Documents Concerning Your decision to add or delete drugs from the Alaska MAC list.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 74:

All Documents You used or referred to in responding to Defendants' Interrogatories.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 75:

All Documents Related to any consideration or decision to provide or not to provide prescription drug coverage as a covered service under Alaska Medicaid.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 76:

All Documents Related to the basis for paying for prescription drugs under A.S. 47.25.120 - .300, Alaska's General Relief Medical Program.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 77:

All Documents Related to the adoption and use, at any time, of "usual and customary" as the basis for paying for prescription drugs under A.S. 47.25.120 - .300, Alaska's General Relief Medical Program.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 78:

All Documents Related to the change, at any time, from “usual and customary” as the basis for paying for prescription drugs under A.S. 47.25.120 - .300, Alaska’s General Relief Medical Program.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 79:

All Documents Related to any and all changes, at any time, to 7 AAC 47.271(c), Relating to the basis for paying for prescription drugs under A.S. 47.25.120 - .300, Alaska’s General Relief Medical Program.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 80:

All Documents sent to or received from any Publisher Concerning or Related to AWP.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 81:

All Documents sent to or received from Your PBM Relating to AWP.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 82:

All Documents sent to, received from Your PBM Relating to Your formula(s) for paying for prescription drugs.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 83:

All Documents sent to or received from any PBM other than Your PBM Relating to AWP.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 84:

All Documents sent to or received from any and all wholesalers Relating to Pricing Data, including, but not limited to, AWP and MAC.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 85:

All Documents sent to or received from any and all providers Relating to AWP.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 86:

All Documents Relating to the Blue Book or any other pricing compendia and the accuracy of the information contained therein.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 87:

All Documents supporting Your contention that Defendants used “secret discounts and rebates to providers” and “various devices to keep secret the prices of their drugs currently available in the marketplace to other purchasers,” as alleged in paragraph 2 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 88:

All Documents supporting Your contention that Medicaid providers received “windfall profits,” as alleged in paragraph 2 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 89:

All Documents supporting Your contention that the Defendants who manufacture the Subject Drugs are “enormous and hugely profitable companies,” as alleged in paragraph 28 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 90:

All Documents supporting Your contention that a Defendant can cause a payer to reimburse a provider for the Defendant’s drug at a higher price than the price the provider

paid to buy the drug from the Defendant, as alleged in paragraph 32 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 91:

All Documents demonstrating the efforts You made to reach Your “best estimate of the price generally and currently paid by providers” as defined in 42 C.F.R. § 447.301, for each drug for which You reimbursed Providers.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 92:

All Documents supporting Your contention that Defendants have “hidden both the prices at which they sell their drugs to wholesalers, and their knowledge about the prices at which wholesalers sell their drugs to providers,” as alleged in paragraph 36 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 93:

All Documents supporting Your contention that “at no time did Alaska intend systematically to reimburse Providers, on the average, at prices higher than the Providers’ average acquisition costs,” as alleged in paragraph 39 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 94:

All Documents supporting Your contention that “[I]ike most other states, Alaska did not appreciate until recently that Defendants were reporting AWP’s that were not only higher than Actual Acquisition Costs, but higher than any discount percentage that Alaska or any other state was using to estimate providers’ acquisition costs,” as alleged in paragraph 39 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 95:

All Documents and sources of information available to You, whether electronic or non-electronic, that reflect providers’ Estimated Acquisition Costs for each drug for which You reimbursed Providers.

RESPONSE:

Alaska objects to this request on the ground that “availability” is not a recognized category of documents subject to a production request under Alaska’s civil rules.

REQUEST FOR PRODUCTION NO. 96:

All Documents supporting Your contention that “[d]efendants often market their products by pointing out (explicitly and implicitly) that their drug’s spread is larger than the spread of a competing drug,” as alleged in paragraph 42 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 97:

All Documents reflecting any rules, regulations, or statutes: (a) requiring pharmaceutical manufacturers to provide AWP information to pricing compendia for publication; (b) specifying any formula or definition for published AWP; or (c) providing that published AWP should reflect the “real average wholesale price,” “real, representative price” or “actual selling price,” as alleged in paragraphs 43, 44 and 57 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 98:

All Documents supporting Your contention that “some Defendants have hidden their real drug prices by providing free drugs and phony grants to providers as a further means of discounting the overall price of their drugs,” as alleged in paragraph 54 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 99:

All Documents supporting Your contention that “Defendants have intentionally manipulated the nation’s drug reimbursement system . . . to compete for market share on the basis of a phony price spread, instead of the true selling price of the medicinal efficacy of their drugs,” as alleged in paragraphs 55 and 58 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 100:

All Documents supporting Your contention that “[l]arge price spreads on higher priced drugs encourage providers to prescribe more expensive drugs instead of their lower priced substitutes” and any Documents reflecting that competition on the basis of such

spreads has actually influenced providers to prescribe less efficacious drugs over ones with greater medicinal value as alleged in paragraph 58 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 101:

All Documents reflecting any investigation initiated by Alaska Medicaid or any State agency regarding Defendants' drug pricing practices "as a result of all [the] investigations" referenced in paragraph 67 of Your Amended Complaint, prior to the retention of outside lawyers in this action.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 102:

Documents sufficient to identify: (a) the total dollar amount of Alaska Medicaid's drug expenditures; (b) Medicaid drug expenditures as a percentage of Alaska's overall Medicaid budget; (c) the total number of Alaska citizens enrolled in Medicaid; and (d) number of Alaska citizens enrolled in Medicaid as a percentage of Alaska's overall population for all fiscal years for which You are claiming damages.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 103:

Documents sufficient to identify the “minority of drugs purchased by Alaska” for which “the state sets its reimbursement rate at either the federal upper limit (“FUL”) or at a rate established by the state maximum allowable cost (“MAC”) program, as alleged in paragraph 71 of Your Amended Complaint, including: (a) NDC; (b) the name of the drug; (c) the relevant FUL or MAC rate for each drug on which You based Your Reimbursement Rates; and (d) the higher FUL or MAC rate that You contend would have been in effect “had Defendants reported truthful prices,” for each year for which You claim damages.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 104:

All Documents supporting Your contention that “[a]t all relevant times, each Defendant was aware of the reimbursement formula used by the Alaska Medicaid program and the dependence of the Medicaid program on Defendants’ reported AWP,” as alleged in paragraph 73 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

REQUEST FOR PRODUCTION NO. 105:

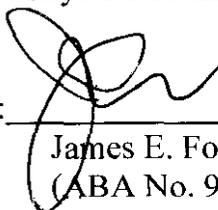
All Documents supporting Your contention that the Alaska Medicaid program “has paid more for prescription drugs than it would have if Defendants had reported their true wholesale prices,” as alleged in paragraph 74 of Your Amended Complaint. This request includes, but is not limited to: (a) NDC; (b) the name of the drug; (c) the allegedly false price on which the State relied; (d) the alleged “true wholesale price”; (e) market price for the NDC; (f) the alleged “spread” between market price and published AWP for each drug and each year for which You claim damages, as referenced in paragraph 46 of Your Amended Complaint.

RESPONSE:

Responsive documents will be produced in accordance with the Alaska Rules of Civil Procedure and any agreement of the parties.

FOSLER LAW GROUP, INC.

Attorneys for Plaintiff State of Alaska

By: 

Dated: January 31, 2008

James E. Fosler
(ABA No. 9711055)
737 W. Fifth Ave., Suite 205
Anchorage, Alaska 99501
Telephone: (907) 277-1557
Fax: (907) 277-1657

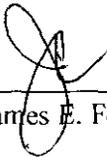
BEASLEY, ALLEN, CROW, METHVIN,
PORTIS & MILES, PC
W. DANIEL MILES, III
CLINTON C. CARTER
218 Commerce Street (36104)
PO Box 4160
Montgomery, AL 36103-4160
Telephone: (334) 269-2343
Fax: (334) 954-7555

MINER, BARNHILL & GALLAND, PC
CHARLES BARNHILL
ELIZABETH J. EBERLE
44 East Mifflin Street, Suite 803
Madison, WI 53703
Telephone: (608) 255-5200
Fax: (608) 255-5380 (fax)

MINER, BARNHILL & GALLAND, PC
GEORGE F. GALLAND, JR.
ROBERT S. LIBMAN
14 West Erie Street
Chicago, IL 60610
Telephone: (312) 751-1170
Fax: (312) 751-0438

CERTIFICATE OF SERVICE

Pursuant to Case Management Order No. 1, entered by the Court in this case on December 14, 2006, the undersigned certifies that a copy of the foregoing document was served through the LexisNexis File and Serve ("LNFS") system on January 31, 2008.



James E. Fosler