



STATE OF WISCONSIN
DEPARTMENT OF JUSTICE

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July 15, 2008

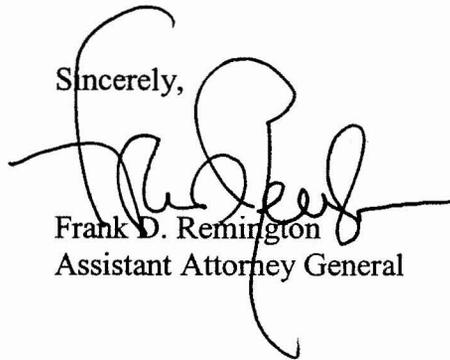
The Honorable William Eich
840 Farwell Drive
Madison, Wisconsin 53704

Re: State of Wisconsin v. Amgen, Inc., et al.
Case No. 04-CV-1709

Dear Judge Eich:

Enclosed you will find Plaintiff's Reply Brief in Support of its Motion to Quash Defendants' Notice to Depose Gregory L. Kipfer and attached Exhibit.

Sincerely,



Frank D. Remington
Assistant Attorney General

FDR:gdt

Enclosures

c: All Counsel of Record by LexisNexis File & Serve (w/enclosures)
Ann Ford, Chambers of the Honorable Richard Niess (w/enclosures)

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 04-CV-1709

AMGEN INC., et. al.,

Defendants.

PLAINTIFF'S REPLY BRIEF
IN SUPPORT OF ITS MOTION TO QUASH
DEFENDANTS' NOTICE TO DEPOSE GREGORY L. KIPFER

Plaintiff's motion is neither "ill-founded" nor "unwarranted" as Defendants demur. Plaintiff respectfully suggests that its motion is meritorious and warranted. The State of Wisconsin requests that this Special Discovery Master issue a protective order and pursuant to Wis. Stat. § 804.01(3)(a)1 quash the Defendants' Notice of Deposition of former Medicaid Fraud Control Unit Investigator Gregory L. Kipfer on the grounds that Investigator Kipfer is entitled to the protection of the attorney work product privilege.

FACTS

The following facts are not in dispute:

1. At all times material to this matter, Gregory Kipfer was a civil and criminal investigator employed by the Wisconsin Department of Justice and assigned to the Medicaid Fraud Control Unit.

2. On March 18, 1998, Gregory Kipfer attended the annual educational conference sponsored by the National Association of Medicaid Fraud Control Units.
3. Gregory Kipfer's name appears on a sheet, marked "Highly Confidential," apparently circulated at the Director's Meeting, indicating "receipt of ... presentation material" ostensibly prepared by Vena-A-Care of the Florida Keys, Inc., a non-governmental entity.
4. Gregory Kipfer does not possess any material distributed during the March 18, 1998 presentation by Ven-a-Care of the Florida Keys, Inc. He does not recall accepting any written material nor does he recall ever having any material provided by this entity. Kipfer recalls attending the annual NAMFCU general conference in Virginia March 1998. However, he has no recollection of attending any presentation by Ven-a-Care of the Florida Keys, Inc., nor does he have any knowledge, understanding, or recollection of what might have been discussed during such presentation.
5. Other than in connection with this discovery request, in Kipfer's discussions with legal counsel, Gregory Kipfer has never had any discussion with anyone about pharmaceutical pricing fraud, the "average wholesale price" or any other issue which he understands is currently being litigated by the Wisconsin Department of Justice.
6. At the Wisconsin Department of Justice, there is no record or recollection of anyone attending the March 18, 1998 "NAMFCU Presentation." (Plaintiff's Answer to Defendants' Seventh Set of Interrogatories).

ARGUMENT

Plaintiff believes as applied to the facts of this case, and only in the context of this litigation, the actions taken, the knowledge acquired, and the information possessed by the Attorney General's investigator is privileged under the doctrine of attorney work product.

I. Investigator Kipfer is entitled to claim the work product privilege.

Defendants' first defense is to assert that the Plaintiff has not shown that Gregory Kipfer, as an investigator for the Department of Justice, is entitled to protection under the attorney work product privilege. Plaintiff requests that this Court consider the fact that Investigator Kipfer was employed as a civil and criminal investigator for the Attorney General and as such, by nature of his employment, he acted under the supervision of the Director of the Medicaid Fraud Control Unit (Assistant Attorney General Juan Colas, now a Dane County Circuit Court Judge), and at the direction of the Attorney General (James Doyle, now the Governor).

The burden to establish the existence of the privilege in the context of a deposition is easily established in this case. In *State ex rel. Dudek v. Circuit Court for Milwaukee County*, 34 Wis.2d 559, 596, 150 N.W.2d 387 (Wis. 1967) the Supreme Court held that Attorney Dudek did not even have to give opposing counsel the names of his investigators despite the fact that he claimed the work product privilege. Here, the Defendants know the investigator's name and that he was employed by the Attorney General to investigate civil and criminal cases to be prosecuted by the Wisconsin Department of Justice.

It is not enough for the Defendants to attempt to dodge the Plaintiff's privilege by (a) promising not to ask for "privileged testimony," or (b) by graciously allowing Plaintiff's counsel to instruct the witness not to answer selected questions. It is this counsel's experience that in every instance where counsel has had to instruct the witness not to answer it has resulted in escalating acrimony and a further deterioration of the relationship between counsel. Plaintiff is not receptive to the Defendants' suggestion and believes the better practice is to clearly define the contours of the privilege in the context of what information is to be elicited from the deponent. Accordingly, Plaintiff seeks a protective order from this Court.

II. Defendants have offered no evidence to support their burden to show that they have a "substantial need" for Investigator Kipfer's testimony.

The Defendants cannot meet their burden here for two reasons. First, as a matter of law, they have no "need" for Kipfer's testimony because Kipfer's testimony has "no probative value." Second, on a practical level, they have no "need" for Kipfer's testimony because he does not know anything.

The Defendants continue to evade a clear description of precisely what it is they seek from this witness. The Kipfer affidavit was submitted after Defendants disclosed they had reason to believe Kipfer attended this conference. Plaintiff submitted the affidavit to show that even if he attended, the Plaintiff's original answer to Defendants' interrogatory (that there is no record or recollection of anyone attending the above defined "NAMFCU Presentation") was still true. The Kipfer affidavit was also submitted from a practical standpoint to show that there was no reason for the Defendants to further pursue the matter, at least as it related to this individual.

The Defendants, on the other hand, in a conclusory way assert that Kipfer has knowledge relevant to this action¹. Defendants state that Investigator Kipfer's testimony is "relevant to [the State of Wisconsin's] understanding of AWP in 1998" and they inaptly paraphrase the recent order of the circuit court.

There are at least two problems with Defendants' assertion. First, what Gregory Kipfer heard or read in Virginia in 1998 at a conference cannot be imputed to the State of Wisconsin for purposes of aiding Defendants' estoppel argument to this lawsuit. And second, Defendants seriously misrepresent Judge Niess' ruling on summary judgment.

Judge Niess did not bless what appears now to be Defendants' overt attempt to put the State on trial by deposing individual state employees to learn what this employee or that employee might have heard or read. At most, Judge Niess opined that it might be probative to their defense if the Defendants could affirmatively show that the Defendants and the State had an "agreement" as to the meaning of "average" "wholesale" "price." (Decision and Order, May 20, 2008, at 6).

Judge Niess did not define how the Defendants are going to discharge their affirmative burden to prove the existence of this agreement between the State and each of the Defendants as to definition of "Average Wholesale Price." Judge Niess did not hold that Defendants are free to depose individual state employees.

¹ At the end of Plaintiff's Brief-in-Chief the Plaintiff challenged the Defendants to "lay their cards on the table." It appears from their brief, the defendants do not have any cards in their hand. Instead, Defendants claim they have a right to depose this investigator to "understand the reasons for [his] failure to recollect, ... test his credibility and attempt to refresh his recollection." (Defendants' Brief at 3). To what witness or in what situation would these alleged purposes not apply? Defendants' statement offers very little insight to explain why the deposition of the Attorney General's Investigator is so important.

Defendants have no “substantial need” for the testimony of Gregory Kipfer because he has nothing probative, relevant or admissible to say. Taking a deposition of a state employee is not the mechanism to prove the existence of an agreement between the State of Wisconsin and the Defendants. In all cases where courts determined words to be ambiguous, other rules of construction were employed, but not one court has approved the deposition of individual state employees in an attempt to discern legislative or government intent, or in this case an “agreement” as to a revised definition of AWP. (See Defendants’ Brief at 2). Instead, the process is deliberate and defined. As Chief Justice Abrahamson wrote recently:

Rather, discerning and giving effect to the “intent” of the legislature is an exercise in logic in which a court determines what a reasonable person in the position of a legislator enacting the statute would have said about the legal issue presented in a given case. As Judge Richard Posner has written, “The judge should try to think his way as best he can into the minds of the enacting legislators and imagine how they would have wanted the statute applied to the case at bar.” Rules of statutory interpretation are merely codified expressions of legal reasoning that assist courts in this task.

In re Commitment of Byers, 263 Wis.2d 113, at ¶49, 665 N.W.2d 729 Wis., 2003. (Abrahamson, C.J, concurring). These words echo earlier observations by the Court of Appeals: “Legislative history is frequently problematic.” *State Public Service Commission v. Wisconsin Bell, Inc.*, 211 Wis.2d 751, 759, 566 N.W.2d 496 (Wis. App. 1997). Legislative history may be “problematic,” but the problem cannot be solved by simply subpoenaing a state employee to elicit his or her opinion on the matter.

On the other hand, “official statements from a legislative source is valid evidence of legislative intent.” *State ex rel. Shroble v. Prusener*, 185 Wis.2d 102, 111, 517 N.W.2d 169, 173 (Wis. 1994). Defendants have some tools to meet their burden, but

there are limits. For example, “materials the commission offers are simply back-and-forth notes between commissions staff and members of an ‘industry committee.’ and such ‘statements from nonlegislative sources’ do not have the ‘probative value’ of official legislative records and should be used ‘cautiously,’ if at all.” *PSC 211* Wis.2d at 759 (citing *Ball v. District No. 4, Area Bd. of Vocational Technical and Adult Education*, 117 Wis.2d 529, 544-45, 345 N.W.2d 389, 397 (Wis. 1984)). And even in *Ball*, though the court acknowledged the utility of “nonlegislative sources”, it was quite clear that testimony of individuals, in that case Dr. Sorenson, was inappropriate and “unreliable.” *Ball*, 117 Wis.2d at 544. Neither Judge Niess’ ruling nor the law condones the deposition of Gregory Kipfer for the purpose of proving the existence of this elusive agreement.

As hard as the Defendants argue, they cannot escape the fact that the law in this state is abundantly clear. Even forgetting for the moment the existence of the work product privilege, it is wholly inappropriate to allow legislators much less private citizens or individual state employees to testify as to the intent of the Legislature or the “understanding” of the government as to the existence of this purported agreement. See *State v. Consolidated Freightways Corp.*, 72 Wis.2d 727, 738, 242 N.W.2d 192 (Wis. 1976).

But perhaps most important of all, as a practical matter Gregory Kipfer does not know anything. He has never had any discussion with anyone about pharmaceutical pricing fraud or the “average wholesale price” or any other issue being litigated in this case. Plaintiff respectfully suggests it is not enough for the Defendants to retort that they find out why Kipfer has no recollection and at the same time test his credibility. Plaintiff

respectfully requests that this Special Master grant the Plaintiff's motion for a protective order.

III. Defendants have not satisfied their burden of showing that whatever information they seek is otherwise unavailable from other individuals or by less intrusive means.

The Defendants devote one sentence to this element of their burden. On page six of their brief they state:

“Defendants have attempted to secure this information by ‘other means,’ mainly by serving interrogatories and following up with Plaintiff regarding this issue, but neither has proven satisfactory.”

There is no support for this assertion.

Defendants first broached the “1998 NAMFCU Presentation” in Defendants’ Seventh Set of Interrogatories. In that document they asked and the Plaintiff answered as follows:

INTERROGATORY NO. 1

Did any of Your employees, agents or representatives attend the March 19, 1998 NAMFCU Presentation, or any other NAMFCU meeting at which the March 19, 1998 NAMFCU Presentation was discussed?

ANSWER TO INTERROGATORY NO. 1

The Plaintiff OBJECTS to this interrogatory on the ground that it is overbroad. The Plaintiff also OBJECTS on the ground that the interrogatory impermissibly intrudes into confidential matters of prosecutorial discretion and work product. Notwithstanding this objection, there is no record or recollection of anyone attending the above defined “NAMFCU Presentation.”

Although the Defendants have served their eighth set of interrogatories, none of those questions had anything to do with the NAMFCU Conference. (*See attached*). Counsel did talk informally, but no interrogatories germane to the response above were ever subsequently served upon the Plaintiff. More importantly, in the deposition

Defendants apparently took of the person who made the “Presentation,” defense counsel pursued no line of questions specifically to Wisconsin. (See Defendants’ Exhibits C and D). Not availing oneself on an opportunity does not create the unavailability of other means of securing the information. In fact, other than filing their brief, Defendants have pursued no other alternative discovery mechanisms relating to the 1998 Conference.

CONCLUSION

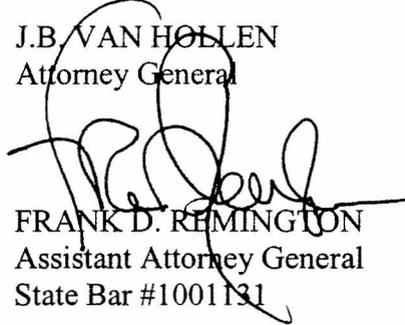
The only unfairness in all of this is the Defendants’ characterization of the Plaintiff.² Protecting the Attorney General’s investigators is no more improper than invoking privilege to protect communications between the client or the attorney. There is no basis to accuse the Plaintiff of “hiding behind faulty memories.” That investigator had no recollection nor any involvement with or understanding of the facts or issues in this case. But more importantly, that an employee went to a meeting in Virginia and heard a presentation by a person suing in another state is not “fatal” to this case. Gregory L. Kipfer does not speak on behalf of the State of Wisconsin

There is no reason to depose Investigator Kipfer. He has nothing relevant to say. He is protected by the attorney work product privilege and the Defendants have refused to use any other discovery mechanism to seek out what they desire³. Plaintiff respectfully requests this Special Master grant its motion to quash the notice of deposition of Gregory L. Kipfer.

² On page six Defendants say “[i]t is patently unfair for Plaintiff to evade discovery of facts potentially fatal to its case by hiding behind faulty memories and improper assertions of privilege to purely factual evidence.”

Dated this 15th day of July, 2008.

J.B. VAN HOLLEN
Attorney General

A handwritten signature in black ink, appearing to read "Frank D. Remington", is written over the typed name and title of the Assistant Attorney General.

FRANK D. REMINGTON
Assistant Attorney General
State Bar #1001131

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³ The plaintiff does not suggest that using other discovery tools will ever make what is sought relevant and admissible.

EXHIBIT

**PLAINTIFF'S RESPONSE TO DEFENDANTS'
EIGHTH SET OF INTERROGATORIES AND
REQUESTS FOR PRODUCTION**

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 04-CV-1709

AMGEN INC., et. al.,

Defendants.

PLAINTIFF'S RESPONSE TO DEFENDANTS' EIGHTH SET OF
INTERROGATORIES AND REQUESTS FOR PRODUCTION

Pursuant to the Wisconsin Rules of Civil Procedure, the State of Wisconsin, by and through its undersigned counsel, respond to "Defendants' Eighth Set of Interrogatories" as follows.

Preliminarily, please be advised that the State of Wisconsin is continuing its investigation of Defendants' unlawful conduct and has not completed its discovery or its preparation for trial. This response is given without prejudice to the State's right to produce evidence of any subsequently discovered facts, documents or information and thus modify, change or amend its response given below and/or obligation to supplement this response under Wis. Stat. § 804.01(5).

GENERAL OBJECTIONS:

1. The Plaintiff OBJECTS to the "definitions" which precede Defendants' Eighth Set of Interrogatories to the extent that Defendants' "definitions" deviate from the ordinary and accepted meaning of the term. In particular, the Plaintiff OBJECTS to

definitions 1, 2, 4, 5 and 7 on the ground that Defendants' suggested definition is either inaccurate or incomplete.

2. The Plaintiff OBJECTS to those interrogatories below that can be answered with the production of the document to which the interrogatory indirectly applies. As such, pursuant to Wis. Stat. § 804.08(3), the Plaintiff elects to use the procedure set forth in sec. 804.09 where the interrogatory is nothing more than a demand for the production of documents.

3. The Plaintiff OBJECTS to those interrogatories below that seek information prior to January 1, 1993. Because records prior to 1993 are outside the scope of this lawsuit, and because of logistical difficulties retrieving information or knowledge back beyond that period of time, those interrogatories are overbroad and producing responsive information is unduly burdensome.

Subject to the foregoing objections, the Plaintiff answers the Defendants' Eighth Set of Interrogatories as follows:

INTERROGATORIES

INTERROGATORY NO. 1:

Identify what HCPCS codes you contend are at issue in this case.

ANSWER:

The Plaintiff OBJECTS to this interrogatory on the ground that it has already been answered. Please see the data already produced to the Defendants on September 6, 2006. The Plaintiff furthermore OBJECTS on the ground that the list of relevant NDCs has been disclosed pursuant to stipulation and court order. Any HCPC that contains an NDC contained within a defendant's targeted drug list is "at issue" in this case.

INTERROGATORY NO. 2:

Identify what criteria was used to select the HCPCS codes in the data produced to Defendants on September 6, 2006.

ANSWER:

Plaintiff OBJECTS to this interrogatory on the ground that selection of targeted drugs by NDC or HCPC is protected by attorney work product.

INTERROGATORY NO. 3:

For each HCPCS drug code claim, identify how You determined what price to use for reimbursement purposes, including but not limited to:

- a) Whether you used AWP to set the price used for each HCPCS drug code claim and, if not, what pricing information you used.
- b) What other pricing information (i.e. other than ingredient cost) you used to set the price used for each HCPCS drug code claim.
- c) The identity of the person and/or entity responsible for determining what price to use for a given HCPCS drug code.
- d) How You determined what price to use when there were multiple NDCs associated with a given HCPCS drug code.
- e) The identity of the person and/or entity responsible for determining what price to use when there were multiple NDCs associated with a given HCPCS drug code.

ANSWER:

- a) The State used AWP to set the price for most single source agents. For most multi-source agents, the State used the MAC to set the price. In other instances where a drug required manual pricing, physician or pharmacy consultants used Red Book, the reference file with Medicaid pricing data and other tools to determine a price.
- b) Any administration fee was paid with each HCPCS drug code claim.

- c) Pharmacy and physician consultants at EDS and the State as well as the physician policy analyst.
- d) For most multi-source agents, the State used the MAC to set the price. In other instances where a drug required manual pricing, physician or pharmacy consultants used Red Book, the reference file with Medicaid pricing data and other tools to determine a price.
- e) Pharmacy and physician consultants at EDS and the State as well as the physician policy analyst.

INTERROGATORY NO. 4:

Identify how the Manual Pricing amount was determined for PADs reimbursed under the Medicaid program during the Relevant Time Period, including but not limited to:

- a) Specific steps taken to designate that Manual Pricing should be used for a given PAD.
- b) Specific steps taken to determine the Manual Pricing amount for a given PAD.
- c) Circumstances under which a PAD would be reimbursed based on Manual Pricing.
- d) The identity of the person(s) and/or entities responsible for determining whether to apply Manual Pricing for a given PAD and/or the Manual Pricing amount for PADs.

ANSWER:

- a) A pricing action code (PAC) of 21J was assigned to a code unless a price was designated. Pharmacy and physician consultants at EDS and the State as well as the physician policy analyst would assist in making that decision.
- b) Pharmacy and physician consultants at EDS and the State would use their best professional judgment as well as any available tools such as Red Book, invoices, reference file and any other credible source available to determine the price for the PAD.

- c) Pharmacy and physician consultants at EDS and the State would use their best professional judgment to determine the circumstances for manual pricing. In certain instances, assigning a price would be delayed until there was some utilization on that drug to see what the EAC price would be for the PAD.
- d) Pharmacy and physician consultants at EDS and the State as well as the physician policy analyst.

INTERROGATORY NO. 5:

Identify how the MAC rate was determined for PADs during the Relevant Time Period, including but not limited to:

- a) Specific steps taken to determine the MAC rate for a PAD, including how it was determined which NDC to use in calculating the reimbursement amount for a multi-source drug.
- b) The identity of the person and/or entity responsible for determining the MAC rate for PADs.

ANSWER:

Theodore Collins set the MAC. He is a consultant and he would be able to explain if and how it was done.

INTERROGATORY NO. 6:

Identify whether the Medicare claims data produced to Defendants on August 25, 2006 contain Wisconsin Medicare Part B beneficiaries' claims and/or Dual-Eligible Claims.

ANSWER:

The Plaintiff OBJECTS to this interrogatory on the ground that it is ambiguous. Furthermore, Plaintiff OBJECTS to the question inasmuch as the Defendants' answer can

be derived from either the information itself or by using the already produced Medicaid claims data which included all the dual eligible crossovers.

INTERROGATORY NO. 7:

Explain what the Level I, Level II, and Level III fields in the MMIS database represent, including but not limited to:

- a) whether the definitions set forth in Exhibits B and C, attached, for the Level I, Level II, and Level III fields are accurate;
- b) why the definitions for the Level I, Level II, and Level III fields set forth in Exhibit B differ from those set forth in Exhibit C; and
- c) what the specific terms in the definitions set forth in Exhibits B and C, attached, for the Level I, Level II, and Level III fields mean, including but not limited to the terms “locality” and “specialty specific rates.”

ANSWER:

- a) The definitions in Exhibits B and C are accurate for Level I, Level II, and Level III fields.
- b) The definitions for Level I, Level II, and Level III fields in Exhibit C were provided in the data dictionary with the HCPCPS claims data. It was intended to explain the dollar amount present in the fields when a claim is a Medicare crossover claim. The definitions for Level I, Level II, and Level III fields in Exhibit B were provided when clarification was requested by Defendants’ legal counsel. It was intended to provide a global definition of the fields, not just Medicare crossover claims.
- c) “Provider-specific rates” – A provider specific rate is a unique rate defined for a specific provider, (e.g. Dr. Jones). “Provider locality” – A provider locality is a unique rate defined by specific counties, (e.g., out-of-state). “Pricing specialty specific rates” – A pricing specialty specific rate is a unique rate defined for a category of like providers, (e.g. physical therapists).

SPECIFIC REQUESTS FOR PRODUCTION OF DOCUMENTS

REQUEST NO. 1:

Pharmacy address, provider address, and place of service fields in the MMIS database for both pharmacy and HCPCS claims for the Relevant Time Period. *See Gray Tr. at 25:6-12; 25:13-19; 51:22-52:7 for references to these fields (Ex. A).*

ANSWER:

The Plaintiff will produce at a mutually convenient date and time the pharmacy and provider addresses. The “place of service field” may be found in the “quick reference file”.

REQUEST NO. 2:

Complete HCPCS data containing all of the line numbers for each claim for the Relevant Time Period. *See Gray Tr. at 32:10-34:7 for references to the missing line numbers (Ex. A).*

ANSWER:

The Plaintiff OBJECTS to this request on the ground that it demands information and data not relevant to this matter. The cost of acquiring additional data from the EDS would be substantial and would not likely lead to the discovery of relevant and admissible evidence.

REQUEST NO.3:

HCPCS Historical Pricing Files for the Relevant Time Period.

ANSWER:

The Plaintiff will produce at a mutually convenient date and time a current snapshot containing these pricing files.

REQUEST NO. 4:

Pharmacy Claims Pricing Files for October 2004 through the present.

ANSWER:

The Plaintiff already produced two snapshots of the Pricing Files. The Plaintiff will produce another snapshot of the current Pricing File.

REQUEST NO. 5:

Claim Reference Files for the Relevant Time Period.

ANSWER:

The Plaintiff OBJECTS to this request on the ground that “claim reference file” is not a term known to the program.

REQUEST NO. 6:

Quick Reference document which covers the Relevant Time Period.

ANSWER:

The Plaintiff will produce the quick reference file.

REQUEST NO. 7:

Any documents constituting, reflecting or referring to Cross-Walks used to determine rebates or reimbursement rates for HCPCS claims for the Relevant Time Period.

ANSWER:

Plaintiff OBJECTS to this request on the ground that information or data relating to the determination of rebates is irrelevant, over burdensome, and not likely to lead to the discovery of relevant and admissible evidence. Plaintiff also OBJECTS on the ground that the request is ambiguous. Notwithstanding these objections, the Plaintiff uses and hereby references the CMS website which includes pricing information as well as crosswalk information.

<http://www.cms.hhs.gov/McrPartBDrugAvgSalesPrice>

REQUEST NO. 8:

Any documents used to answer the above Interrogatories.

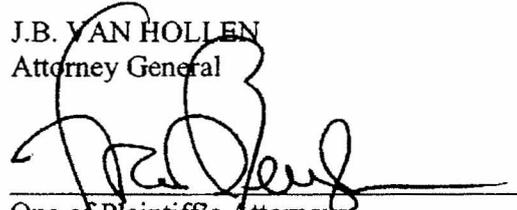
ANSWER:

No document was used to answer the above interrogatories that has not otherwise been provided or is within the public domain and equally accessible to the defendants.

AS TO OBJECTIONS:

Dated this 27th day of July, 2008.

J.B. VAN HOLLEN
Attorney General

A handwritten signature in black ink, appearing to read "Frank D. Remington", written over a horizontal line.

One of Plaintiff's Attorneys
FRANK D. REMINGTON
Assistant Attorney General
State Bar #1001131

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AUTHENTICATION

AS TO INTERROGATORY NUMBER SEVEN:

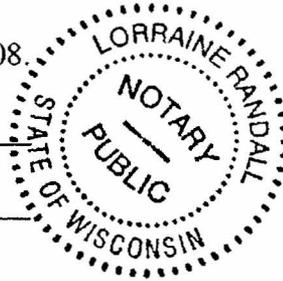
Kimberly Smithers
Kimberly Smithers

Subscribed and sworn before me

This 24th day of June, 2008.

Lorraine Randall
Notary Public, State of Wisconsin

My commission: 2/6/11



AUTHENTICATION

AS TO INTERROGATORIES THREE, FOUR AND FIVE:

Carrie Gray
Carrie Gray

Subscribed and sworn before me
This 24 day of June, 2008.

[Signature]
Notary Public, State of Wisconsin
My commission: is permanent