

The Parties to the Settlement Agreement have asked us to relay this information to you.

An agreement has been reached with **Express Scripts, Inc. (“ESI”)** to resolve the problems experienced by Claimants’ Counsel who have requested or need data of prescription drug claims adjudicated by ESI (“prescription drug claims data”). The details are as follows:

I. WHAT DOES A CLAIMANT NEED TO DO?

Please see the prior email dated February 15, 2008 regarding ESI issues.

If you have not done so already, it is imperative that you provide ALL of the requested information on the Excel spreadsheet circulated previously by Brown Greer, which should have already been returned to Anne Marie Sweeney at LEVIN, FISHBEIN, SEDRAN & BERMAN (AMSweeney@lfsblaw.com).

It is very important that you have provided all information regarding the Claimant, including the Claimant’s Member Number(s) in order to maximize the chance that the Claimant’s records will be located. Accuracy and completeness is essential.

Where do I find a Claimant’s ESI Member Number?

The ESI Member number is an identification number that is located on the prescription drug benefit card provided to members. It may also be located on Plan Documents, Policy Information or Proof of Insurance. You may want to speak to your client to get the information. Your client may have something from the pharmacy (including ESI’s mail pharmacy) that dispensed the prescription drug. You may want to call the client’s plan or insurance company to get the information or maybe even their employer. **The best means is to obtain the prescription card and forward a copy of it with the Excel Spreadsheet.**

II. HOW LONG WILL IT TAKE ESI TO PRODUCE THE RECORDS?

The PSC will be submitting the information which was provided in the Excel spreadsheet on a rolling basis to ESI. The first submission to ESI by the PSC is to take place in the middle of March, 2008.

ESI estimates that it will take approximately 6-8 weeks once it receives the data from the PSC to search retrieve and produce (or notify that it could not locate) the prescription information.

If prescription records are found, ESI will produce them to an appointed liaison for the PSC (“claims liaison”) who will in turn produce them to Claimant’s counsel.

If ESI cannot locate prescription records, it will notify the PSC who in turn will notify Claimant’s counsel.

III. DO I NEED TO PROVIDE ESI WITH AN AUTHORIZATION?

No, BrownGreer will provide ESI with the Authorization that you have or will provide as part of Enrollment.

IV. WILL ESI PROVIDE A CERTIFICATION?

Exhibit 1.2.1 to the Master Settlement Agreement (“MSA”) Requires that a Claimant submit a Certification from ESI. ESI will produce the prescription information to the claims liaison electronically with a spreadsheet listing the names of the Claimants to whom the electronic prescription drug claims data relates. The production may be in groups. ESI will certify that the electronic data produced are true and correct copies of the prescription drug claims data for the Enrolled Claimants listed on the spreadsheet provided, and that the PBM prescription drug claims data is maintained in the ordinary course of ESI’s business. Merck has consented to the Certification of groups of records by ESI. The Certification will be provided directly to Brown Greer by the PSC. The Claimant will not need to provide a separate 1.2.1.Certification if, and only if, ESI prescription records are received through the PSC via this process.

V. WHAT IF I HAVE ADDITIONAL CLAIMANTS THAT WERE NOT INCLUDED IN A SPREADSHEET PREVIOUSLY SUBMITTED TO OBTAIN ESI RECORDS?

If your firm has additional Claimants who were ESI customers that were not on a spreadsheet you previously submitted, you must submit a second spreadsheet containing **ONLY THE NEW CLAIMANT THAT YOU ARE ADDING** as soon as possible.

VI. WHAT IS THE COST FOR AN INITIAL SEARCH

The cost for ESI to perform an initial search, retrieval and production of prescription information will be \$75.00 per Claimant (compared to the \$1,500.00 that ESI was charging). The PSC has guaranteed that a minimum of 400 Claimants’ data will be provided to ESI. Therefore, the minimum fee guaranteed to ESI will be \$30,000.00. No Claimants’ counsel will need to pay out-of-pocket directly for this **initial** amount. The PSC will pay this initial cost to ESI.

VII. WILL CLAIMANTS’ COUNSEL BE RESPONSIBLE FOR ANY ADDITIONAL COST IF THE INITIAL SEARCH DOES NOT YIELD A CLAIMANTS’ PRESCRIPTION DATA/RECORDS?

The PSC cannot guarantee that the initial search will yield prescription information for every Claimant. There are a number of factors that will impact whether a Claimants’ prescription data is located, including:

- 1) As stated above, the accuracy and completeness of the information is

essential. For instance, it is important that full names, spelled correctly, be provided. Furthermore, it is important that if the Claimant, whose records are being sought, was not the primary insured, *i.e.*, Claimant is/was the spouse of the primary insured, ESI may need, in addition to the relevant information of the Claimant, the same information about the Claimants' spouse; and,

- 2) ESI advises the PSC that it will search its "*Centralized Database*" which "contains roughly 80-90% of the combined claims adjudicated by ESI" and the other Pharmacy Benefits Managers (PBMs) that became part of ESI, during the relevant time period.

If ESI cannot locate a Claimant's records, or if it locates multiple members that match on some information (*i.e.*, name and dob) but not others, it will notify the claims liaison who will in turn notify Claimant's counsel of the result. At that point Claimant's Counsel will be responsible for addressing further activities regarding obtaining ESI electronic prescription drug claims data. If a Claimant's counsel wants ESI to engage in additional searches, the Claimant's counsel may be asked to communicate directly with ESI. ESI will charge \$150.00 per hour for all additional search efforts to cure any deficiencies or to look further for records.