

From the SDNY Whistleblower Complaint filed August 3, 2018

106. The “service fee” fraud has been particularly severe for “specialty” oral cancer drugs, including the Defendant products for CML; namely Novartis’ Gleevec and Tassigna, as well as Bristol-Myer’s Squibbs’ Sprycel.

107. With negotiated “manufacturer rebates” minimal for oral cancer “specialty” drugs, the PBM Defendants are receiving vast “service fees”, tied to vast drug prices and price increases, while providing minimal value for beneficiaries and payer clients.

108. As per Express Scripts’ CEO, Tim Wentworth: “Alternatively, in oral oncology, for example, rebates are practically nonexistent. Only 2 out of the 88 products pay rebates, yet prices have gone up 100% over five years. You can’t blame rebates for that.” Express Scripts Fourth Quarter 2016 Earnings Conference Call, February 15, 2017.

109. As such, the PBM Defendants are receiving massive “service fees” on the Manufacturer Defendant CML drugs and other extreme-priced oral “specialty” cancer drugs, with the virtually full “list” prices and price increases passed on to taxpayers and beneficiaries in Medicare Part D.

110. Using the standard PhRMA “8%” contract rate, after 5-fold inflation to the \$150,000 cost/patient range prior to its US patent expiry, the PBM Defendants received about \$12,000 per year in “service fees” from Novartis for each Gleevec-treated Part D patient or about \$1,000 for each monthly prescription of 30 daily pills.

111. With minimal or no rebates, “service fee” abuse has been severe for a wide array of other US oral cancer “specialty” drugs. Other top-spending, long-marketed and fast-inflating oral cancer drugs include: Celgene’s Revlimid (multiple myeloma, the top-selling cancer drug in Medicare Part D, AWP \$225,000/year), Bayer’s Nexavar (renal cell/liver cancer, AWP \$136,000

patient/year) and Roche's Tarceva (lung cancer, AWP \$123,000 patient/year).