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Pa. sues Eli Lilly, AstraZeneca over antipsychotic medications

State says three drug makers fraudulently marketed medicines

By Margaret Cronin Fisk

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Eli Lilly & Co., AstraZeneca Pharmaceuticals and Johnson & Johnson were sued by Pennsylvania over claims they fraudulently marketed antipsychotic drugs and owe the state for prescription costs and harm to patients.

Lilly, based in Indianapolis, hid the risks and exaggerated the benefits of its antipsychotic medication Zyprexa while persuading doctors to prescribe it for unapproved uses, the state said. London-based AstraZeneca PLC's U.S. unit did the same for its drug Seroquel and Johnson & Johnson's Janssen Pharmaceutical unit for Risperdal, Pennsylvania claimed in a Feb. 26 complaint.

It's the fifth claim on behalf of a state Medicaid program against Lilly over Zyprexa marketing practices, the second against New Brunswick, N.J.-based Johnson & Johnson over Risperdal and the first against AstraZeneca, the U.K.'s second-largest drug maker. More states are considering such lawsuits, attorney Tommy Fibich said in an interview.

"This is the biggest state so far," said Fibich, who represents Louisiana against Lilly and Johnson & Johnson. The Pennsylvania case "could cost the companies hundreds of millions of dollars," he said.

AstraZeneca and Lilly representatives said the companies will defend themselves vigorously. Janssen spokeswoman Ambre Morley said the company doesn't comment on litigation.

"The lawsuit is being undertaken by a Houston law firm that has filed hundreds of personal injury lawsuits against pharmaceutical companies on behalf of private individuals," AstraZeneca spokesman Jim Minnick said.

The cost to programs for elderly

"Lilly is committed to the highest ethical standards and to promoting our medications only for approved uses," spokeswoman Tarry Ryker said. "Zyprexa has helped millions of people with serious mental illness regain control of their lives."

The defendants cost Pennsylvania's Medicaid and drug assistance for the elderly program millions of dollars for "reimbursing for non-medically accepted indications and non-medically necessary uses of Zyprexa, Seroquel and Risperdal," as well as "significant sums of money for the care and treatment" of patients injured by the drugs, the state said in a complaint.

The lawsuit was brought by Pennsylvania Gov. Ed Rendell's office of general counsel, which hired private lawyers to help pursue the claims, Rendell spokesman Gary Miller said. The state doesn't have an estimate of the total amount of damages, Miller said.

The drugs, part of a class of newer antipsychotics, are approved for use for schizophrenia and bipolar disorder. The companies marketed them for unapproved uses, including mood and behavior disorders, attention-deficit disorder and dementia, the state said.

Top-selling drugs

The three drugs are among the top-selling medications in the world. Seroquel's worldwide sales in 2006 were \$3.4 billion. Lilly had global sales of Zyprexa of \$4.36 billion in 2006, and Risperdal sales were \$4.18 billion.

Pennsylvania is seeking reimbursement for money paid for prescriptions, plus payments for health problems caused by the drug. Pennsylvania is also entitled by law to \$10,000 for each false claim made through the state's drug assistance to the elderly program and double damages for such claims to Medicaid, Miller said.

The drugs have been linked to excessive weight gain and an increased risk of diabetes. In September 2003, the U.S. Food and Drug Administration required Lilly and the other companies to place warnings on the drugs' labels.

Additional lawsuits

Lilly has been sued by four other states on behalf of Medicaid programs. Louisiana sued in 2004. West Virginia, Alaska and Mississippi filed similar suits in 2006, seeking reimbursement of money spent on the drug, as well as the costs of past and future medical care for any injuries caused by Zyprexa use. The Alaska suit is set for trial in March 2008.

Lilly settled about 28,500 claims brought by users of Zyprexa for as much as \$1.2 billion. About 1,300 individual claims remain, the company said in a regulatory filing last month.

AstraZeneca has been sued by almost 10,000 individuals in U.S. state and federal courts over claimed injuries from Seroquel. Johnson & Johnson's Janssen unit has fewer claims involving Risperdal.