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# TPP FREQUENTLY ASKED QUESTIONS

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## 1. How do I request a reissue of the Settlement check?

If you received your check and would like to request a reissue please void the check and return it to us, along with a letter requesting the reissue to:

BMS AWP TPP Settlement Administrator

P.O. Box 24648

West Palm Beach, FL 33416

## 2. Is it too late to file a claim?

Yes, we can no longer accept claim forms. Claims needed to be postmarked by November 19, 2010.

## 3. What Is The Lawsuit About?

The lawsuit claims that BMS reported false and inflated AWP's for the BMS drugs at issue in this case. The lawsuit claims that the reported AWP's were used to set reimbursement amounts that were paid by Medicare and its beneficiaries and to set the reimbursement by private health insurers and consumers making percentage co-payments under private health insurance plans. The lawsuit asks the Court to award money damages to TPPs who made reimbursements under Medicare Part B for the drugs at issue or who reimbursed outside of Medicare Part B based on AWP.

BMS denies any wrongdoing and the Settlement is not an admission of wrongdoing or an indication that any law was violated. BMS has entered into the Settlement to avoid further expense and inconvenience.

## 4. Why Is This A Class Action?

In a class action lawsuit, one or more people called "class representatives" sue on behalf of people who have similar claims. The people together are a "class" or "class members." A court must determine if a lawsuit should proceed as a class action. If it does, a trial then decides the lawsuit for everyone in the class. Sometimes, the parties may settle without a trial.

The Parties here have agreed to a Settlement that includes a national class of TPPs who reimbursed, or incurred obligations to reimburse, any portion of a Medicare Part B co-payment for the drugs at issue. The Settlement also includes a national class of TPPs who made reimbursements for these drugs outside of Medicare Part B based on AWP. The Court has preliminarily approved this Settlement but will hold a Hearing to decide whether it should be finally approved.

## 5. How Do I Know If I Am Included In The Settlement?

Generally speaking, you are a member of one of the Settlement Classes if you reimbursed (or incurred an obligation to reimburse) any portion of an insured's Medicare Part B co-payment for any of these drugs from January 1, 1991 through December 31, 2004; or you made (or incurred an obligation to make) reimbursements outside of Medicare Part B for any of these drugs from January 1, 1991 through December 31, 2004. You do not need to do anything to become part of one of these Settlement Classes, **but you must have completed a Claim Form in order to receive money.**

Excluded from the Settlement are (1) consumers who made flat co-payments, who were reimbursed fully for their payments, or who have the right to be fully reimbursed, and (2) BMS and certain related entities as defined in the Settlement Agreement. Also excluded from the Settlement are all

federal, state, and local government entities in the United States, except any such governmental agencies or programs that made or incurred an obligation to make a reimbursement for a Class Drug as part of a health benefit plan for their employees, but only with respect to such payment.

**6. What Does The Settlement Provide?**

BMS will pay \$19 million to settle the lawsuit. This amount is meant to satisfy the claims of both TPPs who meet the criteria for inclusion in one of the two Settlement Classes as well as claims by consumers who made percentage co-payments and full cash payments based on the published AWP. All costs associated with notice and administration, attorneys' fees and litigation costs, and compensation to the named class representatives for time spent providing documents and testimony in connection with this case will be paid from the \$19 million settlement amount, except that BMS will pay 50% of the costs of notice and administration. The Court must approve all aspects of this Settlement.

Under the initial proposal, 77% (or \$14,630,000) of the gross settlement amount was designated to satisfy the claims of TPPs. The remaining 23% (or \$4,370,000) of the gross settlement amount was designated for the purpose of paying consumer claims. Consumers and TPPs are sharing the costs of notice and administration equally.

The Court considered the Settlement at a hearing held March 28, 2011. Among other things, the Court requested that the Proposed Settlement be modified to provide more money to consumer members of the Classes. Afterward, a mediation was held between Allocation Counsel for consumers and TPPs, which produced an Agreement that provided Consumers with an additional \$1,000,000. Thus, the Agreement now provides that consumers will receive a gross settlement amount of \$5,370,000 (28%), and that TPPs will receive a gross settlement amount of \$13,630,000 (72%).

**7. How Are Payments Determined?**

How much you receive from this Settlement depends on the volume and amount of claims submitted by other TPP Settlement Class Members.

TPP Settlement Class Members are required to provide the amount of reimbursements for certain drugs at issue from January 1, 2003 to December 31, 2003. This one-year period will be used to determine the portion of the Settlement Amount that will be paid to each TPP submitting valid claims.

TPP Settlement Class Member's portion of the Settlement Amount will be based upon their reimbursements for the BMS Drugs.

If total valid TPP Settlement Class Member claims exceed the total portion of the settlement set aside to satisfy the claims of TPPs, all TPP claims will be reduced proportionately.

**8. What If I Do Not Want to Be Included in the Settlement?**

It is no longer possible to exclude from the settlement. Requests for exclusion needed to be postmarked by October 10, 2010.

**9. May I Object To, Or Comment On, the Settlement?**

No, the deadline for objecting to the settlement has passed.

**10. 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 Class Members:

Steve W. Berman

Jeffrey Kodroff

Sean R. Matt

Spector Roseman & Kodroff, PC

Hagens Berman Sobol Shapiro LLP  
1301 Fifth Avenue, Suite 2900  
Seattle, WA 98101  
[www.hbsslaw.com](http://www.hbsslaw.com)

1818 Market Street, Suite 2500  
Philadelphia, PA 19103  
[www.srk-law.com](http://www.srk-law.com)

Kenneth Wexler  
Wexler Toriseva Wallace LLP  
55 W. Monroe, Suite 3300  
Chicago, IL 60603  
[www.wtwlaw.us](http://www.wtwlaw.us)

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

These lawyers are called Class Counsel. You will not be charged personally for these lawyers, but they will ask the Court to award them a fee of up to 33 1/3 % of the Settlement Amount, plus interest. In addition, Class Counsel will request reimbursement of the expenses and costs associated with litigation of this case. The fee will be paid out of the \$19 million Settlement Amount as will any reimbursement of litigation costs and expenses awarded by the Court. More information about Class Counsel and their experience is available at the websites listed above.

**11. Should I Get My Own Lawyer?**

You don't need to hire your own lawyer. However, if you want your own lawyer to speak for you or appear in Court, you must file a Notice of Appearance. If you hire a lawyer to appear for you in this case, that will be at your own expense.

**12. Did the Court Grant Final Approval of the Settlement?**

Yes, on July 19, 2011 the Judge granted final approval of the Settlement.

**13. Where Do I Obtain More Information?**

More details are in the Complaint filed by Class Counsel, the Answers filed by BMS, and the other legal documents that have been filed with the Court in this lawsuit. These documents include the BMS AWP Settlement Agreement and Release, which sets forth in great detail the Settlement's provisions. You can look at and copy these legal documents 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 via the internet at [www.BMSAWPSettlement.com](http://www.BMSAWPSettlement.com).

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

Visit the BMS Settlement website at [www.BMSAWPSettlement.com](http://www.BMSAWPSettlement.com); or

Call toll free 1-877-690-7097; or

Write to:

BMS AWP TPP Settlement Administrator

P.O. Box 24648

West Palm Beach, FL 33416

*Please do not contact the Court or the Judge.*