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JUSTICE NEWS

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**CVS Subsidiary, RxAmerica, Reaches \$5 Million Settlement with
US for Allegedly Submitting False Pricing Relating to the
Company's Medicare Part D Plan**

In one of the first False Claims Act settlements involving Medicare's Prescription Drug Program, known as Part D, RxAmerica LLC. has entered into a civil settlement agreement with the United States in which it has agreed to pay the government \$5.25 million to resolve allegations that it made false submissions to the Centers for Medicare & Medicaid Services (CMS), the Justice Department announced today. RxAmerica, a wholly-owned subsidiary of CVS Caremark Corporation, provides prescription drug benefits to Medicare beneficiaries pursuant to a prescription drug plan.

The Medicare program offers Part D participants prescription drug coverage. For Medicare participants to obtain this drug coverage, they must join a Medicare-approved plan, often referred to as a Part D plan. Medicare Part D plans can vary in both the drugs that they cover, the amount they reimburse for those drugs, and the deductibles and co-pays they require their participants to pay.

To assist participants to choose a Part D plan that minimized their out-of-pocket costs, CMS offered a web-based tool called Plan Finder, which allowed Medicare Part D beneficiaries to determine estimated prescription drug prices for each Medicare Part D plan that the beneficiary considered for enrollment. CMS obtained the pricing information that is contained on Plan Finder from data submitted to CMS by each Part D Plan sponsor.

The United States alleged that during the period Jan. 1, 2007, to Dec. 31, 2008, RxAmerica made false submissions to CMS regarding prices for certain generic prescription drugs used for Plan Finder, despite certifying to CMS that it would submit accurate pricing data for Plan Finder. As a result, the government alleged that RxAmerica received Medicare Part D payments for claims for the covered drugs at prices that in some cases were significantly higher than the pricing data RxAmerica submitted to CMS for use on Plan Finder.

"The Department of Justice is committed to protecting the Medicare drug prescription program against all types of misconduct," said Stuart F. Delery, Acting Assistant Attorney General for the Justice Department's Civil Division. "As today's settlement demonstrates, we will ensure that Medicare Part D sponsors submit accurate drug pricing information, to ensure the integrity of the Medicare Part D program and to protect the beneficiaries who participate in the program."

"The health care choices facing Americans are complicated enough without patients being misinformed and forced to select a Part D plan based on false data. Those navigating our Medicare system deserve accurate information so they can make informed choices and obtain the benefits to which they are entitled. The Medicare system deserves honest input from plan sponsors, so it can continue to safeguard taxpayer dollars. Nothing less will suffice," stated Loretta Lynch, U.S. Attorney for the Eastern District of New York. "This case exemplifies our continuing dedication to combating all types of alleged health care fraud that can eat away at our precious public health care dollars."

"RxAmerica was charged with advertising false drug prices to Medicare Part D enrollees," said Daniel R. Levinson, Inspector General of the Department of Health and Human Services. "Protecting people in

government health programs from those seeking to profit by misrepresenting goods and services is one of our top law enforcement priorities.”

Today’s settlement resolves allegations made in two separate complaints against RxAmerica filed under the False Claims Act’s *qui tam* or whistleblower provisions, which permit a private individual to file suit for false claims to the United States and share in any recovery. The first complaint, *U.S. ex rel. Doe v. RxAmerica*, was filed in the United States District Court of the Eastern District of New York in November 2008. The second complaint, *U.S. ex rel. Hauser v. CVS Caremark Corp. and RxAmerica*, was filed in the United States District Court for the Western District of North Carolina in June 2009. The two cases were consolidated in the Eastern District of New York in November 2011.

This resolution is part of the government’s emphasis on combating health care fraud and another step for the Health Care Fraud Prevention and Enforcement Action Team (HEAT) initiative, which was announced by Attorney General Eric Holder and Kathleen Sebelius, Secretary of the Department of Health and Human Services in May 2009. The partnership between the two departments has focused efforts to reduce and prevent Medicare and Medicaid financial fraud through enhanced cooperation. One of the most powerful tools in that effort is the False Claims Act, which the Justice Department has used to recover over \$10 billion since January 2009 in cases involving fraud against federal health care programs. The Justice Department’s total recoveries in False Claims Act cases since January 2009 are over \$13.8 billion.

The Federal Trade Commission reached an agreement with CVS, RxAmerica’s parent corporation, earlier this year in which CVS agreed to pay \$5 million to resolve allegations relating to RxAmerica’s inaccurate Plan Finder submissions from late 2007 through 2008. The resolution from the FTC’s settlement is being used to compensate beneficiaries.

The investigation in this matter was handled by the Department of Justice’s Civil Division, the U.S. Attorney’s Office for the Eastern District of New York, HHS-OIG and CMS. The claims resolved by this settlement are allegations only, and there has been no admission of liability by RxAmerica or CVS.

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Civil Division