Attorney General Conway Announces $9.8 Million Settlement with Pharmaceutical Wholesaler McKesson Corp.

Press Release Date: Thursday, December 06, 2012
Contact Information: Shelley Catharine Johnson
Deputy Communications Director
502-696-5659 (office)

Attorney General Jack Conway today announced that Kentucky has settled a lawsuit against McKesson Corporation, the largest pharmaceutical wholesaler in the country, for $9.84 million. This is the latest in a number of so-called Average Wholesale Price (AWP) lawsuits filed by the Office of the Attorney General.

The lawsuit named McKesson, which distributes one-third of the medicines used in the North America, and First DataBank, Inc. as defendants. First DataBank is the nation's largest publisher of pharmaceutical pricing data. Kentucky Medicaid relied on average wholesale prices ("AWPs") published by First DataBank to calculate and set Medicaid drug reimbursement rates. The Kentucky Medicaid program is required by federal law to reimburse pharmacies and other Medicaid providers for brand name prescription drugs based on the price generally and currently paid by the providers for a drug.

The lawsuit alleged that McKesson and First DataBank conspired to inflate the prices First DataBank reported for 1,800 brand name prescription drugs.

"Kentucky paid an additional five percent for scores of brand name drugs, resulting in increased sales for McKesson and millions of dollars in windfall profits for the pharmacies," General Conway said. "I am pleased that we've been able to hold McKesson accountable for its deceptive practices and recover more than $9.8 million for a vital state program and for Kentucky taxpayers."
Starting in 2001, McKesson knowingly increased the markups for AWP's that it reported to First DataBank from 20 percent to 25 percent, without regard to lower markups suggested by drug manufacturers for such drugs. McKesson did this knowing the increased markup it was reporting did not reflect the prices it actually charged.

McKesson knew that First DataBank would publish the increased markup and that First DataBank was representing that the numbers reflected actual wholesaler prices. McKesson knew that Kentucky Medicaid and other government health plans would use those artificially inflated First DataBank prices to calculate pharmacy reimbursement.

Since Attorney General Conway took office in January 2008, his Office of Medicaid Fraud and Abuse Control has recovered or been awarded approximately $270 million dollars for the state and federal Medicaid programs. These cases range from lawsuits and settlements against pharmaceutical companies to cases against individual providers.

The Attorney General's Tip Line for reporting allegations of Medicaid fraud is 1-877-228-7384.