

STATE OF WISCONSIN

CIRCUIT COURT
Branch 9

DANE COUNTY

STATE OF WISCONSIN,

Plaintiff,

v.

Case No.: 04-CV-1709

AMGEN INC., *et al.*,

Defendants.

**DEFENDANT TAP PHARMACEUTICAL PRODUCTS INC.'S
FIRST SET OF INTERROGATORIES AND REQUESTS
FOR PRODUCTION OF DOCUMENTS TO THE STATE OF WISCONSIN**

Defendant TAP Pharmaceutical Products Inc. ("TAP"), pursuant to Wis. Stat. §§ 804.08, 804.09, requests that Plaintiff, the State of Wisconsin, produce the documents requested herein and respond to each of the following interrogatories within thirty days from the date of service of these Requests. TAP requests that the documents be produced by making them available for inspection and copying at the offices of Reinhart Boerner Van Deuren S.C., 22 East Mifflin Street, Post Office Box 2018, Madison, WI 53701-2018, or at such other place and in such manner as may be mutually agreed upon between counsel for the parties. TAP requests that Plaintiff respond to each of the interrogatories separately, fully, in writing, and under oath, and to serve its responses upon the aforementioned office of Reinhart Boerner Van Deuren S.C.

DEFINITIONS

All terms used in this document, whether or not capitalized, shall be defined as follows:

1. "Plaintiff," "You" or "Your" refers collectively to the State of Wisconsin, any state office, agency, or body, including but not limited to the Office of the Attorney General, the Department of Health and Family Services, the Medicaid Agency, the state Auditor, the state legislature, legislative committees, 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.
2. "Communication" means any form of written or oral communication, including, without limitation, letters, memoranda, electronic mail, voicemail, telegrams, invoices, telephone conversations, face-to-face meetings and other similar forms of communication or correspondence.
3. "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.
4. "Provider" means any Person that provides health care to any Participant or Beneficiary, or any person to whom Plaintiff provides reimbursement for drugs dispensed to a Participant or Beneficiary.
5. "First Amended Complaint" means the First Amended Complaint filed by the Plaintiff on January 5, 2005.
6. "TAP Subject Drugs" means the drugs that Plaintiff attributes to TAP in Plaintiff's Second Amended Complaint, excluding Actos.
7. "TAP 2001 Settlement" means the State Settlement Agreement entered into between the state of Wisconsin and TAP in 2001.
8. "TAP ASP Information" means the "average sales price" information referenced in the TAP 2001 Settlement and reported to the Plaintiff's Medicaid Program by TAP.

GENERAL INSTRUCTIONS

A. Your responses, under oath, to each Request shall include such information as is within Your custody, possession, or control, or that of Your attorneys, investigators, agents, employees, experts retained by You or Your attorneys, or other representatives.

B. Each Request shall be answered separately.

C. To the extent that the answer to any Request varies for any of the agencies defined as the "State," each agency should answer separately.

D. Unless otherwise specified, provide all of the requested information for the relevant time period. But if it is necessary to refer to any other time period to fully answer a Request, please do so.

E. If You are unable to answer a Request after exercising due diligence to secure the information to do so: (a) answer to the extent possible; (b) state the basis for Your inability to answer the remainder; (c) state whatever information or knowledge You have concerning the unanswered portion; and (d) specify the type of information that You contend is not available, the reason that the information is not available to You, and what You have done to obtain such information.

F. If You decline to answer all or part of a Request based on a claim of privilege or immunity: (a) answer to the extent possible, and (b) state the specific grounds for not answering in full and the facts You contend support Your assertion of a privilege or immunity, providing sufficient information to enable the claim of privilege or immunity to be adjudicated.

G. For each Document withheld on the grounds of privilege, provide the following:

- (a) the Document's date;
- (b) its title;
- (c) its author;
- (d) its addressee(s) and any other persons who received it;
- (e) the specific privilege under which it is withheld;
- (f) its general subject matter; and
- (g) a description of it that You contend is adequate to support Your contention that it is privileged.

H. If You claim that any specific Request is objectionable, then: (a) Identify the portion of such Request claimed to be objectionable and state the nature and basis of the objection; (b) Identify any information withheld pursuant to such objections with sufficient particularity and in sufficient detail to permit the court to determine whether the information falls within the scope of such objections; and (c) answer any portion of such Request that is not claimed to be objectionable.

I. Each Request extends to all Documents in the possession, custody, or control of You or anyone acting on Your behalf.

J. These Requests are continuing in nature pursuant to Wisconsin Statutes so as to require, whenever necessary, continuing production and supplementation of responses.

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

L. The terms “and” and “or” have both conjunctive and disjunctive meanings, and the terms “each,” “any,” and “all” mean “each and every.”

M. The use of a verb in any tense shall be construed as the use of the verb in all other tenses wherever necessary to bring within the scope of these Requests all documents or information that might otherwise be construed as outside the scope of these Requests.

N. Unless otherwise provided herein, all words and phrases used herein have their ordinary meanings and shall be interpreted in their common and ordinary senses.

REQUEST FOR DOCUMENTS TO BE PRODUCED

1. All Documents referred to or used in responding to the Interrogatories below.

2. Documents concerning Your receipt, use or consideration of TAP ASP Information.

3. Documents concerning Your decision whether to use or consider TAP ASP Information.

4. Documents concerning or describing how TAP ASP Information has been used, relied upon, referenced, or considered in evaluating, revising, or setting payments to Providers under Plaintiff's Medicaid Program.

5. Documents demonstrating or relating to Communications between You and the National Association of Medicaid Fraud Control Units ("NAMFCU") concerning the TAP 2001 Settlement (or any investigation or inquiry that preceded the 2001 Settlement), including internal analyses, memoranda, reports, and reviews related to communications with NAMFCU.

6. Documents relating to Your consideration, evaluation, or analysis of the TAP 2001 Settlement.

7. Documents relating to or describing reimbursement methodologies utilized by Plaintiff for the TAP Subject Drugs.

INTERROGATORIES

INTERROGATORY NO. 1:

Did You use or consider TAP ASP Information provided to You as part of the TAP 2001 Settlement?

INTERROGATORY NO. 2:

What individuals or agencies were part of the decision whether to use or consider TAP ASP Information in evaluating, revising, or setting payments to Providers under Plaintiff's Medicaid Program?

INTERROGATORY NO. 3:

Describe how TAP ASP Information has been used, relied upon, referenced, or considered in evaluating, revising, or setting payments to Providers under Plaintiff's Medicaid Program?

INTERROGATORY NO. 4:

When, if ever, did You begin to use, rely upon, reference, or consider TAP ASP Information in evaluating, revising, or setting payments to Providers under Plaintiff's Medicaid Program?

Dated this 25th day of May, 2007.

Reinhart Boerner Van Deuren s.c.
1000 North Water Street
Post Office Box 2965
Milwaukee, WI 53201-2965
Telephone: 414-298-1000
Facsimile: 414-298-8097

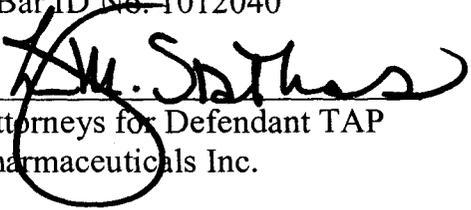
Mailing Address:
P.O. Box 2018
Madison, WI 53701-2018

MADISON\182906

OF COUNSEL:

James R. Daly
Lee Ann Russo
Jeremy P. Cole
JONES DAY
77 West Wacker Drive
Chicago, IL 60601-1692
Phone: 312-782-3939
Fax: 312-782-8585

Lynn M. Stathas
State Bar ID No. 1003695
Allen C. Schlinsog, Jr.
State Bar ID No. 1025656
Mark A. Cameli
State Bar ID No. 1012040

BY 
Attorneys for Defendant TAP
Pharmaceuticals Inc.