

Beshear Takes Action Against 23 Drug Makers Over Skyrocketing Prescription Drug Prices

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Families overpaid for drugs to treat diabetes, cancer, while drug makers raked in billions

FRANKFORT, KY. (May 13, 2019) – Today, Attorney General Andy Beshear announced two lawsuits seeking to recover ill-gotten gains from 23 drug manufacturers that skyrocketed the prices of more than 100 prescription drugs, including drugs to treat diabetes, epilepsy and cancer.

In Franklin Circuit Court, Beshear filed suit against three of the largest insulin manufacturers (https://ag.ky.gov/pdf_news/20190513_Insulin-Pricing-Complaint.pdf), Eli Lilly, Sanofi-Aventis and Novo Nordisk, for driving up insulin prices. In addition, Beshear joined 43 attorneys general in a federal lawsuit (https://ag.ky.gov/pdf_news/20190510_Generics-Complaint_REDACTED.pdf) targeting Teva Pharmaceuticals, plus 19 other drug manufacturers (https://ag.ky.gov/pdf_news/Generics_Corporate-Defendants.pdf), and 15 senior executives (https://ag.ky.gov/pdf_news/Generics_Individual-Defendants.pdf) for inflating generic drug prices (https://ag.ky.gov/pdf_news/Generics-Drugs.pdf).

In both cases, Beshear is demanding the companies, which have made billions of dollars from schemes that inflated the prices of drugs Kentucky families rely on to live and treat diseases, correct their exploitative conduct, discharge their ill-gotten gains and pay civil penalties to the state.

“It is truly heartbreaking that Kentuckians are suffering, sometimes risking life and limb, because they cannot afford their medications,” said Beshear. “The outrageous actions of these drug companies is a big reason we all pay too much for prescription drugs and I am insisting they pay up for putting profits ahead of our Kentucky families.”

In the insulin lawsuit, Beshear alleges that since 2008 the three defendants, who control 96% of the world’s insulin market, have increased the price of their analog insulin products at least 10 times, while the costs to make insulin have stayed low, usually less than \$7.00 per vial. The wholesale price has jumped to nearly \$300 and the price paid by those Kentuckians hit hardest by the deception can exceed \$1000 a month.

Sanofi's Apidra insulin for injection increased in price 311% from December 2010 to January 2019, while the Lantus insulin for injection increased 285% in the same time frame. Novolog FlexPen, manufactured and sold by Novo Nordisk, more than doubled in price from \$255 per package in July 2012 to \$558 in July 2018 without any significant change to the product. Eli Lilly's Humalog Pen increased from \$235 per package in November 2011 to \$530 in May 2017.

Beshear alleges that Kentuckians without insurance or on high-deductible health plans, Medicare Part D recipients and those who pay coinsurance are hurt most, as they are forced to pay the full amount or a percentage of the artificially inflated list price of the drug. The companies who control the drug market, Pharmacy Benefit Managers (PBMs), pay a lower, negotiated price. As a result, Kentuckians pay too much for their insulin, while the PBMs profit by paying less. Through this deceptive strategy, drug makers curry favor with PBMs and are able to not only retain profits, but also increase their number of sales.

Beshear said the inflated insulin prices strike Kentucky hard. The state has the seventh highest rate of diabetes in the nation. More than 15% of Kentuckians have diabetes, and more than 35% of our adults have higher than normal blood glucose levels and every year an additional 135,000 new cases are diagnosed in Kentucky.

Beshear is seeking restitution and civil penalties under the state's Consumer Protection Act.

The second lawsuit Beshear announced Monday is a multistate complaint against 20 generic drug makers, including Teva Pharmaceuticals USA Inc., Sandoz Inc., Mylan Pharmaceuticals Inc. and Pfizer Inc., for engaging in an alleged wide-spread scheme to inflate and fix the price of more than 100 generic drugs (https://ag.ky.gov/pdf_news/Generics-Drugs.pdf).

It is alleged that from July 2013 to January 2015, the price-inflating conspiracy was made possible by employees of the drug companies routinely meeting at industry trade shows, golf outings, cocktail parties, dinners and customer events and communicating via phone, email and text message.

As a result of the scheme, some drug price increases were over 1000%, and staggering profits were realized by the companies at a significant cost to the state's health insurance market, taxpayer-funded programs like Medicaid and Medicare and Kentuckians who paid too much for drugs. A calculation by Teva's marketing director estimated a "net upside" of the drug price increases of nearly \$1 billion per quarter.

Beshear alleges the drug manufacturers violated the state Consumer Protection Act and federal anti-trust laws.

The lawsuit marks Beshear's third against Teva. The investigation from his first 2016 multi-state suit, which accused 18 drug manufacturers, including Teva, of increasing the costs of 15 generic drugs, led to the second multi-state lawsuit, announced today. The 2016 suit also included two former executives (<https://kentucky.gov/Pages/Activity-stream.aspx?n=AttorneyGeneral&prId=328>) of a generic drug manufacturer, with each agreeing to pay a civil penalty and cooperate with the ongoing investigation.

Beshear also sued Teva in 2018 over its role in fueling the opioid epidemic. Teva filed a motion to dismiss the case, which was heard on April 29 in Fayette Circuit Court where the judge denied the motion from the bench.

Kentucky leads the nation in the number of individual opioid lawsuits filed by an attorney general. Beshear has brought a total of nine lawsuits against pharmaceutical companies (<https://ag.ky.gov/fighting-drug-abuse/litigation>) for allegedly flooding Kentucky communities with addictive prescription drugs.

Beshear also recently opened an investigation into allegations that the state's PBMs overcharged (<https://kentucky.gov/Pages/Activity-stream.aspx?n=AttorneyGeneral&prId=739>) Kentuckians, health insurance programs and local, independent pharmacies for prescription drugs.

“I am demanding answers and accountability from the pharmaceutical industry – our Kentucky families deserve it,” Beshear said.

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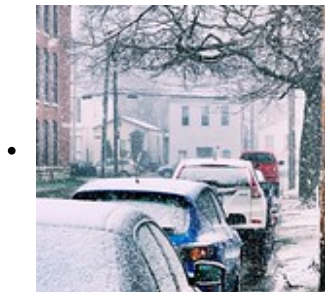
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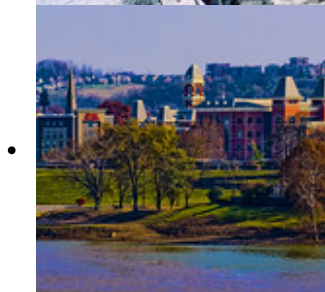
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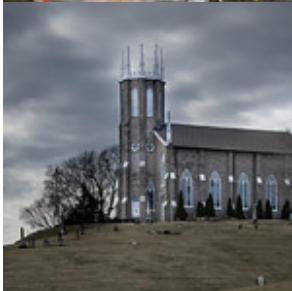
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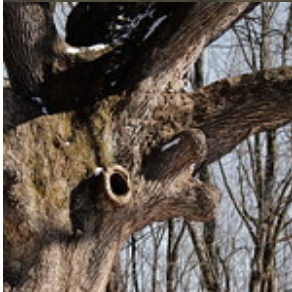
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