



Jan 31 2008  
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[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 FIRST SET OF INTERROGATORIES FROM  
DEFENDANT BOEHRINGER INGELHEIM ROXANE, INC. F/K/A/ ROXANE  
LABORATORIES, INC.**

Alaska hereby responds to the first set of interrogatories of defendant Boehringer Ingelheim Roxane, Inc. in accordance with Alaska's Rules of Civil Procedure and without regard to any Instructions setting forth different, additional, or contrary obligations.

**INTERROGATORY NO. 1:** Identify all departments and agencies of the State of Alaska that purchased or reimbursed a Provider for prescription drugs from 1995 to the present.

**ANSWER:** Department of Health and Social Services, Divisions of Public Health, Behavioral Health, Healthcare Services and Corrections and the Department of Administration, Pioneer Homes (Pioneer Homes now under DHSS).

**INTERROGATORY NO. 2:** Identify all reimbursement methodologies you have ever used or considered using to reimburse for physician-administered drugs under the Alaska Medicaid Program with the dates for each methodology. (For implemented methodologies, the dates should reflect the dates each Reimbursement Methodology was in effect; for those methodologies considered but not implemented, the dates should reflect the time frame in which the methodology was being considered.)

**ANSWER:** Lower of the billed amount or EAC (AWP – 5%). *See* produced claims data for specific dates on which each was used.

**INTERROGATORY NO. 3:** For each reimbursement methodology identified in response to the previous interrogatory, identify the Person(s) most knowledgeable about the methodology (both considered methodologies and implemented methodologies).

**ANSWER:** Dave Campana.

**INTERROGATORY NO. 4:** Identify all reimbursement methodologies that you have ever used or considered using to reimburse for pharmacy claims under the Alaska Medicaid Program with the dates for each methodology. (For implemented methodologies, the dates should reflect the dates each Reimbursement Methodology was in effect; for those

methodologies considered but not implemented, the dates should reflect the time frame in which the methodology was being considered.)

**ANSWER:** Since February, 1989, Alaska has reimbursed based on billed or EAC plus dispensing fee or FUL plus dispensing fee, except during approximately 2001-2003, Alaska used DOJ AWP, for those drugs for which it was available, plus dispensing fee.

**INTERROGATORY NO. 5:** For each reimbursement methodology identified in response to the previous interrogatory, identify the Person(s) most knowledgeable about each methodology (both considered methodologies and implemented methodologies).

**ANSWER:** Dave Campana.

**INTERROGATORY NO. 6:** Please describe in detail your use of the DOJ Medicaid AWP (including when they were used, how they were used, who used them, and the purpose of the use).

**ANSWER:** The Medicaid agency used 100% of the DOJ AWP in the pharmacy payment methodology starting 9-13-2001. Claims submitted between 5-1-00 and 9-13-01 were adjusted to the lower of the billed amount or the DOJ AWP + dispensing fees. The DOJ AWP methodology stayed in place until 9-22-04.

**INTERROGATORY NO. 7:** Identify all Persons involved in any way since 1995 in your preparation of Assurance Letters to any piece of the U.S. Government representing that your EAC, as calculated, was the best estimate of the prices that Providers were, at the time, currently and generally paying for drugs.

**ANSWER:** Dave Campana prepared for signature by the Medicaid Director: Bob Labee 1996 – 2004; Dwayne Peeples 2004 – 2006.

**INTERROGATORY NO. 8:** Identify all Persons with any knowledge that, at any time, Alaska's AWP based reimbursement to Providers for pharmaceutical products might result in reimbursement amounts in excess of Providers' Actual Acquisition Costs.

**ANSWER:** Given Alaska did not know Providers' Actual Acquisition Costs, no Person knew at any time that the described reimbursements exceeded Providers' Actual Acquisition Cost. As to whether anyone personally speculated that a particular reimbursement exceeded a Provider's Actual Acquisition Cost, the Persons to consult would be members of the 1989 working group that established Alaska's reimbursement rates at the outset of its entry into the Medicaid program (see documents produced for identity of the members) and David Campana.

**INTERROGATORY NO. 9:** Explain in detail, and identify all documents relating to, how and when you first became aware that Providers could obtain prescription drugs at prices lower than published AWPs.

**ANSWER:** Alaska retained a third-party in 1989 to conduct a survey of provider acquisition costs as part of the process of determining reimbursement rates for those choosing to participate in the Medicaid program. The survey will be produced in response to Defendants' first document production request.

**INTERROGATORY NO. 10:** Identify any State medical assistance program (including, but not limited to, any program within the Alaska Department of Health Services, the Alaska Department of Public Health, the Alaska Department of Social Services, the Alaska Department of Mental Health, the University of Alaska, and the Alaska Department of Corrections and Rehabilitation) that has used AWP in its Reimbursement Methodology for Providers and for which the State seeks damages in this case.

**ANSWER:** None.

**INTERROGATORY NO. 11:** Identify any State medical assistance program (including, but not limited to, any program within the Alaska Department of Health Services, the Alaska Department of Public Health, the Alaska Department of Social Services, the Alaska Department of Mental Health, the University of Alaska, and the Alaska Department of Corrections and Rehabilitation) that has used a reimbursement methodology for pharmaceutical products other than AWP.

**ANSWER:** None.

**INTERROGATORY NO. 12:** Identify the date on which the State of Alaska began seeking rebates for physician-administered drugs administered under its medical assistance programs.

**ANSWER:** Alaska objects to this interrogatory on the grounds that the information it seeks will not be admissible at trial nor is it reasonably likely to lead to the discovery of admissible evidence.

**INTERROGATORY NO. 13:** Identify all departments, state agencies, federal agencies, boards, commissions, organizations, consultants, accountants, task forces, or any other entity, including the members of such entities, that have reviewed or analyzed, at any time, your reimbursement of or expenditures for pharmaceutical products or dispensing fees, including, but not limited to, any State “medical care advisory committee” (42 C.F.R. § 431.12(b)).

**ANSWER:** The information is public information so Alaska has no way of knowing the identity of all those who may have reviewed or analyzed the referenced data.

**INTERROGATORY NO. 14:** For each reimbursement amount based on a percentage adjustment from a benchmark (such as AWP) that the State of Alaska has used or considered using to reimburse Providers for pharmaceutical products, explain the policy or other reasons for the percentage adjustment, and any findings regarding the impact of any such adjustments on Medicaid Beneficiaries, including, but not limited to, any assessments, studies, analyses, reviews, plans, reports, or audits conducted on the possible effect various reimbursement amounts or methodologies could potentially have, or were having, on beneficiary access to medicine or medical treatment, and all Persons who were involved in the assessments, studies, analyses, reviews, plans, reports, or audits.

**ANSWER:** Via a third-party survey of provider acquisition costs performed for Alaska in 1989, Alaska knew that some providers were able to obtain some pharmaceutical products for less than the published AWP, although Alaska did not know the magnitude of

the discrepancies or that these discrepancies resulted from Defendants' intentional publication of false AWP. Therefore, Alaska felt it could reimburse providers at something less than AWP and providers would still participate in the Medicare program. Furthermore, the federal government informed Alaska that it could not pay the full published AWP under the Medicaid program. Alaska therefore negotiated what it and the providers considered to be a fair rate of reimbursement. Had Alaska known the magnitude of the discrepancies between published AWPs and true AWPs, Alaska would have negotiated a lower reimbursement rate than that to which it agreed.

Alaska has no Findings, assessments, studies etc. as described in the interrogatory.

**INTERROGAOTRY NO. 15:** Identify each Third Party Administrator, fiscal agent, Benefits Consultant, other consultant, or PBM that was contacted, considered, retained, or hired by you to perform any services for you concerning pharmaceutical product prices, costs, reimbursement, utilization, or benefits, and describe the activity that person performed or was considered for, and the period of time during which that person was contracted, considered, retained, or hired by you.

**ANSWER:** First Health Services, Corp. was retained by Alaska around 1995 to serve as Alaska's general fiscal agent to perform standard duties such as receiving, reviewing, processing and paying Medicaid related claims.

**INTERROGATORY NO. 16:** For each of Roxane's Subject Drugs, identify any drugs "with greater medicinal value," as that phrase is used in paragraph 58 of the Complaint.

**ANSWER:** Alaska does not know, but Defendants do.

**INTERROGATORY NO. 17:** For Roxane's Subject Drugs, identify those for which you contend Roxane used AWP in any way to obtain (a) increased sales; (2) market share; or (3) profits at the expense of Alaska, as alleged in paragraph 91 of the Complaint.

**ANSWER:** All of them.

**INTERROGATORY NO. 18:** For any of Roxane's Subject Drugs identified in response to the previous Interrogatory, state the original market share, the increased market share, and the competitor(s) whose market share(s) were decreased.

**ANSWER:** Alaska does not know, but Defendants do.

**INTERROGATORY NO. 19:** Identify the name, title, telephone number, address, and email address of any present or former employee(s) of the State of Alaska who assisted in responding to any of these Interrogatories or any of the Requests for Production in the Defendants' First Set of Requests for Production of Documents to Plaintiff State of Alaska, specifying the dates each such person was employed by the State and which Interrogatories or Requests for Production each such person assisted in preparing.

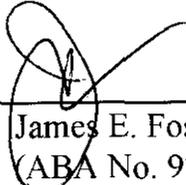
**ANSWER:** Dave Campana  
Division of Healthcare Services  
Alaska Department of Health and Social Services

FOSLER LAW GROUP, INC.

Attorneys for Plaintiff State of Alaska

Dated: January 31, 2008

By: \_\_\_\_\_

  
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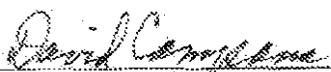
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VERIFICATION

STATE OF ALASKA            )  
  )  
THIRD JUDICIAL DISTRICT    )

DAVID CAMPANA, being first duly sworn upon oath, deposes and says that he has reviewed the answers to interrogatories, and that they are correct to the best of his knowledge and belief.

  
\_\_\_\_\_  
DAVID CAMPANA

SUBSCRIBED AND SWORN to before me this 31<sup>st</sup> day of January 2008.



  
\_\_\_\_\_  
Notary Public in and for Alaska  
My Commission Expires: 10-22-08

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. Foster