

Merck Paying \$671M to Settle with Government Over Drug Rebates, Marketing Practices

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PHILADELPHIA_Merck and Co. has agreed to pay \$671 million to settle claims that it overcharged Medicaid programs for four drugs, including Vioxx and Zocor, and to resolve allegations of improper marketing to doctors, U.S. prosecutors and company officials announced Thursday.

In a case in Philadelphia, Merck agreed to pay \$399 million plus interest for improper calculation of Medicaid rebates and its marketing practices. In a Louisiana case, it agreed to pay \$250 million plus interest for its rebate practices.

The interest payments boost the total payout to \$671 million, Merck said.

Drug companies are required to report to the government the lowest price for its product to ensure that Medicaid programs get the benefit of the same discount. Merck, however, was hiding the steep discounts it gave to hospitals by reporting higher prices to the government, prosecutors said.

From 1997 to 2001, Merck also gave money and perks to doctors and other health care professionals to entice them to prescribe Merck drugs, a practice the government called excessive.

Merck said the settlements do not constitute an admission of any liability or wrongdoing.

The Louisiana case involved pricing for the heartburn drug Pepcid when it was sold only with a prescription. The Philadelphia case, which involved a related Nevada action, involved pricing programs for the cholesterol drugs Zocor and Mevacor and the painkiller Vioxx, which was pulled from the market in September 2004.

"What we have here is a disagreement (over) the rules of the Medicaid rebate program," said Merck spokesman Ronald Rogers. "These civil settlements were the best and most appropriate way to resolve these lengthy investigations and bring these matters to closure."

"At the time that these pricing programs were in place, Merck believes that it acted in good faith and complied with the regulations that were in place at the time," he said.

When Merck reported its fourth-quarter financial results on Jan. 30, they included a \$671 million charge for the anticipated resolution of federal and state civil probes into past sales and marketing practices.

"The company has been working with federal and state authorities and has been making progress toward definitive agreements" to resolve the matters, the earnings report stated.

U.S. Attorney Patrick Meehan was joined at a news conference by officials with the Department Of Health and Human Services Office of the Inspector General and representatives from the state Attorneys General in Delaware, Illinois, Massachusetts and Nevada.