

December 6, 2006

Via First Class Mail

Atty. Charles Barnhill
Atty. William P. Dixon
Miner, Barnhill & Galland, P.C.
44 East Mifflin Street, Suite 803
Madison, WI 53703

Cynthia R. Hirsch
Assistant Attorney General
P. O. Box 7857
Madison, Wisconsin 53707-7857

P. Jeffrey Archibald
Archibald Law Office
1914 Monroe Street
Madison, WI 53711

Atty. Robert S. Libman
Miner, Barnhill & Galland
14 West Erie Street
Chicago, IL 60610

Re: *State of Wisconsin v. Amgen Inc., et al.*
Case No. 06 C 0582 C

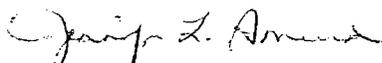
Dear Counsel:

Enclosed please find Novartis Pharmaceuticals Corporation's First Set of Requests to the State of Wisconsin for Production of Documents, which supplements the joint requests previously served by Defendants.

If you have any questions, don't hesitate to call.

Sincerely,

SOLHEIM BILLING & GRIMMER, S.C.

By 
Jennifer L. Amundsen

JLA/erk

Enclosure

cc: Christine Braun (w/encl.)

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

STATE OF WISCONSIN,

Plaintiff,

CASE NO. 06 C 0582 C

Honorable Barbara B. Crabb

v.

AMGEN INC., et al.,

Defendants.

**NOVARTIS PHARMACEUTICALS CORPORATION'S FIRST SET OF
REQUESTS TO THE STATE OF WISCONSIN
FOR PRODUCTION OF DOCUMENTS**

Defendant Novartis Pharmaceuticals Corporation ("NPC"), pursuant to Federal Rules of Civil Procedure 26 and 34, requests that Plaintiff the State of Wisconsin produce the documents requested herein by making them available for inspection and copying at the offices of Solheim, Billing & Grimmer, S.C.; U.S. Bank Plaza, Suite 301; One South Pinckney Street; P.O. Box 1644; Madison, Wisconsin 53701-1644, or at such other place and in such manner as may be mutually agreed upon between counsel for the parties, within thirty (30) days from the date of service of these Requests.

DEFINITIONS

The following terms used in these Requests, whether or not capitalized, are defined as follows:

A. "And" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of the Requests the greatest possible responsive information, and the terms "each," "any," and "all" shall mean "each and every."

B. “AWP” or “Average Wholesale Price,” for the purpose of responding to these Requests, means any figure or amount so categorized by any entity or periodically published by one or more pharmaceutical industry compendia, including the Drug Topics Red Book (the “Red Book”), American Druggist First DataBank Annual Directory of Pharmaceuticals (“First DataBank”), Essential Directory of Pharmaceuticals (the “Blue Book”), or Medi-Span’s Master Drug Database (“Medi-Span”).

C. “BadgerCare” means the Wisconsin medical assistance program for low-income families with children.

D. “Communication” means the transmittal of information (in the form of fact, ideas, inquiries, or otherwise), including, without limitation, letters, memoranda, electronic mail, voicemail, telegrams, invoices, telephone conversations, face-to-face meetings, and other similar forms of Communication or correspondence.

E. “Concern” and “Concerning” mean directly or indirectly referring to, relating to, regarding, constituting, comprising, containing, setting forth, summarizing, reflecting, stating, describing, recording, noting, embodying, mentioning, studying, analyzing, evidencing, discussing, or evaluating.

F. “Document” shall be defined to the broadest extent permitted by Rule 34 of the Federal Rules of Civil Procedure and shall mean any kind of tangible material, whether written, recorded, microfilmed, microfiched, photographed, computerized, reduced to an electronic or magnetic impulse, or otherwise preserved or rendered, and including, but not limited to, papers, agreements, contracts, notes, memoranda, electronic or computer-transmitted messages viewed via monitor, correspondence, letters, e-mails, facsimile transmissions, statements, invoices, record books, reports, studies, analyses, minutes, working papers, charts,

graphs, drawings, calendars, appointment books, diaries, indices, tapes, summaries and/or notes regarding telephone conversations, personal conversations, interviews, and meetings, and any and all other written, printed, recorded, taped, typed, duplicated, reproduced or other tangible matter in Your possession, custody, or control, including all copies which are not identical to the originals, such as those bearing marginal comments, alterations, notes, or other notations not present on the original Document as originally typed, written, or otherwise prepared.

G. “Medicaid” means the jointly funded federal-state health insurance program enacted in 1965 under Title XIX of the Social Security Act to pay for the costs of certain healthcare expenses of eligible Beneficiaries.

H. “Medical Assistance Programs” means the Wisconsin Medicaid, SeniorCare, BadgerCare, or any other medical assistance program wholly or partially funded by the State of Wisconsin for which the State seeks recovery of damages.

I. “Medicare” means the federal program enacted in 1965 under Title XVIII of the Social Security Act to pay the costs of certain healthcare expenses of eligible beneficiaries.

J. “Methodology” means any fact, statistic, report, analysis, or other source or factor taken into consideration by Plaintiff to provide in its responses.

K. “NPC Subject Drugs” means all drugs You attribute to NPC and list in Exhibits D and E to Your Second Amended Complaint, unless the parties reach an agreement to limit discovery to certain drugs, or the court orders that discovery that be limited to certain drugs, in which case “NPC Subject Drugs” shall refer to those drugs only.

L. “Participant” or “Beneficiary” means a Person for whom You provide health insurance coverage, including policyholders and dependents, or any other health care or health benefits via any program.

M. "Person" means any natural person or any business, corporation, partnership, proprietorship, association, organization, governmental entity, group of Persons, or other entity of whatever nature.

N. "Plaintiff," "State," "Wisconsin," "You," or "Your" refer collectively to the Plaintiff State of Wisconsin, including but not limited to its citizens, private payers who pay prescription drugs costs of their members, the Governor's office, the Wisconsin Legislative Fiscal Bureau, the Wisconsin legislature (including its committees and individual legislators), the Wisconsin Department of Justice, the State of Wisconsin Department of Health and Family Services, the State of Wisconsin Medicare Program, the State of Wisconsin Medicaid Program (including Medical Assistance, BadgerCare, and SeniorCare), any other Wisconsin Medical Assistance Program, any other administrative bodies, legislative agencies, all successors and predecessors, and officials, agents, employees, commissions, boards, divisions, departments, agencies, instrumentalities, administrators, and other Persons or entities acting on their behalf and/or involved in administering, overseeing, or monitoring any State program, including Medicaid, that provides reimbursement for pharmaceutical products.

O. "Provider" means any physician, pharmacist or other individual or entity that administers, dispenses or otherwise provides prescription drugs to any Beneficiary, or any Person to whom Plaintiff provides reimbursement for drugs dispensed to a Participant or Beneficiary.

P. "Reimbursement," "Reimbursement Amount" and "Reimbursement Methodology" mean the formula used to calculate the amount of payment designated by Medicare or the Wisconsin Medical Assistance Programs to reimburse healthcare Providers for administering or dispensing pharmaceutical drug products to a Beneficiary.

Q. "Relating to" means in any way concerning or referring to, consisting of, involving, regarding, or connected with the subject matter of the Request.

R. "SeniorCare" means the Wisconsin Pharmaceutical Assistance Contract for the Elderly Program.

S. "Second Amended Complaint" means the Second Amended Complaint filed by the State in this case, No. 06 C 0582 C, in the United States District Court for the Western District of Wisconsin.

T. "Spread" shall have the meaning ascribed to it in numbered paragraph 40 of Your Second Amended Complaint.

U. "Third Party Administrator" means any entity that provides administrative services to You concerning any medical benefit provided to any Participant or Beneficiary.

V. "Wisconsin Department of Health and Family Services" means the state agency and its employees responsible for administering the Wisconsin Medical Assistance Programs.

GENERAL INSTRUCTIONS

W. These Requests are not limited to Documents in the possession of the State of Wisconsin Medicaid Program, but include Documents in the possession of Wisconsin's executive, administrative, and legislative offices and agencies as defined in Paragraph N, above.

X. Unless otherwise specifically stated, the Requests below refer to the time period from when the alleged scheme began to the present. If it is necessary to produce Documents from a prior time to fully respond to a Request, please do so.

Y. Each Request for production of Documents extends to all Documents in Your possession, custody, or control, or anyone acting on Your behalf. A Document is to be

deemed in Your possession, custody, or control if it is in Your physical custody, or if it is in the physical custody of any other Person and You (i) own such Document in whole or in part; (ii) have a right, by contract, statute, or otherwise, to use, inspect, examine, or copy such Document on any terms; (iii) have an understanding, express or implied, that You may use, inspect, examine or copy such Document on any terms; or (iv) have, as a practical matter, been able to use, inspect, examine, or copy such Document when You sought to do so.

Z. If production is requested of a Document that is no longer in Your possession, custody, or control, Your response should state when the Document was most recently in Your possession, custody, or control, how the document was disposed of, and the identity of the Person, if any, presently in possession, custody, or control of such Document. If the Document has been destroyed, state the reason for its destruction.

AA. Provide the following information for each Document withheld on the grounds of privilege:

- (i) its date;
- (ii) its title;
- (iii) its author;
- (iv) its addressee;
- (v) the specific privilege under which it is withheld;
- (vi) its general subject matter; and
- (vii) a description of it that You contend is adequate to support Your contention that it is privileged.

BB. Pursuant to Rule 26 of the Federal Rules of Civil Procedure, these Requests are continuing in nature so as to require, whenever necessary, continuing production

and supplementation of responses between the initial date for production set forth above and the end of trial.

CC. To the extent that You consider any part of the following Requests to be objectionable, please respond to the remainder of the production request, and separately state the part of each request to which You object and each ground for each objection.

DD. The singular is meant to include the plural, and vice versa.

REQUEST FOR DOCUMENTS TO BE PRODUCED

1. All Documents and data You relied on to calculate or determine the alleged market prices and spreads set forth in Exhibits D and E to Your Second Amended Complaint for NPC Subject Drugs.

2. All Documents concerning or constituting Communications between You and any Third Party Administrator concerning (i) Your Reimbursement of pharmaceutical products; (ii) Providers' acquisition costs; and/or (iii) any allegation contained in Your Second Amended Complaint.

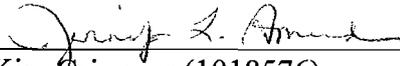
3. All Documents containing or concerning any disclosure or disclaimer You received, directly or indirectly, from NPC concerning the AWP of any NPC Subject Drug.

4. All Documents concerning the price at which Providers could purchase or have purchased any NPC Subject Drug.

Dated: December 6, 2006

Of Counsel:

Jane W. Parver
Saul P. Morgenstern
Mark D. Godler
Christine A. Braun
KAYE SCHOLER LLP
425 Park Avenue
New York, New York 10022
(212) 836-8000



Kim Grimmer (1018576)
Jennifer L. Amundsen (1037157)
SOLHEIM BILLING & GRIMMER, S.C.
U.S. Bank Plaza, Suite 301
One South Pinckney Street
P.O. Box 1644
Madison, Wisconsin 53701-1644
(608) 282-1200

*Attorneys for Defendant
Novartis Pharmaceuticals Corporation*

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

STATE OF WISCONSIN,

Plaintiff,

v.

AMGEN INC., et al.,

Defendants.

)
)
)
)
)
)
)
)
)
)
)

Case No. 06 C 0582 C

Honorable Barbara B. Crabb

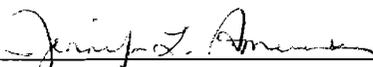
CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of December, 2006, a true and correct copy of Novartis Pharmaceuticals Corporation's First Set of Requests to the State of Wisconsin for Production of Documents was served on all counsel of record via LexisNexis File and Serve.

I also certify that I caused a true and correct copy of this document to be served electronically and by First Class Mail upon Attorney Robert S. Libman and mailed by First Class Mail to the following:

Atty. Cynthia R. Hirsch
Atty. Charles Barnhill
Atty. William P. Dixon
Atty. P. Jeffrey Archibald

Dated this 6th day of December, 2006.



Jennifer L. Amundsen