

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Inspector General

Inspector General

November 30, 2009



Aventis Pharmaceutical, Inc. Settles Alleged Medicaid Best Price Violations
D.C. Medicaid Program Recoups \$171,610

Inspector General Charles J. Willoughby announced that the District of Columbia received \$171,610 as part of a \$95.5 million global settlement with Aventis Pharmaceutical, Inc.; a wholly-owned subsidiary of sanofi-aventis U.S., LLC. The D.C. settlement agreement with Aventis resolves allegations that between 1995 and 2000, Aventis and its corporate predecessors knowingly misreported best prices for the steroid-based anti-inflammatory nasal sprays Azmacort, Nasacort and Nasacort AQ. Under the Medicaid Drug Rebate Statute, Aventis was required to report to Medicaid the lowest, or “best” price that it charged commercial customers, and pay quarterly rebates to the Medicaid program based on those reported “best” prices.

Aventis entered into “private label” agreements with Kaiser Permanente, a large health maintenance organization (HMO), to avoid reporting the best price for Azmacort, Nasacort and Nasacort AQ that would have obligated it to pay millions of dollars of drug rebates to Medicaid. Aventis repackaged its drugs under Kaiser’s “private label,” resulting in the underpayment of drug rebates to the Medicaid program and to several other federal health programs.

State Medicaid programs across the country will receive over \$40 million of the settlement. The federal portion of Medicaid recovery is approximately \$49 million with an additional \$6.5 million for certain public health service entities who also paid inflated prices for the drugs at issue.

Aventis Pharmaceutical’s parent company, sanofi-aventis, entered into an Addendum to a Corporate Integrity Agreement with the Department of Health and Human Services Office of Inspector General. Under the Addendum, sanofi-aventis is required to report certain best price information for drugs covered by Medicaid and other health care programs. The company was already under a corporate integrity agreement requiring it to report other pricing information to the government as a result of a prior drug pricing settlement concerning the company’s drug Anzemet.

“This is a significant recovery for our Medicaid program,” Inspector General Willoughby said. “Aventis underpaid their rebates and overcharged the states for these products. This conduct cannot be tolerated, and we will vigilantly enforce the law to maintain the integrity of our Medicaid program.”

The National Association of Medicaid Fraud Control Units conducted the settlement negotiations on behalf of the states, with representatives of the Massachusetts, District of Columbia, and Nebraska Medicaid Fraud Control Units leading the effort.