

Monthly Columns

by Attorney General Jack Conway



October 2010

Health-care fraud costs American taxpayers billions of dollars every year. When drug companies engage in fraudulent pricing schemes and disseminate misleading or false information about their products, they are stealing money out of the pockets of hardworking Kentuckians and endangering public health.

As Attorney General, I have made it a priority to go after those who seek to defraud Kentucky's Medicaid system. Since I took office in January 2008, my Office of Medicaid Fraud and Abuse Control has increased Medicaid recoveries by more than 600%. To date, we have recovered or been awarded more than \$141 million for the state and federal Medicaid programs as a result of lawsuits and settlements with individual providers and drug companies.

In the last month, my office has obtained more than \$4.7 million in settlements with Schwarz Pharma, Novartis Pharmaceuticals Corp, Allergan USA and Forest Laboratories, Inc. to resolve allegations of illegal and improper marketing of their products.

In the case of Forest Laboratories, the company caused false claims to be submitted to the Medicaid program by illegally disseminating inaccurate and misleading information to physicians about the safety and effectiveness of its antidepressant drugs Celexa and Lexapro for use in treating pediatric patients. Those uses had not been approved by the Food and Drug Administration. Forest also paid illegal kickbacks to doctors to induce them to prescribe Celexa and Lexapro.

The off-label marketing of drugs by pharmaceutical companies is not only illegal, it undermines the doctor-patient relationship and can put your health at risk. Consumers have a right to know all of the risks associated with the medications they are taking.

More than half, \$75 million, of our Medicaid fraud recoveries and awards have come from lawsuits this office has filed against 47 drug companies over the Average Wholesale Price (AWP) of prescription drugs. The Kentucky

Medicaid program relies on the published AWP to set pharmacy reimbursement rates. When those prices are inflated and bear no relationship to the price the drug companies charge pharmacies, Kentucky taxpayers are left to foot the bill. This practice hurts the state's Medicaid program and drives up healthcare costs for all of us.

My Medicaid Fraud Division opened more than 70 provider fraud cases in 2008 and 2009. To date, we've had 18 cases indicted, 16 convictions and received more than \$2 million in restitution.

Given Kentucky's unprecedented budget crisis and the strained resources of my office, I am proud of all we have accomplished to combat Medicaid fraud. Be assured, my office and I will continue to work every day to protect Kentucky taxpayers and to ensure that drug companies that engage in deceptive and illegal business practices are held accountable.

Jack Conway
Attorney General