

Ontario Public Drug Programs

Notice from the Executive Officer: Administrative Monetary Penalty Issued for Acceptance of Rebates

The Executive Officer has issued an administrative monetary penalty totaling \$7,250,748.00 against CWC Pharmacies (Ontario) Ltd (“CWC”). CWC operated, at the relevant times, 29 pharmacies in Ontario in Costco warehouses.

The *Ontario Drug Benefit Act* and the *Drug Interchangeability and Dispensing Fee Act* prohibit the operator of a pharmacy from accepting rebates from a manufacturer for a drug product designated as a listed drug product or as an interchangeable product on the Ontario Drug Benefit Formulary / Comparative Drug Index. The legislation defines a “rebate” to include currency, a discount, refund, trip, free goods or any other prescribed benefit, not including ordinary commercial terms.

When the legality of certain advertising payments received by CWC prior to August 2015 was questioned, CWC approached the Ministry for confirmation as to the legality of the payments. At the same time, CWC voluntarily agreed to stop receiving the payments pending the outcome of the Ministry’s review. Following an inspection, the Ministry determined that CWC had received \$7,250,748.00 for advertising services which the Ministry concluded violated the prohibition on rebates. Given the definition of rebates in the legislation, the only payments that may be accepted by a wholesaler or operator of a pharmacy from a manufacturer are ordinary commercial term payments as described in the regulations. CWC has voluntarily agreed to make the rebate payment given the Ministry’s determination.

CWC complied with all aspects of the Ministry’s inspection. The Ministry acknowledges CWC’s proactive approach and co-operation in relation to this matter.

The Ministry takes non-compliance with the prohibition on rebates seriously and will continue to assess compliance with the prohibition by manufacturers, wholesalers and pharmacies. The

Ministry believes that the rebate order issued in relation to this matter and this notice will serve as a guide to the pharmaceutical industry regarding compliance with the rebate prohibition.

Further details about administrative monetary penalty can be found in the rebate order issued by the Executive Officer, available here: http://www.health.gov.on.ca/en/pro/programs/drugs/opdp_eo/eo_communiq.aspx

Additional Information:

Please contact the ministry at DrugProgramsDelivery@ontario.ca or at: 416-327-8109 or 1-866-811-9893 (toll-free)