Authorized by the U.S. District Court for the District of Massachusetts

Notice of Revision to Proposed Class Action Settlement Involving Certain Drugs

1. What Is This Notice About

There is a Proposed Settlement (the "AWP Track Two Settlement") of a class action lawsuit involving various drug manufacturers ("Defendants") concerning the drugs listed on Attachment A (referred to as the "Track Two Drugs"). The name of the lawsuit is *In re: Pharmaceutical Industry Average Wholesale Price Litigation,* Docket No. 01-CV-12257-PBS, MDL No. 1456.

You were mailed this Notice because you previously returned a Claim Card in response to an earlier Notice that was sent to you or submitted a claim in the settlement. You previously indicated that you made either a percentage co-payment under Medicare Part B from January 1, 1991 through January 1, 2005, or that you made a cash payment or percentage co-payment for one or more of the Track Two Drugs from January 1, 1991 through March 1, 2008.

This revised Notice informs you of changes in the terms of the Proposed Settlement. In sum, the amount of money allocated to consumers has been increased, and the proposed distribution has been altered to more closely track estimated damages for some of the individual Track Two Drugs and to account for issues with the way some individual drugs were reimbursed. You are receiving this Notice because our records indicate that your total compensation across all settled Track Two Drugs **may** be reduced under the Proposed Settlement as revised.

2. What Are The Changes In The Terms Of The Proposed Settlement?

The Court considered the Proposed Settlement at hearings held June 13, 2011, July 7, 2011 and August 8, 2011. The Court considered whether certain changes to the Proposed Settlement should be made, including providing more money to the Class B Drugs. Plaintiffs subsequently presented a revision to the Court, which the Court approved on a preliminary basis.

A. Increase in Money Available to Consumers

The total amount of money available to pay consumer claims, including those consumers who participated in Medicare Part B and those who made a percentage co-payment or cash payment for Track Two Drugs outside of the Medicare Part B program, has been **increased** from $21,875,000 (17.5% of the total settlement) to $25,000,000 (20%).

B. Change in the Way Your Claim Will Be Calculated

The manner in which your payment will be calculated has changed. Under the previous formula, the Claims Administrator would calculate your "Total Recognized Claim" by adding three amounts:

- Cash payments or co-payment obligations for drugs identified as Class A Drugs from December 1, 1997 through December 31, 2003 multiplied by a factor of three (3x);
- Cash payments or co-payment obligations for Class A Drugs outside this time period (with no multiplication factor); and
- Cash payments or co-payment obligations for the other covered drugs called Class B Drugs during the entire Class Period (with no multiplication factor).

Your legal rights are affected even if you do not act.
Read this Notice carefully.

If there was not enough money to pay consumers 100% of their Total Recognized Claim, each consumer's claim would be reduced proportionately.

Your Total Recognized Claim will now be calculated differently. Payment for Class A Drugs (with one exception described below) will be based on Plaintiffs' expert's calculation of estimated *overcharges* or damages associated with the alleged price inflation for these drugs, rather than on the amount of cash payment or co-payment made. This change was made in order to base the distribution on damages actually incurred. Calculation of payments for Class B Drugs will continue to be based on the amount of cash payment or co-payment made.

Your Total Recognized Claim will now be determined according to a different three step process:

1. For members of Classes 1 and 3 and for drugs identified as Class A Drugs, the Claims Administrator will apply the expert's estimated overcharge percentage for all administrations from January 1, 1997 through December 31, 2003 to determine your out of pocket damages and multiply those out of pocket damages from December 1, 1997 through December 31, 2003 by a factor of two (2x). Members of Class 3 will also receive out of pocket damages without a multiplier for eligible administrations during the Class Period but outside of the time period of January 1, 1997 through December 31, 2003.
2. The Claims Administrator will determine the total cash payments or co-payment obligations for the other covered drugs called Class B Drugs during the entire Class Period (with no multiplication factor), reduced proportionately based on all Class B Drug claims filed. This calculation is the same as under the original method, but more money is now available to pay claims for Class B Drugs.
3. Epogen is now a Class B Drug and cash payments or co-payment obligations for Epogen will be treated as described above. The Court has found that payment for most administrations of Epogen under Medicare Part B were not based on AWP or these payments may relate to the drug Procrit, which is identical to Epogen but sold by a non-Defendant and not subject to this settlement. And for administrations of Epogen to cash payors or payors with private insurance, there are minimal damages associated with the drug.

The sum of these figures will be your Total Recognized Claim.

If you are eligible to receive a payment, the net result of these changes to the Proposed Settlement is that your payment **may** be lower than under the initial distribution formula.

C. Additional Documentation Related to Certain Drugs Under Medicare Part B

If you have made a claim for reimbursement of co-payment obligations under Medicare Part B for any of the following 16 drugs, you must provide the Claims Administrator one form of documentary proof that you were administered the drug:

Alcohol Injection
Bupivacaine
Copper trace/cupric chloride
Diltazem hydrochloride
Enalaprilat
Kineret
Labetalol
Leucovorin calcium
Manganese Chloride
Novacaine/Procaine
Pancuronium bromide
Potassium acetate
Propofol
Sodium acetate
Verapamil HCL
Zinc chloride

Proof that you were administered the drug at least once can be in the form of the prescribing physician's notes in your medical file, a letter from a prescribing physician, or some other documentary evidence from the prescribing physician, hospital or medical provider identifying at least one administration of the drug.

This is necessary because data received from the Center for Medicare and Medicaid Services does not provide sufficient detail to distinguish administration of these drugs from other drugs that are not part of this Settlement.

If you are unable to provide documentation related to any of these 16 drugs, you will still be reimbursed for the other drugs in the Settlement that you were administered. But in order to receive compensation for the drugs identified above, you must provide one form of documentary proof of at least one administration.

Your documentation **must** be mailed to the Claims Administrator so that it is **received** on or before **October 28, 2011**. Include with your documentation a letter identifying:

- Your name, address, and telephone number;
- A statement that the letter relates to the "Track Two Settlement," and
- Identification of the drug or drugs for which you are submitting documentation.

The letter **must** be signed to ensure review by the Claims Administrator.

The letter and documentation must be mailed to the Claims Administrator at the following address:

AWP Track 2 Settlement Administrator
P.O. Box 2417
Faribault, MN 55021-9117

D. Additional Documentation Related to Eligard

If you have made a claim for reimbursement of cash or co-payment obligations for Eligard, you must provide the Claims Administrator one form of documentary proof that you were administered Eligard and not Lupron.

This is necessary because data received from the Center for Medicare and Medicaid Services does not provide sufficient detail to distinguish administration of Eligard from Lupron, which is not part of this Settlement. **Please also note that Eligard was not available prior to May 2002. You could not have had any administrations of Eligard prior to that date.**

Proof that you were administered Eligard at least once can be in the form of the prescribing physician's notes in your medical file, a letter from a prescribing physician, or some other documentary evidence from the prescribing physician, hospital or medical provider identifying at least one administration of the drug.

If you are unable to provide documentation related to Eligard, you will still be reimbursed for the other drugs in the Settlement that you were administered. But in order to receive compensation for Eligard, you must provide one form of documentary proof of at least one administration.

Your documentation **must** be mailed to the Claims Administrator so that it is **received** on or before **October 28, 2011**. Include with your documentation a letter identifying:

- Your name, address, and telephone number;
- A statement that the letter relates to the "Track Two Settlement," and

- Identification of Eligard, the drug for which you are submitting documentation.

The letter **must** be signed to ensure review by the Claims Administrator.

The letter and documentation must be mailed to the Claims Administrator at the following address:

AWP Track 2 Settlement Administrator
P.O. Box 2417
Faribault, MN 55021-9117

E. Additional Documentation Related to Epogen

If you have made a claim for reimbursement of cash or co-payment obligations for Epogen, you must provide the Claims Administrator one form of documentary proof that you were administered Epogen and not Procrit.

This is necessary because data received from the Center for Medicare and Medicaid Services does not provide sufficient detail to distinguish administration of Epogen from Procrit, which is not part of this Settlement, and because Epogen and Procrit are two different brand names for the same drug (Epoetin Alfa).

Class 1 members please also note that payment for most administrations of Epogen under Medicare Part B were not based on AWP and are not eligible for compensation in this Settlement. Only Epogen administrations – and not Procrit administrations – under Medicare Part B that do **not** relate to kidney dialysis are eligible for compensation. If your administrations for Epogen under Medicare Part B were related to dialysis, your administrations are not eligible for compensation in this Settlement.

Proof that you were administered Epogen at least once can be in the form of the prescribing physician's notes in your medical file, a letter from a prescribing physician, or some other documentary evidence from the prescribing physician, hospital or medical provider identifying at least one administration of the drug. And if you are a Class 1 member, that proof must include a statement that Epogen was prescribed for non-dialysis use.

If you are unable to provide documentation related to Epogen, you will still be reimbursed for the other drugs in the Settlement that you were administered. But in order to receive compensation for Epogen, you must provide one form of documentary proof of at least one administration.

Your documentation **must** be mailed to the Claims Administrator so that it is **received** on or before **October 28, 2011**. Include with your documentation a letter identifying:

- Your name, address, and telephone number;
- A statement that the letter relates to the "Track Two Settlement," and
- Identification of Epogen, the drug for which you are submitting documentation.

The letter **must** be signed to ensure review by the Claims Administrator.

The letter and documentation must be mailed to the Claims Administrator at the following address:

AWP Track 2 Settlement Administrator
P.O. Box 2417
Faribault, MN 55021-9117

F. Payments For Leukine and Novantrone After 2002

Payments for the drugs Leukine and Novantrone made after 2002, whether cash or co-payment obligations under Medicare Part B or private health insurance, will not be reimbursed. This is because the defendant manufacturer of these drugs (Immunex Corp.) sold them to a non-Defendant in 2002 and they are not eligible for compensation after that date.

G. Other Settlement Terms are Unchanged

The remaining terms of the Proposed Settlement are unchanged.

3. What If I Don't Want To Be Included In The Proposed Settlement?

If you do not want to be in the Proposed Settlement and you want to keep the right to sue about the same claims on your own, you must take steps to get out of the lawsuit. This is called excluding yourself.

By excluding yourself, you keep the right to file your own lawsuit or join another lawsuit against the Track Two Defendants about the claims in this lawsuit.

If you exclude yourself from the Settlement Classes, you will not be in the Proposed Settlement and will not receive any money.

To exclude yourself from the Class, you must send a letter signed by you that includes all of the following:

- Your name, address, telephone number and fax number (if any);
- The name and number of the lawsuit: *In re: Pharmaceutical Industry Average Wholesale Price Litigation,* Docket No. 01-CV-12257-PBS, MDL No. 1456;
- If you have hired your own lawyer, the name, address, and telephone number of your lawyer; *and*
- A statement that you want to be excluded from the Settlement Classes.

Your exclusion letter must be mailed first class, **postmarked no later than October 21, 2011,** to:

AWP Track 2 Settlement Administrator
P.O. Box 2417
Faribault, MN 55021-9117

Please remember that you cannot exclude yourself by calling or by sending an email.

Failure to exclude yourself **pursuant to the above instructions** will result in your being bound by the Settlement if it is approved.

4. May I Object To, Or Comment On, The Revision To The Proposed Settlement?

Yes. If you have comments about, or disagree with, any aspect of the revision to the Proposed Settlement, you may express your views to the Court. You must do this in writing. Your written response must include:

- Your name, address, telephone number, a brief explanation of your reasons for objection, and
- The case number (Civil Action Number: 01-CV-12257-PBS, MDL No. 1456).

The document **must** be signed to ensure the Court's review. The response must be filed with the Court at the following address on or before **October 21, 2011**: Clerk of Court, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 2300, Boston, Massachusetts 02210 and served on Counsel for the Parties so that the objection is **received** on or before **October 21, 2011** at the following addresses:

Counsel for the Class

Steve W. Berman
Hagens Berman Sobol Shapiro LLP
1918 Eighth Avenue
Suite 3300
Seattle, WA 98101

Counsel for Track Two Defendants

Steven F. Barley
Hogan Lovells US LLP
100 International Drive
Suite 2000
Baltimore, MD 21202

James P. Muehlberger
Shook, Hardy & Bacon, LLP
2555 Grand Boulevard
Kansas City, MO 64108

In addition, your document must clearly state that it relates to the "Track Two Settlement Revision." If you file or present an objection, you will be subject to the jurisdiction of the Court.

5. When And Where Will The Court Decide On Whether To Grant Final Approval Of The Proposed Settlement?

The Court will hold a Hearing on **November 22, 2011** at 2:30 p.m. to consider whether the Proposed Settlement is fair, reasonable and adequate. At the Hearing, the Court will also consider whether to approve the Proposed Settlement; the request for attorneys' fees and expenses; and any comments or objections. You are not required to attend, but may do so at your own expense.

If you want your own lawyer instead of Class Counsel to speak at the Final Approval Hearing, you must give the Court a paper that is called a "Notice of Appearance." The Notice of Appearance must include:

- Your name, address, telephone number, signature;
- The name, and number of the lawsuit (Civil Action Number: 01-CV-12257-PBS, MDL No. 1456);
- State that you wish to enter an appearance at the Final Approval Hearing; and
- Any documentation in support of such opposition.

Your Notice of Appearance **must** be filed with the Court on or before **October 21, 2011** and served on Counsel so that it is **received** on or before **October 21, 2011**. You cannot speak at the Hearing if you previously asked to be excluded from the Proposed Settlement Class. The Notice of Appearance must be filed with the Court and served on Counsel at the addresses set forth above in response to Question 4.

6. Where Do I Obtain More Information?

You may obtain more information, including a copy of the original Notice that was previously mailed to you, by visiting the AWP Track Two Settlement web site at www.AWPTrack2Settlement.com, by calling 1-877-465-8136, or by writing to:

AWP Track 2 Settlement Administrator
P.O. Box 2417
Faribault, MN 55021-9117

DATED: September 16, 2011

BY ORDER OF THE COURT

ATTACHMENT A

CLASS A DRUGS

Anzemet (injection & tablets)	Ferrlecit	Neulasta
Aranesp	InFed	Neupogen

CLASS B DRUGS

A	C	E
AccuNeb	Calcijex	Eligard
Acetylcysteine	Calcimar	Ellence / Epirubicin HCL
Acyclovir sodium	Camptosar / Irinotecan hydrochloride	Enalaprilat
Adenosine	Carbocaine / Mepivicaine	Enbrel
Adriamycin PFS/RFS	Cefizox	Epinephrine
Adrucil	Chromium tr meta / Chromic chloride	Epogen
Aggrastat	Cimetidine hydrochlorie	Erythromycin / Erythromycin base
Albuterol sulfate	Cipro / Ciprofloxacin hydrochloride	Estradiol
Alcohol injection	Cisplatin	Etoposide
A-methapred	Claforan	F
Amikacin sulfate	Cleocin T / Clindamycin phosphate	Famotidine
Aminocaproic acid	Copper trace / Cupric chloride	Fentanyl citrate
Aminosyn / Aminosyn II / Amino acid	Cromolyn sodium	Fluorouracil
Amphocin / Amphotericin B	Cytostar-U / Cytarabine	Fluphenazine HCL
Aristocort / Aristospan	D	Furosemide
Aromasin	Depo provera/ Medroxyprogesterone acetate	G
Ativan	Depo-testosterone / Testosterone cypionate	Gamimune N / Gammagard/ Gammagard S/D / Gammar / Gammar P.I.V.
Azmacort	Dexamethasone acetate/ Dexamethasone sodium/ Dexamethasone sodium phosphate	Gentamicin sulfate
B	Dextrose/ Dextrose sodium chloride/ Ringers lactated with dextrose	Gentran / Gentran NACL
Bebulin	Diazepam	Glycopyrrolate
Bioclate	Dicarbazine (dtic – dome)	H
Bleomycin suflate	Diltiazem hydrochloride	Helixate / Helixate FS
Brevibloc	Dopamine hydrochloride	Heparin / Heparin lock flush /
Buminate	Doxorubicin / Doxorubicin hydrochloride	Humate-P
Bupivacaine	DTIC Dome	Hydromorphine

CLASS B DRUGS
(continued)

I	Metaproterenol sulfate	R
Idamycin / Idarubicin hydrochloride	Methotrexate sodium	Ranitidine HCL
Imipramine HCL	Metoclopramide	Recombinate
Intal	Midazolam hydrochloride	S
Ipratropium bromide	Mithracin	Sodium acetate
Iveegam	Monoclate / Monoclate-P	Sodium chloride
K	Mononine	Solu-cortef / Hydrocortisone sodium succinate
Ketorolac / Ketorolac tromethamine	Morphine sulfate	Solu-medrol
Kineret	N	Succinylcholine chloride
Koate – HP	Nadolol	T
Kogenate	Nalbuphine	Taxotere
L	Nebupent	Thioplex / Thiotepa
Labetalol	Neosar / Cyclophospamide	Tobramycin sulfate / Tobramycin/sodium chloride
Lasix	Neostigmine methylsulfate	Toposar
Leucovorin calcium	Novacaine / Procaine	Travasol / Travasol with dextrose
Leukine	Novantrone	Trelstar / Triptorelin pamoate
Levofloxacin	O	V
Lidocaine hydrochloride	Osmitrol	Vancocin / Vancocin HCL / Vancomycin/ Vancomycin HCL
Liposyn II / Fat emulsion	P	Verapamil HCL
Lorazepam	Pancuronium bromide	Vinblastine sulfate
Lovenox	Pentam / Pentamidine isethionate	Vincasar / Vincristine / Vincristine sulfate
Lyphocin	Perphenazine	W
M	Phenylephrine	Water for injection bacteriostatic
Magnese chloride	Potassium acetate / Potassium chloride	Z
Magnesium sulfate	Prograf	Zemplar
Mannitol	Promethazine	Zinc chloride
Marcaine	Propranolol HCL	
Medrol / Methylprednisolone	Propofol	