



ΣΥΝΔΕΣΜΟΣ ΦΑΡΜΑΚΕΥΤΙΚΩΝ ΕΠΙΧΕΙΡΗΣΕΩΝ ΕΛΛΑΔΟΣ

To the honourable  
Mr. Eleftherios Papageorgopoulos  
President of EOPPY

Cc: Mr Constantinos Nikolis, 1<sup>st</sup> Vice President of EOPPY  
Mrs Panayota Litsa, Director of the Directorate of Medicines of EOPPY

Chalandri, February 26, 2013

**Re: Methodology of calculation of the pharmaceutical expenditure for the  
determination of the amount in excess - calculation of the clawback**

Dear Mr President,

According to the letters of your Organisation dated 29-11-2012 to the enterprises-members of our Association, you invited the said enterprises to return the amount in excess (clawback) of the pharmaceutical expenditure to your Organisation, in performance of the provisions of article 11 of Law 4052/2012, as substituted by article 1 of law 4093/2012 (Gov. Gazette 22/A/12-11-2012) par. IB2.

It must be noted that pharmaceutical expenditure is defined as the sum of the expenses for administration of medicines from private pharmacies, as calculated by the Prescriptions Scanning System of EOPPY as well as by the clearance expenditures of the pharmacies of the Organisation.

According to the above authorising law 4052/2012 as amended and in force, the monthly pharmaceutical expenditure of the Social Security Agencies cannot exceed 1/12 of the sum recorded in the annual Social Budget that corresponds to pharmaceutical care. The excessive monthly amount is requested on behalf of the Social Security Agencies by the pharmaceutical enterprises.

By authorisation of the above provision, the Ministerial Decisions No 110040/2012 (Gov. Gazette 3034/B/2012) and No 110034/2012 (Gov. Gazette 3035/B/2012), by which the clawback application mechanism is determined, respectively for the years 2012 and 2013 and the ability to set-off the said clawback with debts of your Organisation to pharmaceutical enterprises.

During the process of the aforementioned of-setting, EOPPY, in violation of the applicable legislation, has proceeded with the following actions:

1) It co-calculates as pharmaceutical expenditure the participation percentage of 10% which is provided for by paragraph 3 of article 38 of Law 4025/2011 (Gov. Gazette 228/A/2011) times the valorised value of medicines, which is intended to serve as a social solidarity benefit (EKAS) to the lawful beneficiaries of the said benefit.

This act of EOPPY contradicts item 3.1 of the above Ministerial Decisions No 10040/2012 and 10034/2012 by which it is provided that the clawback calculation is exclusively and only based on the medicines sales data of the Pharmaceutical Enterprises and not on benefits which have been enacted in order to support weak groups of society.

2) It co-calculates the withholding of a stamp duty in favour of the Hellenic Army Pension Fund Civil Employees (MTPY) which amounts to 3% on the amount set-off plus a stamp duty of 2.40% on the above calculated amount.

The illegal nature of this act of EOPPY is concluded from the wording of 23 of the Presidential Decree 422/1981 (Gov. Gazette 114/A/1981) which clearly provides that the said withholding is not taken into account in the calculation of the pharmaceutical expenditure, which clearly includes the expenses for pharmaceutical products.

For the above reasons and give than until this day, pharmaceutical undertakings have actively contributed in any possible manner, to the rationalisation of the pharmaceutical expenditure, accepting not only the legislative initiatives, but also adopting further self-regulation measures, EOPPY must re-examine the methodology it applies for the calculation of pharmaceutical expenditure and consequently the determination of the clawback, which the pharmaceutical enterprises owe, in performance of the above-mentioned legal provisions. **Your Organisation must therefore, not co-calculate in the determination of the pharmaceutical expenditure, the 10% social solidarity benefit (EKAS) and the withholding of 3% plus a stamp duty 2.40 on the above amount, in favour of the MTPY.**

Yours sincerely,

Pascal Apostolides  
Vice President

Yannis Chryssospathis  
Legal Advisor