

STATE OF WISCONSIN,

Plaintiff,

v.

Case No. 04 CV 1709

ABBOTT LABORATORIES, INC., et al,

Defendants.

PLAINTIFF'S RESPONSE TO
DEFENDANTS' THIRD DOCUMENT REQUEST

Pursuant to the Wisconsin Rules of Civil Procedure, the State of Wisconsin, by and through its undersigned counsel, respond to "Defendants' Third Request for Production of Documents" as follows.

1. All documents referred to or used in responding to Defendants' Third Set of Interrogatories Directed to Plaintiff's *Parens Patriae* Claims.

ANSWER: The plaintiff does not assert a *Parens Patriae* claim.

2. All documents supporting, refuting, or otherwise concerning your claim, as alleged in Paragraph No. 66 of your First Amended Complaint, that Medicare Part B participants paid substantially more for their co-pays because of defendants' alleged conduct.

ANSWER: The documents supporting the claim made in the Amended Complaint that the Medicare Part B participants paid more for their co-pays because of defendants' illegal conduct is going to be substantially the same as the documents supporting the claim made in the Amended Complaint that the State Medicaid Program paid more for the reimbursement of drugs for Medicaid recipients because of defendants' illegal conduct. Toward this end, please see plaintiff's response to this same question/demand, asked a number of different ways, in defendants' second round of interrogatories and document requests.

3. All documents supporting, refuting, or otherwise concerning your claim, as alleged in Paragraphs 67 and 75 of your First Amended Complaint, that private payers have been harmed by entering into contracts with PBMs based on “inflated prices.”

ANSWER: The documents supporting the claim made in the Amended Complaint that the private payers have paid inflated costs for contracts entered into with PBMs is going to be substantially the same as the documents supporting the claim made in the Amended Complaint that the State Medicaid Program paid more for the reimbursement of drugs for Medicaid recipients because of defendants’ illegal conduct. The cost of prescription drugs is made higher by virtue of defendants’ illegal acts and the final payer, the participants or his/her employers, will have therefore been burdened with the full, (and inflated), cost of participating in programs involving prescription drug coverage.

4. All documents, including contracts, between the private payers referenced in Paragraph 67 of your First Amended Complaint and the PBMs with which they contracted relating or referring to the reimbursement of pharmaceutical drugs.

ANSWER: The Department of Health and Family Services is not currently in possession of contracts, or other documents, between private payers and their Pharmacy Benefit Managers.

5. All documents supporting, refuting, or otherwise concerning your claim, as alleged in Paragraph 75 of your First Amended Complaint, that PBMs were “enabled and encouraged” to enter into contracts with private payers based on “inflated prices.”

ANSWER: The documents supporting the claim that the defendants’ publication of false and fraudulent average wholesale prices enabled Pharmacy Benefit Managers to enter into contracts with private payers at costs higher than they would have been had the defendants published true and lawful average wholesale prices is going to be substantially the same as the documents supporting the plaintiff’s Medicaid claim.

6. All documents supporting, refuting, or otherwise concerning your claims that any additional *Parens Patriae* Plaintiffs identified in your response to Interrogatory No. 4 were harmed by defendants’ alleged conduct.

ANSWER: The plaintiff does not assert a *Parens Patriae* claim and therefore, the plaintiff has not identified any “*Parens Patriae* Plaintiffs”.

7. All documents, including data, supporting, refuting, or otherwise concerning the damages or pecuniary losses to the *Parens Patriae* Plaintiffs.

ANSWER: The plaintiff does not assert a *Parens Patriae* claim.

8. All documents, including data, identifying the *Parens Patriae* Plaintiffs, the drugs they paid for, and the amount they spent for each drug.

ANSWER: There are no "*Parens Patriae* Plaintiffs". To the extent the State may seek restitution as provided in Wis. Stats. Ch. §§ 100 and 49, it will do so only with respect to the same prescription drugs that the plaintiff identifies in its "Targeted Drug List". The defendants will be provided the State Medicaid Program utilization data as part of the plaintiff's response to the Defendants' Second Request for Production of Documents.

9. All documents showing reliance by the *Parens Patriae* Plaintiffs.

ANSWER: There are no "*Parens Patriae* Plaintiffs".

10. All documents concerning any notice of this litigation that was sent to the *Parens Patriae* Plaintiffs.

ANSWER: There are no "*Parens Patriae* Plaintiffs".

Dated this 11th day of April, 2006.



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

Wisconsin Department of Justice
Post Office Box 7857
Madison, Wisconsin 53707-7857
(608) 266-3542