

Daily Health Policy Report

Prescription Drugs | GlaxoSmithKline Agrees To Pay \$150.8M To Settle Allegations of Inflating Average Wholesale Prices

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[GlaxoSmithKline](#) has agreed to pay \$150.8 million to settle fraud allegations that for two separate drugs it inflated average wholesale prices, which are used to set Medicaid and Medicare reimbursement rates, the [Philadelphia Inquirer](#) reports. The [Department of Justice](#) claimed that GSK purposely overcharged government health care programs for Zofran and Kytril, two injectable drugs used to prevent nausea for patients undergoing chemotherapy cancer treatment (Loyd, *Philadelphia Inquirer*, 9/21). DOJ said that GSK charged health care providers less than the reimbursement rate, making it more profitable for those providers to sell GSK drugs (*Dow Jones/Wall Street Journal*, 9/21). DOJ also alleged that GSK had a "double-dipping" billing scheme that encouraged customers to gather leftover vials of Kytril to create an extra dose, which then was rebilled to Medicare. The lawsuit related to sales of Zofran between 1994 and 2002 and sales of Kytril between 1994 and 2000 (*Philadelphia Inquirer*, 9/21). GSK admitted no wrongdoing as part of the settlement. Mary Anne Rhyne, a company spokesperson, said, "We believe that our price reporting was lawful and was done in good faith, but we've agreed to this settlement to avoid the delay, expense and uncertainty of litigation" ([AP/Boston Globe](#), 9/21). GSK said it will pay the settlement with its existing legal reserve. The DOJ investigation began after a whistle-blower lawsuit was filed by Ven-A-Care of the Florida Keys, a home-infusion company, which will receive about \$26 million from the settlement (*Philadelphia Inquirer*, 9/21).