

STATE OF WISCONSIN,

Plaintiff,

v.

Case No.: 04-CV-1709

AMGEN INC., et. al.,

Defendants.

**AVENTIS PHARMACEUTICALS INC.’S RESPONSES AND OBJECTIONS TO
PLAINTIFF’S THIRD SET OF INTERROGATORIES AND FOURTH REQUEST
FOR PRODUCTION OF DOCUMENTS TO ALL DEFENDANTS**

Pursuant to Wis. Stat. §§ 804.08 and 804.09, defendant Aventis Pharmaceuticals Inc. (“Aventis”), by its attorneys, objects and responds to Plaintiff’s Third Set of Interrogatories and Fourth Request for Production (“Plaintiff’s Requests”) as follows:

PRELIMINARY STATEMENT

1. These responses and objections are made solely for the purposes of this action. Each response is subject to all objections as to competence, relevance, materiality, propriety, and admissibility, and to any and all other objections on any grounds that would require the exclusion of any statements contained herein if such Plaintiff’s Requests were asked of, or statements contained herein were made by, a witness present and testifying in Court, all of which objections and grounds are expressly reserved and may be interposed at the time of trial.

2. Aventis’s responses shall not be deemed to constitute admissions:
- a. that any particular document or thing exists, is relevant, non-privileged, or admissible in evidence; or
 - b. that any statement or characterization in Plaintiff’s Requests is accurate or complete.

3. Aventis's responses are made based upon reasonable and diligent investigation conducted to date. Discovery and investigation in this matter are ongoing and Aventis reserves the right to amend its responses and to raise any additional objections it may have in the future. These responses are made based upon the typical or usual interpretation of words contained in Plaintiff's Requests, unless a specific definition or instruction has been provided and/or agreed upon.

4. Aventis's responses to Plaintiff's Requests contain information subject to the Protective Order in this matter and must be treated accordingly.

5. Aventis is responding on its own behalf, and not on behalf of any subsidiary of Aventis which has been named as a separate defendant in these proceedings and is separately represented by counsel.

6. Aventis's responses to Plaintiff's Requests are submitted without prejudice to Aventis's right to produce evidence of any subsequently discovered fact. Aventis accordingly reserves its right to provide further responses and answers as additional facts are ascertained.

GENERAL OBJECTIONS

Aventis objects generally to Plaintiff's Requests as follows:

1. Aventis objects to Plaintiff's "Definitions" to the extent Plaintiff intends to expand upon or alter Aventis's obligations under the Wisconsin Rules of Civil Procedure, in responding to Plaintiff's Requests. Aventis will comply with the Wisconsin Rules of Civil Procedure in providing its responses to Plaintiff's Requests.

2. Aventis objects to the definition of the word "Document(s)" on the grounds that it is vague and ambiguous and to the extent that it seeks to impose obligations beyond those imposed by the applicable Wisconsin Rules of Civil Procedure. Aventis further objects to this

definition to the extent that its purports to require Aventis to identify or produce documents or data in a particular form or format, to convert documents or data into a particular file format, to produce documents or data on any particular media, to search for and/or produce or identify documents or data on back-up tapes, to produce any proprietary software, data, programs or databases, to violate any licensing agreement or copyright laws, or to produce data, fields, records, or reports about produced documents or data. The production of any documents or data or the provision of other information by Aventis as an accommodation to Plaintiff shall not be deemed to constitute a waiver of this objection.

3. Aventis objects to Plaintiff's Requests to the extent they call for the identification or production of documents or information not relevant to the issues in this action or not reasonably calculated to lead to the discovery of admissible evidence.

4. Aventis objects to Plaintiff's Requests to the extent they seek information that is protected from disclosure by the work product doctrine, the attorney-client, accountant-client, consulting expert, or investigative privileges, any common interest or joint defense agreement, or any other applicable privilege or protection.

5. Aventis objects to Plaintiff's Requests to the extent they call for information not within Aventis's possession, custody or control. In responding to Plaintiff's Requests, Aventis has undertaken or will undertake a reasonably diligent and reasonable search of documents and information within Aventis's current possession, custody or control.

6. Aventis objects to Plaintiff's Requests to the extent they call for information that is confidential, proprietary, and/or a trade secret of a third-party or is protected from disclosure by an agreement with a third-party.

7. Aventis objects to Plaintiff's Requests to the extent they seek disclosure of

information that is a matter of public record, is equally available to the Plaintiff, or is already in the possession of the Plaintiff.

8. Aventis expressly incorporates the above General Objections into each specific response to Plaintiff's Requests set forth below as if set forth in full therein. A response to Plaintiff's Requests shall not operate as a waiver of any applicable specific or general objection.

ANSWERS AND OBJECTIONS TO INTERROGATORIES

INTERROGATORY NO. 6: With respect to any allegation of the Amended Complaint which you denied in your Answer state each fact that supports each such denial.

ANSWER: Aventis objects to Interrogatory No. 6 on the grounds that it is overly broad and unduly burdensome. Aventis further objects to this Interrogatory to the extent it seeks information protected by the work-product doctrine. Aventis also objects to this Interrogatory to the extent it seeks information related to Aventis's denials that are based in whole or part on the application of applicable laws or legal conclusions. Moreover, Aventis objects to this Interrogatory to the extent that it seeks information relating to Plaintiff's Amended Complaint, which Aventis did not answer. Aventis also objects to this Interrogatory as premature because Aventis has not yet fully identified all facts that may support its denials since investigation and discovery remain ongoing. Aventis also objects to this Interrogatory to the extent it essentially would require Aventis to identify facts and information designed to prove a negative.

Notwithstanding Aventis's general and specific objections, and without waiving them, Aventis answers that, based upon review and investigation to date, the following facts, among others, generally support its denials to the allegations of Plaintiff's Second Amended Complaint:

1. Aventis did not engage in conduct that was improper, fraudulent, or unlawful as alleged in Plaintiff's Second Amended Complaint.

2. Aventis does not have a policy encouraging or supporting the marketing or manipulating of the spread between the published average wholesale price (“AWP”) and the actual acquisition costs (“AAC”) for its products. Instead, Aventis’s policies provide that its products should be marketed based on their clinical efficacy and other product attributes.
3. Aventis did not publish the AWP for its products. The AWP for Aventis’s products were published by the pricing compendia.
4. It was commonly known within certain governmental agencies and within the pharmaceutical industry and by those involved with reimbursement that there was a mark-up between the wholesale acquisition costs (“WAC”) and the published AWP.
5. Plaintiff, including the Secretary of the Department of Health and Family Services (“DHFS”), Division of Health Care Financing, Governor’s Office, Legislative Fiscal Bureau, Joint Committee on Finance, and Department of Administration was aware that there was a mark-up between the wholesale acquisition costs and the published AWP.
6. It was commonly known within certain governmental agencies and within the pharmaceutical industry and by those involved with reimbursement that published AWP did not represent actual averages of wholesale prices.
7. Plaintiff, including the Secretary of the Department of Health and Family Services, Division of Health Care Financing, Governor’s Office, Legislative Fiscal Bureau, Joint Committee on Finance, and Department of Administration, was aware that published AWP did not represent actual averages of wholesale prices for Aventis’s products.
8. Since at least 1989, Plaintiff has received directives and/or reports from the federal government that AWP does not represent the actual average of wholesale prices.
9. Plaintiff has periodically considered, and rejected, alternative pharmaceutical reimbursement methodologies, including methodologies that were not AWP-based.
10. In adopting its various reimbursement methodologies over time, Plaintiff adopted and utilized these methodologies to further program goals, including ensuring access.
11. Plaintiff continues to reimburse pharmacists, who participate in its Medicaid program, for pharmaceuticals based on AWP.

12. Aventis did not misrepresent or inflate the wholesale acquisition cost (“WAC”) or AWP for its products.
13. Aventis operates in a competitive environment as a result of which contracts and pricing terms are properly protected confidential business information.
14. As a matter of company policy, Aventis does not permit the use of free drugs or grants as a means of discounting the overall price of its products.
15. Plaintiff was free at all times to change its pharmaceutical reimbursement under its Medicaid program to a non-AWP based methodology.
16. Aventis is unaware of Plaintiff ever enacting a statutory or regulatory definition of AWP.
17. Plaintiff was free at all times to require pharmaceutical manufacturers to provide it with their Best Price and/or AMP data as a condition of preferred access to their drugs by Medicaid beneficiaries.
18. Aventis never affirmatively represented to Plaintiff that the AWP published for its products represented an actual average of wholesale prices.
19. Plaintiff was aware that pharmaceutical manufacturers provided discounts to customers.

Aventis expressly reserves the right to supplement this Interrogatory Answer in the future.

INTERROGATORY NO. 7: Identify each document that supports each such denial.

ANSWER: Aventis objects to Interrogatory No. 7 on the same grounds as those set forth in its Answer to Interrogatory No. 6 and incorporates those objections herein. In addition, Aventis objects to Interrogatory No. 7 to the extent it seeks information that is publicly available or outside Aventis’s possession, custody and control.

Notwithstanding Aventis’s general and specific objections, and without waiving them, Aventis answers that, based upon review and investigation to date, the following categories of

documents, among others, generally support its denials to the allegations of Plaintiff's Second Amended Complaint:

1. Documents Aventis has produced, or will produce, in response to Wisconsin's First Set of Requests for Production and its Written Discovery Request No. 3 in a manner to be negotiated and agreed upon between the parties including, but not limited to, the following:

- Sales and other data;
- Customer contracts;
- Deposition transcripts from MDL 1456; and
- Other documents.

2. Documents in the possession, custody and control of Plaintiff and other documents generated, obtained and reviewed by Plaintiff, based upon information obtained from Plaintiff's document production and other documents to date and depositions of its employees, including, but not limited to, the following:

- Documents referring to proposed changes to Wisconsin Medicaid's pharmaceutical reimbursement methodology;
- Documents referring to pharmacists' profits on the sale of products reimbursed by Wisconsin Medicaid;
- Documents referring to provider participation in Wisconsin's Medicaid program and its relationship to provider reimbursement for pharmaceutical products;
- Studies conducted by Wisconsin Department of Agriculture, Trade and Consumer Protection, the University of Wisconsin, Congressman Tom Barrett, the Federal Trade Commission, HCFA, Dr. David Kreling, and various other consultants and entities concerning pharmaceutical pricing and reimbursement;
- Governor's budget proposals related to Medicaid and documents analyzing those proposals;
- Issue papers written by the Legislative Fiscal Bureau and the Department of Health Family Services ("DHFS") on pharmaceutical reimbursement;
- OIG, GAO, CBO, and other governmental reports provided to Plaintiff concerning pharmaceutical reimbursement and any responses thereto;
- Communications between DHFS and providers, pharmacies, or trade associations regarding pharmaceutical reimbursement and/or costs;
- Communications between DHFS and other states or the federal government regarding pharmaceutical reimbursement and/or costs;
- Issues, briefing, and concept papers on pharmaceutical reimbursement and costs by the Office of Strategic Finance;

Written testimony of DHFS Secretary concerning pharmaceutical reimbursement;
Emails between DHFS and the Governor's office concerning pharmaceutical reimbursement;
Wholesaler data from state-run entities that purchase drugs directly from wholesalers;
Documents comparing prices paid by Wisconsin Medicaid to those paid by other State entities;
Information from CMS concerning AWP, EAC, or changes in pharmaceutical reimbursement;
Documents related to the Governor's Pharmacy Reimbursement Commission;
Budget documents from the Department of Administration related to pharmaceutical reimbursement;
Audits of Wisconsin's Medicaid program;
Communications between EDS (or one of its subcontractors) and Plaintiff concerning cost containment measures for pharmaceutical reimbursement; and
Media articles discussing pharmaceutical reimbursement;

3. Documents received, or expected to be received, from third-parties including, but not limited to, the following:

Federal government;
Other states;
Third-parties subpoenaed in this case; and
Wholesaler data produced by third-parties.

Aventis expressly reserves the right to supplement this Interrogatory Answer in the future.

INTERROGATORY NO. 8: With respect to each affirmative defense you assert in your Answer to the Amended Complaint state the facts which support that defense.

ANSWER: Aventis objects to Interrogatory No. 8 on the grounds that it is overly broad and unduly burdensome. Aventis further objects to this Interrogatory to the extent it seeks information protected by the attorney-client privilege or work-product doctrine. Aventis also objects to this Interrogatory to the extent it seeks information related to Aventis's denials that are based in whole or part on the application of applicable laws or legal conclusions. Moreover,

Aventis objects to this Interrogatory to the extent that it seeks information relating to Plaintiff's Amended Complaint, which Aventis did not answer. Aventis also objects to this Interrogatory as premature because Aventis has not yet fully identified all facts that may support its denials since investigation and discovery remain ongoing. Aventis also objects to this Interrogatory to the extent it essentially would require Aventis to identify facts and information designed to prove a negative.

Notwithstanding Aventis's general and specific objections, and without waiving them, Aventis answers that, based upon review and investigation to date, the following facts, among others, generally support Aventis's Affirmative Defenses, as set forth in its Answer to Plaintiff's Second Amended Complaint:

Affirmative Defenses Nos. 1, 16, 17, 20, 42:

Since at least 1975, Plaintiff was aware that the published AWP's did not represent actual averages of wholesale prices for Aventis's products.

Since at least 1989, Plaintiff has received directives and/or reports from the federal government that AWP does not represent the actual average of wholesale prices.

Plaintiff was free at all times to change its pharmaceutical reimbursement methodology under Medicaid to a non-AWP based system.

Plaintiff continues to reimburse pharmacists, who participate in its Medicaid program, for pharmaceuticals based on published AWP's.

In adopting its various reimbursement methodologies over time, Plaintiff adopted and utilized these methodologies to further program goals, including ensuring access.

Affirmative Defenses Nos. 2-4:

Based upon Plaintiff's production to date, it appears that Plaintiff undertook few, if any, studies to determine EAC.

Affirmative Defense No. 5:

Plaintiff submitted state plans and state plan amendments to the federal government concerning the rate at which it would reimburse pharmaceuticals under its Medicaid Program. These plans were reviewed and approved by the federal government.

Affirmative Defense No. 6:

Aventis's products are sold in interstate commerce.

Affirmative Defense Nos. 7, 12, 13, 15, 25, 26, 27, 29, 30, 31, 33, 37, 38, 46, 50

These defenses are purely legal in nature and thus, require no reference to facts for support.

Affirmative Defenses Nos. 18, 24, 27, 45

Plaintiff cannot establish that it was damaged. Plaintiff adopted the reimbursement methodology to further program objectives.

Plaintiff cannot establish that any increase in Aventis's market share was attributable to Aventis's allegedly improper conduct as opposed to other factors.

Affirmative Defense No. 8

To the extent that Aventis has engaged in lobbying or related efforts before Congress and/or regulatory agencies, such conduct is protected by the First Amendment and *Noerr-Pennington*.

Affirmative Defenses Nos. 9, 27, 28, 29, 30, 38

Since at least 1975, Plaintiff was aware that the published AWP did not represent actual averages of wholesale prices for Aventis's products.

Since at least 1989, Plaintiff has received directives and/or reports from the federal government that AWP does not represent the actual average of wholesale prices.

Plaintiff was free at all times to change its pharmaceutical reimbursement methodology under Medicaid to a non-AWP based system.

Plaintiff continues to reimburse pharmacists, who participate in its Medicaid program, for pharmaceuticals based on published AWPs.

In adopting its various reimbursement methodologies over time, Plaintiff adopted and utilized these methodologies to further program goals, including ensuring access.

It was commonly known within certain governmental agencies and within the pharmaceutical industry and by those involved with reimbursement that published AWP's did not represent actual averages of wholesale prices.

Plaintiff has not proven it complied with Wis. Stat. § 165.25(1) or Wis. Stat. § 100.18(11)(d).

Aventis did not cause providers to make a false statement to Plaintiff.

Attorney General is not authorized to seek forfeitures under § 100.26(4) and § 100.264(2).

Plaintiff was aware that pharmaceutical manufacturers provided discounts to customers.

Plaintiff cannot establish that Aventis's discounts to providers had the effect of injuring competition.

Plaintiff did not confer any benefit on Aventis.

Affirmative Defense No. 10

Plaintiff has not proven it complied with Wis. Stat. § 165.25(1) or Wis. Stat. § 100.18(11)(d).

Affirmative Defense No. 14

At the time that Aventis launched its first product, it was already established industry practice for the pricing compendia to publish AWP's that were for the most part higher than actual acquisition costs for pharmaceuticals. It also was commonly known and widely understood that AWP's did not represent actual averages of wholesale prices.

Affirmative Defense No. 18

Since at least 1975, Plaintiff was aware that the published AWP's did not represent actual averages of wholesale prices for Aventis's products.

Since at least 1989, Plaintiff has received directives and/or reports from the federal government that AWP does not represent the actual average of wholesale prices.

Plaintiff was free at all times to change its pharmaceutical reimbursement methodology under Medicaid to a non-AWP based system.

Plaintiff continues to reimburse pharmacists, who participate in its Medicaid program, for pharmaceuticals based on published AWP.

In adopting its various reimbursement methodologies over time, Plaintiff adopted and utilized these methodologies to further program goals, including ensuring access.

It was commonly known within certain governmental agencies and within the pharmaceutical industry and by those involved with reimbursement that published AWP did not represent actual averages of wholesale prices.

Aventis did not cause providers to make a false statement to Plaintiff.

Plaintiff cannot establish that Aventis's discounts to providers had the effect of injuring competition.

Plaintiff did not confer any benefit on Aventis.

Affirmative Defense No. 19

Medicare Prescription Drug, Improvement and Modernization Act of 2003, 42 U.S.C. § 1395, changed pharmaceutical reimbursement under Medicare from an AWP-based system to an ASP-based system.

Affirmative Defense No. 21

Aventis did not control the AWP published by the pricing compendia.

Since at least 1975, Plaintiff was aware that the published AWP did not represent actual averages of wholesale prices for Aventis's products.

Since at least 1989, Plaintiff has received directives and/or reports from the federal government that AWP does not represent the actual average of wholesale prices.

Plaintiff was free at all times to change its pharmaceutical reimbursement methodology under Medicaid to a non-AWP based system.

Plaintiff continues to reimburse pharmacists, who participate in its Medicaid program, for pharmaceuticals based on published AWP.

In adopting its various reimbursement methodologies over time, Plaintiff adopted and utilized these methodologies to further program goals, including ensuring access.

Affirmative Defense No. 22

Plaintiff has not named as defendants parties who received the alleged “excessive” reimbursements.

Affirmative Defense No. 23

Aventis’s conduct and activities are distinct from and independent of the conduct and activities of the other defendants named in this action.

Affirmative Defense No. 11, 24

Plaintiff cannot establish that it was damaged.

Since at least 1975, Plaintiff was aware that the published AWP did not represent actual averages of wholesale prices for Aventis’s products.

Since at least 1989, Plaintiff has received directives and/or reports from the federal government that AWP does not represent the actual average of wholesale prices.

Plaintiff was free at all times to change its pharmaceutical reimbursement methodology under Medicaid to a non-AWP based system.

Plaintiff continues to reimburse pharmacists, who participate in its Medicaid program, for pharmaceuticals based on published AWPs.

In adopting its various reimbursement methodologies over time, Plaintiff adopted and utilized these methodologies to further program goals, including ensuring access.

Affirmative Defense No. 32

Plaintiff has provided no particularized allegations (the “who, what, when, where, and how”) describing Aventis’s allegedly fraudulent conduct.

Affirmative Defense No. 34

Plaintiff did not confer a benefit on Aventis.

Any increased sales and/or market share Aventis received during the relevant time period was not the result of unlawful conduct.

Plaintiff cannot establish that any increase in Aventis's market share was attributable to Aventis's allegedly improper conduct as opposed to other factors.

Since at least 1975, Plaintiff was aware that the published AWP's did not represent actual averages of wholesale prices for Aventis's products.

Since at least 1989, Plaintiff has received directives and/or reports from the federal government that AWP does not represent the actual average of wholesale prices.

Plaintiff was free at all times to change its pharmaceutical reimbursement methodology under Medicaid to a non-AWP based system.

Plaintiff continues to reimburse pharmacists, who participate in its Medicaid program, for pharmaceuticals based on published AWP's.

In adopting its various reimbursement methodologies over time, Plaintiff adopted and utilized these methodologies to further program goals, including ensuring access.

Affirmative Defense No. 35

Plaintiff has not proven it complied with Wis. Stat. § 165.25(1).

Affirmative Defense No. 36

A written rebate agreement exists between Aventis and the Secretary of the Department of Health and Human Services ("HHS"), on behalf of HHS and certain States, entitled, "Rebate Agreement Between the Secretary of Health and Human Services and the Manufacturer Identified in Section XI of this Agreement", which was entered into pursuant to 42 U.S.C. § 1396r-8.

Affirmative Defense No. 39

The reimbursement rates set for Wisconsin's Medicaid program and Medicare Part B are lawful, government-set rates.

Affirmative Defense No. 40, 41, 44, 48, 49

Aventis has never represented that the AWP's published by the pricing compendia represent actual averages of wholesale prices for its products.

It was commonly known within certain governmental agencies and within the pharmaceutical industry by those involved with reimbursement that published AWP's did not represent actual averages of wholesale prices.

Since at least 1975, Plaintiff was aware that the published AWP's did not represent actual averages of wholesale prices for Aventis's products.

Since at least 1989, Plaintiff has received directives and/or reports from the federal government that AWP does not represent the actual average of wholesale prices.

Plaintiff was free at all times to change its pharmaceutical reimbursement methodology under Medicaid to a non-AWP based system.

Plaintiff continues to reimburse pharmacists, who participate in its Medicaid program, for pharmaceuticals based on published AWP's.

In adopting its various reimbursement methodologies over time, Plaintiff adopted and utilized these methodologies to further program goals, including ensuring access.

Affirmative Defense No. 47

Plaintiff has not proven it complied with Wis. Stat. § 100.18(11)(d).

Affirmative Defense No. 43

Plaintiff has not named as defendants parties who received the alleged "excessive" reimbursements.

Plaintiff cannot establish that any alleged overcharge or supracompetitive price was passed on to the State.

Affirmative Defense No. 37

Any and all applicable facts asserted by any other defendant not otherwise asserted herein.

Aventis expressly reserves the right to supplement this Interrogatory Answer in the future.

INTERROGATORY NO. 9: Identify each document that supports the facts upon which you base each such affirmative defense

ANSWER: Aventis objects to Interrogatory No. 9 on the same grounds as those set forth in its Answer to Interrogatory No. 8 and incorporates these objections herein. In addition, Aventis objects to this Interrogatory to the extent it seeks information that is publicly available or outside Aventis's possession, custody and control.

Notwithstanding Aventis's general and specific objections, and without waiving them, Aventis answers that, based upon review and investigation to date, the following categories of documents, among others, generally support the Affirmative Defenses asserted in Aventis's Answer to Plaintiff's Second Amended Complaint:

1. Documents Aventis has produced, or will produce, in response to Wisconsin's First Set of Requests for Production and its Written Discovery Request No. 3 in a manner to be negotiated to and agreed upon between the parties including, but not limited to, the following:

- Sales and other data;
- Customer contracts;
- Deposition transcripts from MDL 1456; and
- Other documents.

2. Documents in the possession, custody and control of Plaintiff and other documents generated, obtained and reviewed by Plaintiff, based upon information obtained from Plaintiff's document production and other documents to date and depositions of its employees, including, but not limited to, the following:

- Documents referring to proposed changes to Wisconsin Medicaid's pharmaceutical reimbursement methodology;
- Documents referring to pharmacists' profits on the sale of products reimbursed by Wisconsin Medicaid;
- Documents referring to provider participation in Wisconsin's Medicaid program and its relationship to provider reimbursement for pharmaceutical products;
- State plans and state plan amendments;
- Studies conducted by Wisconsin Department of Agriculture, Trade and Consumer Protection, the University of Wisconsin, Congressman Tom Barrett, the Federal Trade Commission, HCFA, Dr. David Kreling and various other consultants and entities concerning pharmaceutical pricing and reimbursement;

Governor's budget proposals related to Medicaid and documents analyzing those proposals;
Issue papers written by the Legislative Fiscal Bureau and DHFS on pharmaceutical reimbursement;
OIG, GAO, CBO, and other governmental reports provided to Plaintiff concerning pharmaceutical reimbursement and any responses thereto;
Communications between DHFS and providers, pharmacies, or trade associations regarding pharmaceutical reimbursement and/or costs;
Communications between DHFS and other states or the federal government regarding pharmaceutical reimbursement and/or costs;
Issues, briefing, and concept papers on pharmaceutical reimbursement and costs by the Office of Strategic Finance;
Written testimony of DHFS Secretary concerning pharmaceutical reimbursement;
Emails between DHFS and the Governor's office concerning pharmaceutical reimbursement;
Wholesaler data from state-run entities that purchase drugs directly from wholesalers;
Documents comparing prices paid by Wisconsin Medicaid to those paid by other State entities;
Information from CMS concerning AWP, EAC, or changes in pharmaceutical reimbursement;
Documents related to the Governor's Pharmacy Reimbursement Commission;
Budget documents from the Department of Administration related to pharmaceutical reimbursement;
Audits of Wisconsin's Medicaid program;
Communications between EDS (or one of its subcontractors) and Plaintiff concerning cost containment measures for pharmaceutical reimbursement;
Media articles discussing pharmaceutical reimbursement;
Rebate contract between Plaintiff and Aventis.

3. Documents received, or expected to be received, from third-parties including, but not limited to, the following:

Federal government;
Other states;
Third-parties subpoenaed in this case; and
Wholesaler data produced by third-parties.

Aventis expressly reserves the right to supplement this Interrogatory Answer in the future.

INTERROGATORY NO. 10: Have you ever communicated directly with any official of the State of Wisconsin about the prices of any of your drugs, including AWP, WACs, or any other prices irrespective of the nomenclature used?

ANSWER: Aventis objects to Interrogatory No. 10 on the grounds that it is overly broad, unduly burdensome, vague, and ambiguous. Aventis further objects to this Interrogatory because “any official of the State” is vague and undefined and because this Interrogatory is not limited by timeframe.

Notwithstanding Aventis’s general and specific objections, and without waiving them, Aventis answers that, based upon review and investigation to date, it is unaware of any communications directly with the State concerning the pricing of Aventis’s products. Discovery, however, remains ongoing. Consequently, Aventis expressly reserves the right to supplement this Interrogatory Answer in the future.

INTERROGATORY NO. 11: If the answer to Interrogatory No. 10 is yes, identify all such communications by date, time, and purpose, the persons who communicated this information, the persons to whom this information was communicated, who said what to whom or who wrote what to whom, and identify any documents containing or describing the information communicated to Wisconsin officials.

ANSWER: Aventis objects to Interrogatory No. 11 on the ground that it is overly broad and unduly burdensome. Aventis further objects to this Interrogatory on the ground that it is not limited by timeframe.

Notwithstanding Aventis’s general and specific objections, and without waiving them, Aventis answers that, based upon review and investigation to date, it is unaware of any communications directly with the State concerning the pricing of Aventis’s products. Discovery, however, remains ongoing. Consequently, Aventis expressly reserves the right to supplement this Interrogatory Answer in the future.

RESPONSES AND OBJECTIONS TO REQUEST FOR PRODUCTION

REQUEST NO. 12: Produce each document identified in response to Interrogatory Nos. 7, 9 and 11.

RESPONSE TO REQUEST NO. 12: Aventis objects to Request No. 12 on the ground that it is overly broad and unduly burdensome. Aventis further objects to this Interrogatory to the extent it seeks documents that are publicly available or outside Aventis's possession, custody and control.

Notwithstanding Aventis's general and specific objections, and without waiving them, Aventis agrees to produce non-privileged documents identified in its Answers to Interrogatory Nos. 7, 9, and 11 in a manner to be negotiated and agreed upon between the parties. Aventis also directs Plaintiff to its own production and productions by third-parties.

REQUEST NO. 13: Produce any documents commenting on, concerning or about how or to what extent wholesalers mark up drugs for resale including, but not limited to, any documents relating to the case of Brand Name Prescription Drugs Antitrust Litigation, 94 C 897 (N.D. Ill.)

RESPONSE TO REQUEST NO 13: Aventis objects to Request No. 13 on the grounds that it is overly broad, unduly burdensome, and not reasonably calculated to lead to the discovery of admissible evidence because (i) it purports to require information relating to "drugs" without specification as to which "drugs," thus including drugs that are not manufactured, marketed, or distributed by Aventis and/or drugs not at issue in this litigation, and (ii) it purports to require Aventis to produce all documents "relating to the case of Brand Name Prescription Drugs Antitrust Litigation, 94 C 897 (N.D. Ill.)" regardless of whether such documents relate to any issues in this case, belong to Aventis, or are otherwise protected from disclosure pursuant to applicable privileges or work product doctrines. In addition, Aventis objects to this Request because it is duplicative of Request No. 3 in Plaintiff's First Set of Requests for Production of

Documents to Aventis, in response to which Aventis has already agreed to produce documents. Aventis further objects to this Request to the extent it seeks information in the possession of Plaintiff or more appropriately sought from third parties.

Notwithstanding Aventis's general and specific objections, and without waiving them, Aventis states that it has searched for, and will continue to undertake a reasonable search for, documents in its possession, custody, or control, commenting on, concerning, or about how or to what extent wholesalers mark up Aventis's drugs at issue in this litigation -- including the documents it produced in the Brand Name Prescription Drugs Antitrust Litigation to the extent that such documents are reasonably available, and -- to the extent that it finds any -- it will produce non-privileged documents responsive to Request No. 13.

Dated this 19th day of March, 2007.

Respectfully submitted,

By: /s/ Clifford Joe Cavitt
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