

CT Attorney General

Connecticut Attorney General's Office

Press Release

Attorney General Announces Settlement With Drug Companies For Blocking Generic Cholesterol Drug

January 7, 2010

Attorney General Richard Blumenthal today announced a \$22.5 million settlement reached by Connecticut and other states with three drug companies, resolving allegations that the companies illegally blocked cheaper, generic versions of TriCor, a cholesterol drug, from reaching the market.

The settlement resolves a 2008 lawsuit filed by Connecticut, 24 other states and the District of Columbia against Abbot Laboratories, Fournier Industrie et Sante and Laboratories Fournier, S.A. The companies have sold TriCor, a brand name cholesterol-fighting drug, in the United States since 1998. TriCor accounted for more than \$1 billion of the companies' sales last year.

Blumenthal alleged that the companies conspired to maintain monopolistic power by improperly obtaining patents for TriCor, knowing the patents were unenforceable; making insignificant changes in drug formulation to impede generics; and filing sham improper lawsuits against generic drug makers in order to delay their efforts.

The lawsuit was filed in coordination with Department of Consumer Protection (DCP) Commissioner Jerry Farrell, Jr.

Connecticut will receive \$224,714 under the settlement, which includes reimbursement to the state's Medicaid program for covering TriCor prescriptions.

"More than the money, this settlement enables more affordable cholesterol-fighting drugs to join the market, potentially saving lives as well as dollars," Blumenthal said. "The companies conspired to file sham lawsuits, obtain improper patents and unnecessarily manipulate their drug formula -- all to block cheaper, generic drugs from the market. These practices denied competition, and deprived taxpayers and consumers of more affordable drugs.

"These companies put profit over patient health by blocking affordable generic drugs. Our settlement provides money directly back to states harmed by these practices, as well as business reforms that enable new affordable, generic drugs."

Abbott and Fournier allegedly filed over 10 lawsuits against generic companies between 2000 and 2004 while those companies were seeking Food and Drug Administration (FDA) approval for their generic versions of TriCor. Abbott and Fournier eventually lost or dismissed all of the lawsuits.

Abbott and Fournier also knew that the patents it allegedly improperly sought to obtain - upon which it based these lawsuits - were unenforceable and could not succeed.

At the same time, as part of its plan to block generic competition, Abbott and Fournier made minor changes in the formulations of TriCor, not to improve it, but rather to prevent generic versions from obtaining permission to substitute for the more costly TriCor. As a result of the product switches and patent litigation, the drug companies have successfully thwarted all generic competition, allowing the companies to charge monopoly prices for TriCor.

Under the settlement, Abbott and Fournier have also agreed not to delete the drug codes for the latest version of TriCor in the event a generic manufacturer seeks FDA approval of a generic version of TriCor, until after a specified time has lapsed. The settlement will also reimburse the state for fees and costs.

Blumenthal thanked those in his office who worked on the investigation -- Assistant Attorney General Gary Becker, and Paralegal Lori Measer.

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