

THE INDIANAPOLIS STAR

Mississippi sues Lilly over Zyprexa use

By: Jeff Swiatek, The Indianapolis Star

July 25, 2006

SECTION: BUSINESS AND FINANCIAL NEWS

The top-selling drug at Eli Lilly and Co. came under renewed attack Monday, as Mississippi became the fifth state to sue the Indianapolis drug maker over its antipsychotic Zyprexa.

Mississippi's activist attorney general, Jim Hood, who has a reputation for suing companies on behalf of consumers in high-profile issues, charged that Lilly promoted Zyprexa for unapproved uses, including for children.

The lawsuit by Hood seeks repayment from Lilly for more than \$100 million that the state's Medicaid program for the poor has paid for the drug, plus reimbursement for diabetes-related injuries the drug caused some Medicaid users.

"We certainly don't want to bankrupt a company," Hood said, "but at the same time we have a duty to get what the state's owed."

The Mississippi action is the latest against Zyprexa, which went on the market in 1996 and has become Lilly's most litigated drug, as well as its all-time best-seller.

Lilly last year agreed to pay \$1 billion to settle 10,500 U.S. legal claims by Zyprexa users alleging they suffered diabetes-related injuries from the drug. Another 5,500 claims are pending from U.S. users, plus five class-action lawsuits in Canada.

Then there are the state actions, which reflect a growing tendency by state attorneys general to sue companies on behalf of consumers.

Mississippi likely will work together with the other states that have sued Lilly over Zyprexa, Hood said. Those states are Louisiana in December 2004, Florida in June 2005 and Alaska and West Virginia this year.

Lilly spokesman Terra Fox said the company wouldn't comment on the latest lawsuit because it hadn't seen it.

Mississippi on Monday also joined about a dozen other states that have objected to the \$1 billion settlement, saying it doesn't do justice to their state residents who are included.

Lawyers for claimants have not yet started paying out the \$1 billion, but the first checks were slated to be mailed this month.

Hood, whose successful legal actions include a \$100 million settlement against WorldCom for tax fraud, said he didn't know whether the states' objection would hold up payments to **Zyprexa** claimants. The settlement is overseen by a federal judge in New York.