

STATE OF WISCONSIN,

Plaintiff,

v.

Case No.: 04CV1709

Unclassified Civil: 30703

ABBOTT LABORATORIES, ET AL.,

Defendants.

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**PLAINTIFF'S FIRST SET OF REQUESTS FOR PRODUCTION  
OF DOCUMENTS TO ALL DEFENDANTS**

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To: See Attached Service List

PLEASE TAKE NOTICE that the Plaintiff requires the Defendants to produce within thirty (30) days hereof at the offices of the Wisconsin Attorney General, Wisconsin, Department of Justice, Post Office Box 7857, Madison, Wisconsin 53707-7857 Attn: Cynthia Hirsch and Miner, Barnhill & Galland, P.C., 44 East Mifflin Street, Suite 803, Madison, WI 53703 Attn: Charles Barnhill a copy of each of the following described Documents pursuant to Rule 804.09:

**DEFINITIONS**

As used in these Document Requests, the following terms shall have the meanings set forth below:

1. The term "Average Manufacturer Price" or "AMP" means the price you report or otherwise disseminate as the average manufacturer price for any Pharmaceutical that you report for purposes of the Medicaid program, pursuant to 42 U.S.C. § 1396r-8.
2. The term "Chargeback" means any payment, credit or other adjustment you have provided to a purchaser of a drug to compensate for any difference between the purchaser's acquisition cost and the price at which the Pharmaceutical was sold to another purchaser at a contract price.
3. The term "Defined Period of Time" means from January 1, 1993 to the present and Documents relating to such period even though created before that period.

4. The term “Document” means any writing or recording of any kind, including, without limitation, agendas, agreements, analyses, announcements, audits, booklets, books, brochures, calendars, charts, contracts, correspondence, facsimiles (faxes), film, graphs, letters, memos, maps, minutes (particularly Board of Directors and/or Executive Committee meeting minutes), notes, notices, photographs, reports, schedules, summaries, tables, and telegrams, in any medium, whether written, graphic, pictorial, photographic, electronic, emails, phonographic, mechanical, taped, saved on computer disc, hard drives, data tapes, or otherwise, and every non-identical copy. Different versions of the same Document, such as different copies of a written record bearing different handwritten notations, are different Documents within the meaning of the term as used. In case originals or original non-identical copies are not available, “Document” includes copies of originals or copies of non-identical copies as the case may be.

5. The term "Incentive" means anything of value provided to a customer which would lower the consideration paid for a drug, regardless of the time it was provided (for example, at the time of invoicing, shipment, or payment, or monthly, quarterly, annually, or at any other time or on any other basis) and regardless of its name. The term "Incentive" therefore includes, but is not limited to, payments or proposed payments in cash or in kind, Chargebacks, credits, discounts such as return to practice discounts, prompt pay discounts, volume discounts, on-invoice discounts, off-invoice discounts, rebates such as market share rebates, access rebates, or bundled drug rebates, free goods or samples, credits, administrative fees or administrative fee reimbursements, marketing fees, stocking fees, conversion fees, patient education fees, off-invoice pricing, educational or other grants, research funding, payments for participation in clinical trials, honoraria, speaker’s fees or payments, patient education fees or consulting fees.

6. The term “National Sales Data” means data sufficient to identify for each sales transaction involving the Targeted Drugs the following information:

- a. transaction date;
- b. transaction type;
- c. your product number;
- d. product description;
- e. package description;
- f. NDC;
- g. NDC unit quantity;

- h. NDC unit invoice price;
- i. NDC unit WAC (assigned by you);
- j. contract price;
- k. invoice price;
- l. customer name, identification number, address and class of trade;
- m. all paid or distributed Incentives;
- n. all accrued Incentives calculated at any time identifying the amount of the accrual, its nature or type, the date of the accrual, and other information sufficient to identify as particularly as possible each sales transaction giving rise to the accrual.

7. The term “Pharmaceutical” means any drug or other product, whether sold by you, or any other manufacturer, which requires a physician’s or other prescriber’s prescription, including, but not limited to, “biological” products such as hemophilia factors and intravenous solutions.

8. The term “Spread” is used to refer to the difference between the actual acquisition cost or purchase price of a Pharmaceutical (paid by purchasers of the Pharmaceuticals) and the reimbursement rate paid by third party payors (to purchasers of the Pharmaceuticals) for the Pharmaceutical. Third party payors include the Medicare program, Medicaid program, and private insurance. Thus, the Spread is the gross profit actually or potentially realized by the purchasers of the Pharmaceuticals for those Pharmaceuticals ultimately paid for by third party payors.

9. The term “Targeted Drugs” means those drugs manufactured by you which have total utilization under the Medicaid and Medicare Part B programs exceeding \$10,000 during the Defined Period of Time in the state of Wisconsin.

### **REQUEST FOR PRODUCTION OF DOCUMENTS**

**REQUEST NO. 1:** All National Sales Data for each Targeted Drug during the Defined Period of Time. \*

**REQUEST NO. 2:** All Documents containing AMPs as reported or calculated by you for the Targeted Drugs OR a spread sheet or database showing all reported and calculated AMPs for each Targeted Drug over the Defined Period of Time which lists when such AMPs were reported or calculated, and the quarter to which each AMP applies.\*

**REQUEST NO. 3:** All Documents created by you, or in your possession, that discuss or comment on the difference (or Spread) between any Average Wholesale Price or Wholesale Acquisition Cost and the list or actual sales price (to any purchaser) of any of defendants' Pharmaceuticals or any Pharmaceuticals sold by other manufacturers. Documents which merely list the AWP or WAC price and

the list or actual sales price without further calculation of the difference, or without other comment or discussion of or about the spread between such prices are not sought by this request.

**REQUEST NO. 4:** All Documents containing an average sales price or composite price identified by you in response to Interrogatory No. 1 of Plaintiff's First Set of Interrogatories to All Defendants.\*

**REQUEST NO. 5:** All Documents sent to or received from First DataBank, Redbook and Medi-span regarding the price of any Targeted Drug.

**REQUEST NO. 6:** All Documents in your possession prepared by IMS Health regarding a Targeted Drug or the competitor of a Targeted Drug regarding pricing, sales or market share.

\*Documents are to be produced in electronic format with all documentation required to identify files and fields by name, content, and format, and explanations for all coded data. Acceptable electronic format for documents which in their native form are organized as word processing documents, or printed documents other than tabular reports, (documents comprised principally of text, or of a combination of text and graphics) is searchable Adobe Acrobat portable document format (.pdf). Acceptable electronic format for documents which in their native form are organized as spreadsheets is Microsoft Excel format (.xls). Acceptable electronic format for documents which in their native form are comprised principally of tabular data, or tabular reports with fixed column widths or field lengths is fixed-field ASCII text (.txt). Acceptable electronic format for documents which in their native form are comprised principally of electronic data in one or more data tables, files, or other data entities, is delimited ASCII text (.csv).

Dated this 27 day of January, 2005.

  
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One of Plaintiff's Attorneys

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