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**AG BALDERAS JOINS \$230 MILLION SETTLEMENT AGAINST
PHARMACEUTICAL COMPANY OVER ALLEGATIONS OF MEDICAID
FRAUD**

ALBUQUERQUE, NM – Attorney General Hector Balderas announces that New Mexico has joined with 49 other states, Washington, D.C., Puerto Rico, and the federal government to settle allegations of fraud against Mallinckrodt ARD, LLC (formerly known as Questcor Pharmaceuticals, Inc.), a U.S. subsidiary of the Irish pharmaceutical company Mallinckrodt plc (Mallinckrodt), which sells and markets pharmaceutical products throughout the nation. The total value of the settlement is \$233,707,865.18, plus interest, to be paid over a period of seven years. Of this amount, New Mexico will receive \$493,974.38 in restitution.

The settlement resolves allegations that from January 1, 2013, through June 30, 2020, Mallinckrodt knowingly underpaid Medicaid rebates due for its drug H.P. Acthar Gel (Acthar). The government alleges that Mallinckrodt's conduct violated the Federal False Claims Act, the New Mexico Medicaid False Claims Act, and the New Mexico Fraud Against Taxpayers Act, resulting in the submission of false claims to the New Mexico Medicaid program.

"Vulnerable New Mexicans are already struggling with unbearable prescription costs, and my office will enforce the rule of law against bad actors that cause harm to the State and its Medicaid members," said Attorney General Balderas.

Under the Medicaid Drug Rebate Program, when a manufacturer increases the price of a drug faster than the rate of inflation, it must pay the Medicaid program a per-unit rebate of the difference between the drug's current price and the price of the drug if its price had gone up at the general rate of inflation since 1990 or the year the drug first came to market, whichever is later.

The government alleges that Mallinckrodt and its predecessor Questcor began paying rebates for Acthar in 2013 as if Acthar was a "new drug" just approved by the U.S. Food and Drug Administration (FDA), rather than a drug that was first introduced to market in 1952. Allegedly, this practice meant the companies ignored all pre-2013 price increases when calculating and paying Medicaid rebates for Acthar from 2013 until 2020. In particular, the government alleges that Acthar's price had already risen to over \$28,000 per vial by 2013; therefore, ignoring all pre-2013 price increases for Medicaid rebate purposes significantly lowered Medicaid rebate payments for Acthar. Under the settlement agreement, Mallinckrodt admitted that Acthar was not a new drug as of 2013 but rather was approved by the FDA and marketed prior to 1990. Mallinckrodt agreed to correct Acthar's base date AMP and that it will not change the date in the future.

The New Mexico Attorney General's Medicaid Fraud Control Unit (MFCU) receives 75 percent of its funding from the U.S. Department of Health and Human Services under a grant award totaling \$3,774,509 for Federal fiscal year (FY) 2021-22, of which \$2,830,884 is federally funded. The remaining 25 percent of the approved grant, totaling \$943,625 for FY 2021-22, is funded by the State of New Mexico.

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