

CLASS 1 (MEDICARE PART B) CONSUMER

FREQUENTLY ASKED QUESTIONS

These FAQ's are for Consumers who made, or who were obligated to make, percentage co-payments through Medicare Part B from January 1, 1991 to December 31, 2005. If you made, or were obligated to make, percentage co-payments under Private Insurance, [click here](#).

1. What Is The Lawsuit About?

There is a Proposed Settlement of a Class Action lawsuit involving approximately 200 drugs. This lawsuit is not about whether these drugs are safe or effective. This lawsuit is about the amount you were charged for the drug.

The Average Wholesale Price ("AWP") is used to set reimbursement amounts that are paid by a) Medicare and its beneficiaries, b) private health insurers, and c) consumers making percentage co-payments under private health insurance plans. The lawsuit claims that Defendants reported false and inflated AWP's for the drugs covered in this Proposed Settlement. The Defendants deny any wrongdoing, and the Proposed Settlement is not an admission of wrongdoing or an indication that any law was violated.

The name of the lawsuit is In re: Pharmaceutical Industry Average Wholesale Price Litigation, Docket No. 01-CV-12257-PBS, MDL No. 1456.

2. Who Are The Defendants?

The Defendants in the case are Abbott Laboratories, Amgen Inc., Aventis Pharmaceuticals Inc., Hoechst Marion Roussel, Baxter Healthcare Corp., Baxter International Inc., Bayer Corporation, Dey, Inc., Fujisawa Healthcare, Inc., Fujisawa USA, Inc., Immunex Corporation, Pharmacia Corporation, Pharmacia & Upjohn LLC (f/k/a Pharmacia & Upjohn, Inc.), Sicor, Inc., Gensia, Inc., Gensia Sicor Pharmaceuticals, Inc., Watson Pharmaceuticals, Inc., and ZLB Behring, L.L.C.

3. How Do I Know If I Am Included In The Proposed Settlement?

You are part of the Proposed Settlement if you made, or are obligated to make, a percentage co-payment under Medicare Part B for any of the covered drugs listed in the Class A and Class B Drug Lists from January 1, 1991 through January 1, 2005.

A spouse of a deceased class member who made such a co-payment or a legal representative of a deceased class member's estate may file a claim.

You are not a member of a Class if you made flat co-payments, if insurance paid all of your co-payment, or if you were never obligated to make a co-payment at all. The Claims Administrator will calculate how much you are entitled to based on the drug purchase information provided by CMS.

IMPORTANT: This is not a bill or a collection notice. The Court is not suggesting, requesting or requiring that you pay your doctor or pharmacist now or that you are obligated to do so.

4. What Do I Need to Do To Get A Payment?

If you received the yellow Pre-Notice with reply post-card and you were obligated to make percentage co-payments you **MUST** return the postcard to share in the Settlement Fund. In response to sending in the yellow postcard from the Pre-Notice you will be sent a blue Full Notice with Claim Form. The blue Claim Form will list the drugs and dates that the Centers for Medicare and Medicaid Services (“CMS”) supplied regarding your drug administrations and if this information is correct, *you do NOT need to do anything further to remain eligible to receive a payment.*

If you also made percentage co-payments under private insurance between January 1, 1991 and March 1, 2008, rather than, or in addition to co-payments through Medicare Part B, you need another claim form. Call 1-877-465-8136 or click the Claim Form link on the left side of the Class 3 Consumer Home Page for a form to fill out for a refund of these percentage co-payments.

5. How Are Payments Determined?

The Claims Administrator will calculate your claim amount. It will be based on information obtained from CMS that shows your total out-of-pocket co-payment obligations under Medicare Part B for all the covered drugs during the Class Period.

Your reimbursement will be calculated by adding three amounts:

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

The sum of these three figures will be your “Total Recognized Claim”. If there is enough money based on the number of claims received, your payment will be 100% of your Total Recognized Claim. If there is not enough money to pay all consumers 100% of their Total Recognized Claims, each consumer’s claim will be reduced proportionately.

6. What If I Do Not 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 Defendants 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 Defendants about the claims in this lawsuit.

If you exclude yourself from the Settlement Classes, you will not be able to file a claim for money and you will not be in the Proposed Settlement.

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

- Your name, address, taxpayer identification number, 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 March 16, 2009, to: AWP Track 2 Settlement Administrator, P.O. Box 951, Minneapolis, MN 55440-0951.

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

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

Yes. If you have comments about, or disagree with, any aspect of the Proposed Settlement, you may express your views to the Court. You must do this in writing. Your written response should 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 March 16, 2009: Clerk of Court, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 2300, Boston, Massachusetts 02210 and served on Counsel for the Parties on or before March 16, 2009 at the following addresses:

Counsel for the Class

Counsel for the Track 2 Defendants

Steve W. Berman
Hagen Berman Sobol
Shapiro LLP
1301 Fifth Avenue
Suite 2900
Seattle, WA 98101

Steven F. Barley
Hogan & Hartson,LLP
111 S. Calvert Street
Suite 1600
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 2 Settlement." If you file or present an objection, you will be subject to the jurisdiction of the Court.

8. Do I Have A Lawyer Representing My Interests In This Case?

Yes. The Court has appointed the following law firms to represent you and other Settlement Class Members:

Hagens Berman Sobol Shapiro LLP
1301 Fifth Avenue, Suite 2900

Spector Roseman & Kodroff, PC
1818 Market Street, Suite 2500

Seattle, WA 98101
www.hbsslaw.com

Wexler Toriseva Wallace LLP
55 W. Monroe, Suite 3300
Chicago, IL 60603
www.wtwlaw.us

Philadelphia, PA 19103
www.srk-law.com

Edelson & Associates LLC
45 West Court Street
Doylestown, PA 18901

These lawyers are called Class Counsel. You won't be charged personally for these lawyers. Class Counsel will ask the Court to award them a fee of up to 33 1/3% plus interest and litigation expenses. You don't need to hire your own lawyer, but if you want your own lawyer to speak for you or appear in Court, you must file a Notice of Appearance (see #9 below). Hiring a lawyer to appear for you in the lawsuit will be at your own expense.

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

The Court will hold a Hearing on April 27, 2009 at 2:00 p.m. to consider whether it 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); and
- State that you wish to enter an appearance at the Final Approval Hearing.
- Any documentation in support of such opposition.

Your Notice of Appearance must be filed with the Court on or before March 16, 2009 and served on Counsel by March 16, 2009. You cannot speak at the Hearing if you previously asked to be excluded from the Proposed Settlement Class and are not submitting a Claim Form now. The Notice of Appearance must be filed with the Court and served on Counsel at the addresses set forth above in response to Question 8.

10. Where Do I Obtain More Information?

More details and all other legal documents that have been filed with the Court in this lawsuit are available. They can be viewed and copied at any time during regular office hours at the Office of the Clerk of Court, John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 2300, Boston, Massachusetts 02210 or may be viewed and downloaded from this website under the link entitled "Court Documents."

In addition, if you have any questions about the lawsuit or the Notice, you may:

- Call toll free 1-877-465-8136
- Write to: Track 2 AWP Settlement Administrator
P.O. Box 951

Minneapolis, MN 55440-0951

- Email: info@awptrack2settlement.com