

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop C1-26-16
Baltimore, Maryland 21244-1850



Center of Medicare

November 14, 2013

VIA:

EMAIL (afrimpong@ascendlaboratories.com; jbrome@theparmanetwork.com)

Ascend Laboratories, LLC
Mr. Augustine Frimpong
VP, Regulatory Affairs
180 Summit Avenue, Ste 1
Montvale, NJ 07645

**RE: Notice of Determination to Impose a Civil Money Penalty for Pharmaceutical Manufacturer
Contract Number P1090**

Dear Mr. Augustine Frimpong:

Pursuant to 42 CFR §423.2335(d), the Centers for Medicare & Medicaid Services (CMS) is providing notice to Ascend Laboratories, LLC that CMS has made a determination to impose a civil money penalty (CMP) in the amount of \$3,623.12.

Basis for Civil Money Penalty

This action is based on your organization's failure to pay specified Part D sponsors within 38 calendar days of receipt of the quarterly invoice from the third party administrator, in violation of 42 CFR §423.2315(b)(3) and Section II(b) of the Medicare Coverage Gap Discount Program Agreement (Discount Agreement).

Based on the payment confirmation report provided by your organization and the payment confirmations provided by Part D sponsors, CMS has determined to impose a CMP of \$3,623.12 to Ascend Laboratories, LLC due to untimely payments for the 2013 second quarter invoices. Specifically, the following Part D sponsors did not receive payments within the requisite 38-day time period:

- 175 Part D Sponsors \$14,492.49 (Breakdown on Attachment 2)

The CMP that your company owes is equal to:

- 25% on the amount paid late, \$3,623.12

The determination by CMS to impose a CMP will become final and due no later than January 13, 2014 if you do not request a hearing to appeal in the manner and timeframe described below. Please see the required payment method below under Method to Submit CMP Payments.

Please note that any further failures by Ascend Laboratories, LLC to comply with these or any other CMS requirements may subject your organization to termination as described in 42 CFR §423.2345 and section VIII of the Discount Agreement.

Right to Request a Hearing

Your organization may request a hearing to appeal CMS' determination in accordance with Section VIII (c) of the Discount Agreement. You must send a written request for a hearing to the Departmental Appeals Board office listed below, and a copy to CMS at the address listed below, within 60 calendar days from receipt of this notice. Your request must be received no later than January 13, 2014. The request for a hearing must identify the specific issues, the findings of fact and conclusions of law with which you disagree, and specify the basis for each contention that the finding or conclusion of law is incorrect. Your request should be sent to:

Karen Robinson
Civil Remedies Division
Department of Health and Human Services
Departmental Appeals Board
Medicare Appeals Council, MS 6132
330 Independence Ave., S.W.
Cohen Building Room G-644
Washington, D.C. 20201

A copy of your hearing request should also be sent to CMS at the following address:

Craig Miner
Deputy Director, Division of Part D Policy
Centers for Medicare & Medicaid Services
7500 Security Boulevard
MAIL STOP: C1-26-16
Baltimore, MD 21244
Email: Craig.miner@cms.hhs.gov

Method to Submit CMP Payments

All CMP payments must be made using Pay.gov (See Attachment for instructions). Pay.gov provides a free service to Federal government agencies and to the entities that make online payments to a Federal government agency. The Pay.gov Collection Service collects and processes the Internet-authorized

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deductions from a checking or savings account via Automated Clearing House (ACH) debit entries processed at the Federal Reserve Bank of Cleveland (FRB-C). Your Pay.gov payment transaction will not require a Username and Password in Pay.gov.

Companies sometimes have blocks on their bank accounts that will only allow designating transactions to be processed. It may be necessary to provide your banking institute with the following two pieces of information to unblock the bank account:

- **Originating Depository Financial Institution (ODFI):** FRB-C is the payment processor for ACH payments made through Pay.gov and will appear as the ACH ODFI. FRB-C processes Pay.gov ACH transactions under the American Bankers Association (ABA) routing numbers 041036046 and 042736141.
- **Company ID:** Every ACH batch contains a company ID number in accordance with the National Automated Clearing House Association (NACHA) requirements. CMS' company ID number for Pay.gov payments is 7505008012.

For Pay.gov technical issues contact Pay.gov Customer Service at (800) 624-1373 *or* (216) 579-2112, Monday–Friday from 6:00 A.M. to 7:00 P.M. Eastern Time.

You will find it helpful to have the following information available when you complete your payment:

- P# (P#####)
- CMP payment demand letter from CMS
- Bank account and routing numbers
- Point of contact regarding the payment
- Business mailing address

Acknowledgement of this letter is required, please reply to CGDPandManufacturers@cms.hhs.gov. If you have any questions about this notice, please contact Sonia Eaddy at Sonia.eaddy@cms.hhs.gov.

Sincerely,

/s/

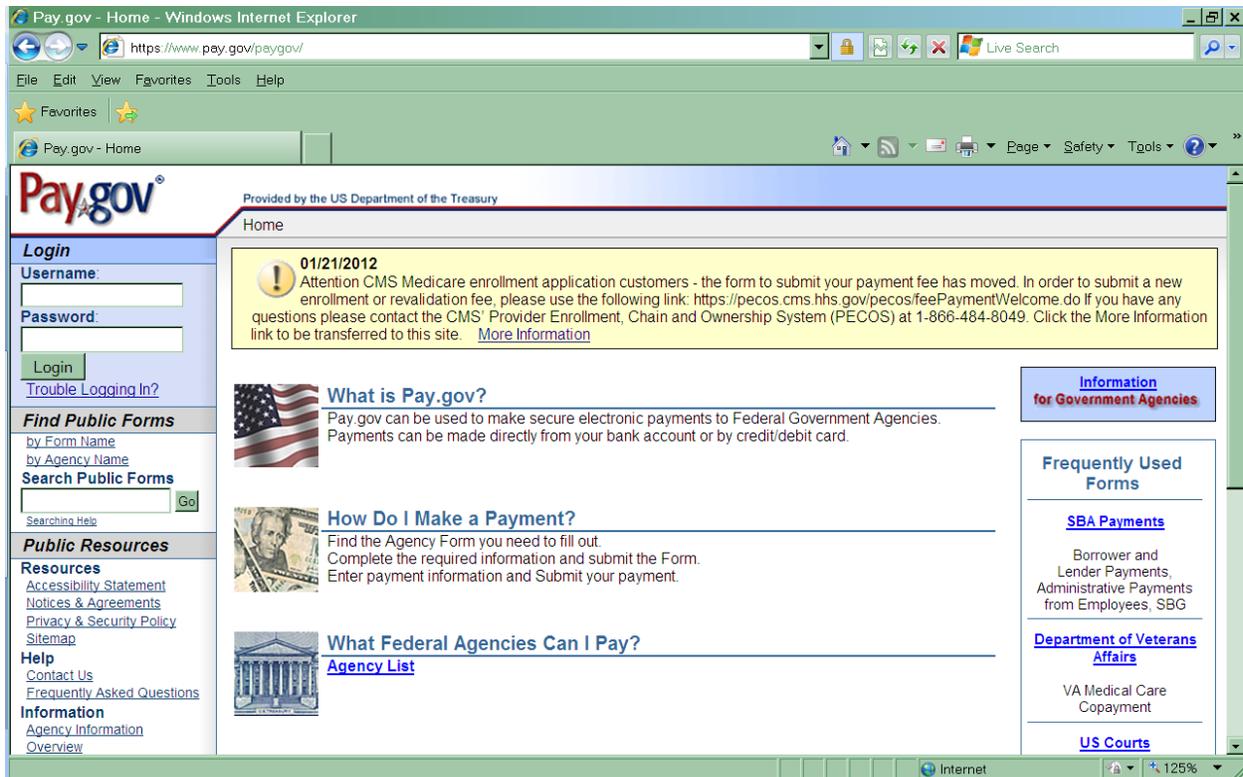
Cynthia G. Tudor, Ph.D.
Director, Medicare Drug Benefit and C & D Data Group

cc: Ms. Cheri Rice, CMS/CM/MPPG
Mr. John Scott, CMS/CM/MPPG
Mr. Brian Cook, CMS/OC
Mr. Greg Jones, CMS/OL
Ms. Jill Abrams, DHHS/OGC
Ms. Jennifer Garver, DHHS/OGC
Ms. Karen Robinson, DHHS/DAB

Attachment 1

Step 1

Access Pay.gov at <https://www.pay.gov>



Step 2

On the Pay.gov home page,

- In the **Search Public Forms** box (on the left side of the home page), Type: *Medicare Coverage Gap Discount (not case sensitive)*
- then click on Go

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The screenshot shows a Windows Internet Explorer browser window displaying the Pay.gov search results for the keyword "medicare Coverage gap discount". The search returned 3 results. The left sidebar contains navigation links for "Password", "Login", "Find Public Forms", "Search Public Forms", "Public Resources", "Resources", "Help", and "Information". The main content area lists three results:

- CMS Data Payment Form** (Form Number: CMS Data Payment) with a "View PDF" link.
- CMS Medicare Application Fee** (Form Number: Medicare-app-fee-1) with a "View PDF" link.
- Medicare Coverage Gap Discount Program CMPs** (Form Number: Medicare CGDP CMPs) with a "View PDF" link.

The bottom of the page shows the "fww DEPARTMENT OF" logo and the Windows taskbar with the Internet Explorer icon and a 125% zoom level.

Step 3

Click on **Medicare Coverage Gap Discount Program CMPs** link. You will be taken to the civil money penalty collection form. Have available your payment demand letter from CMS.

The screenshot shows a web browser window displaying the Medicare Coverage Gap Discount Program form. The form is titled "Medicare Coverage Gap Discount Program" and "Civil Money Penalty Payment". It contains several required fields for data entry, including Manufacturer P Number, Manufacturer Name, Address, City, State, Zip Code, Point of Contact Name, Point of Contact Phone, Point of Contact Email, Date of Demand Letter, Invoice Quarter, and Payment Amount. There are also "Submit Data" and "PDF Preview" buttons at the bottom of the form.

- Complete the required fields
 - **Manufacturer P Number:** (P####) must be a P followed by 4-digits
 - **Manufacturer Name:** manufacturer's complete name
 - **Point of Contact:** person authorized to make the payment
 - **Point of Contact Phone:** (***_**_*_***) telephone number must include dashes
 - **Point of Contact Email:** email address
 - **Mailing address:** Street, city, state, and zip code
 - **Date of Demand Letter:** (MM/DD/YEAR) typed date on the demand letter received from CMS
 - **Quarter:** (Q1, Q2, Q3, Q4) use the drop arrow to select the calendar year quarter in which the invoice payment was late or unpaid
 - **Year:** use the drop down arrow to select the calendar year in which the invoice payment was late or unpaid
 - **Payment Amount:** the total amount indicated on the demand letter from CMS

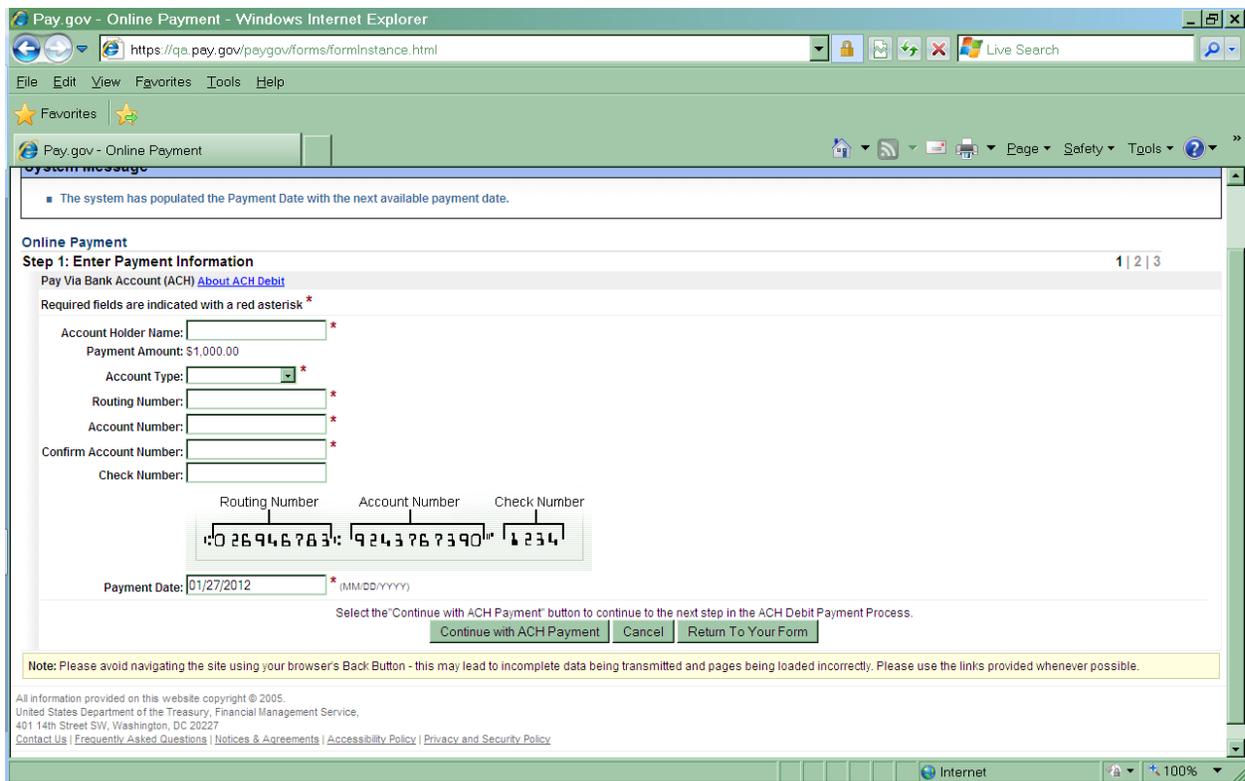
- Review
- Click on Submit Data

NOTE: You will immediately receive a message if **any** of the required information is missing on the payment form. Click OK, complete the missing information, and click on Submit Data.



Step 4

Have your banking information available to enter the payment information. Enter bank information, review, and print your payment confirmation to complete your Pay.gov payment.



- Enter Payment Information
 - **Account Holder Name:** name as it appears on the actual banking account

Notice the payment amount you entered on the previous screen has populated. Click on Return To Your Form to correct the payment amount.

- **Account Type:** (Personal Checking, Personal Savings, Business Checking, or Business Savings) use the drop down arrow to select account type
- **Routing Number:** bank routing number
- **Account Number:** bank account number
- **Confirm Account Number:** re-type your bank account number
- **Check Number:** check number used for this payment
- **Payment Date:** automatically populates the next available date in which the financial institutes can initiate the payment transaction

Continue with ACH Payment- will move you the next step of your payment

Cancel- will cancel all information entered during this session

Return To Your Form- will take you back to the Civil Money Penalty form

Note: You will be redirected to the Pay.gov home page to start a new session if you click on Continue with ACH Payment before the account information is entered.

- Review the payment summary,

Pay.gov - Online Payment - Windows Internet Explorer
https://qa.pay.gov/paygov/payments/enterACHDebitPaymentInformation.html

File Edit View Favorites Tools Help

Pay.gov - Online Payment

Step 2: Authorize Payment

Payment Summary [Edit this information](#)

Account Holder Name: manufacturer Inc
Payment Amount: \$1,000.00
Account Type: Business Checking
Routing Number: 041000124
Account Number: *****0424
Check Number: 0002
Payment Date: 01/27/2012

Email Confirmation Receipt
To have a confirmation sent to you upon completion of this transaction, provide an email address and confirmation below.

Email Address:
Confirm Email Address:
CC: Separate multiple email addresses with a comma

Authorization and Disclosure
Required fields are indicated with a red asterisk *

I agree to the authorization and disclosure language *

The U.S. Treasury Department's Financial Management Service. As used in this document, "we" or "us" refers to the Financial Management Service and its agents and contractors operating Pay.gov. "You" refers to the end-user reading this document and agreeing to it prior to engaging in a debit transaction.

I. Consumers

A. Authorization

You acknowledge that you have read and understand the consumer disclosure language and authorize the Federal Reserve financial institution of Cleveland to debit the named financial institution account. This authorization is to remain in full force and effect until we have received notification of its termination in such time and in such manner as to afford Pay.gov a reasonable opportunity to act on it, or unless otherwise terminated for any reason by Pay.gov.

B. Disclosure

In case of errors or questions about a transaction, immediately contact the Federal agency using the Pay.gov service or contact Pay.gov directly.

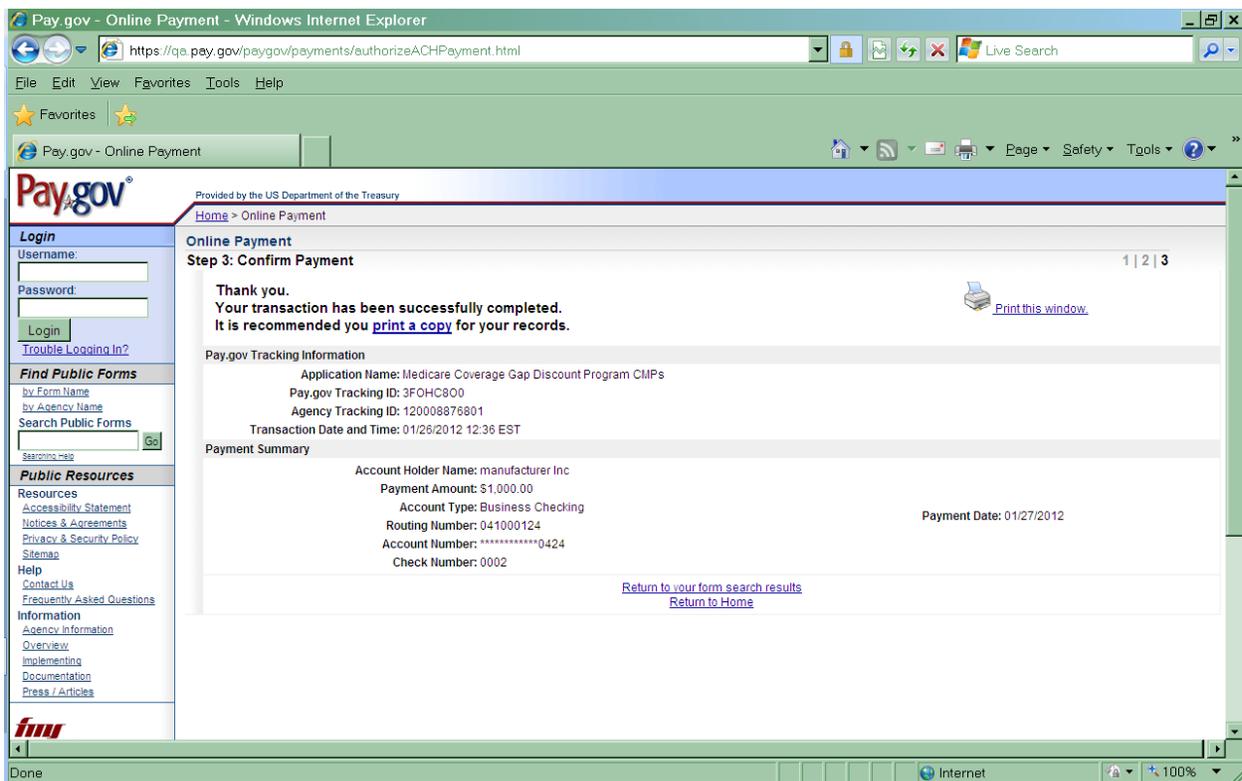
- Enter email address(es) to receive the payment confirmation
- Please add to the CC box: cgdp_manufacturers@cms.hhs.gov
- Read and/or print the Authorization and Disclosure. If you agree, Click, *I agree to the authorization and disclosure language*

Submit Payment- will submit your payment and move you to the final step of your payment

Cancel- will cancel all information entered during this session

Return To Your Form- will take you back to the Civil Money Penalty form

- Print the payment confirmation.



Attachment 2

P1090 2013 Q2		
E2332	NATIONAL RURAL ELECTRIC	\$8.32
E3014	PSERS HOP PROGRAM	\$92.27
E7848	OKLAHOMA STATE AND EDUC	\$10.28
H0150	HEALTHSPRING OF ALABAMA	\$10.00
H0151	UNITED HEALTHCARE OF AL	\$24.36
H0302	SUN HEALTH MEDISUN INC	\$19.95
H0303	PACIFICARE OF ARIZONA	\$6.25
H0332	KS PLAN ADMINISTRATORS,	\$0.63
H0504	CA PHYSICIANS SERV/DBA	\$10.12
H0523	AETNA HEALTH OF CALIFOR	\$3.50
H0543	PACIFICARE OF CALIFORNI	\$81.57
H0545	INTER VALLEY HEALTH PLA	\$2.00
H0562	HEALTH NET_OF CA	\$24.00
H0564	BLUE CROSS OF CALIFORNI	\$4.27
H0602	ROCKY MOUNTAIN HEALTH P	\$4.27
H0630	KAISER FOUNDATION HP OF	\$279.77
H0755	HEALTH NET OF CONNECTIC	\$10.36
H1019	CAREONE HEALTH PLAN IN	\$9.48
H1032	WELL CARE OF FLORIDA I	\$1.50
H1036	HUMANA MEDICAL PLAN IN	\$118.86
H1080	UNITED HEALTHCARE OF FL	\$38.40
H1230	KAISER FOUNDATION HP I	\$8.98
H1350	BLUE CROSS OF IDAHO HEA	\$1.75
H1417	HEALTH ALLIANCE MEDICAL	\$12.52
H1509	UNITED HEALTHCARE INSUR	\$152.99
H1607	ANTHEM INSURANCE COMPAN	\$35.79
H1951	HUMANA HEALTH BENEFIT P	\$27.95
H2112	AETNA HEALTH INC. (MARY	\$21.90
H2150	KAISER FNDN HP OF THE M	\$12.93
H2165	HEALTHSPRING LIFE & HEA	\$1.50
H2256	TUFTS ASSOCIATED HMO I	\$10.00
H2261	BLUE CROSS & BLUE SHIEL	\$6.14
H2312	HEALTH ALLIANCE PLAN OF	\$5.00
H2320	PRIORITY HEALTH	\$15.97

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H2459	UCARE MINNESOTA	\$10.00
H2462	HEALTHPARTNERS	\$6.06
H2593	CAREMORE HEALTH PLAN OF	\$2.50
H2654	UNITED HEALTHCARE OF TH	\$16.28
H2663	GROUP HEALTH PLAN INC.	\$77.85
H2931	HEALTH PLAN OF NEVADA	\$2.50
H2949	PACIFICARE OF NEVADA I	\$19.95
H3152	AETNA HEALTH INC.	\$17.34
H3154	HORIZON HEALTHCARE OF N	\$6.07
H3305	PREFERRED CARE	\$10.31
H3307	OXFORD HEALTH PLANS (NY	\$25.50
H3328	NEW YORK STATE CATHOLIC	\$4.62
H3330	HIP HEALTH PLAN OF NY	\$180.27
H3335	EXCELLUS HEALTH PLAN I	\$8.85
H3342	EMPIRE HEALTHCHOICE ASS	\$53.46
H3351	EXCELLUS HEALTH PLAN I	\$2.90
H3359	MANAGED HEALTH INC.	\$16.14
H3361	WELLCARE_OF NEW YORK I	\$14.26
H3362	INDEPENDENT HEALTH ASSO	\$5.60
H3370	EMPIRE HEALTHCHOICE HMO	\$18.64
H3379	UNITED HEALTHCARE OF NE	\$57.41
H3384	HEALTHNOW NEW YORK INC	\$5.77
H3449	PARTNERS NATIONAL HEALT	\$12.22
H3456	UNITED HEALTHCARE OF NO	\$27.61
H3528	CONNECTICARE, INC.	\$72.44
H3619	HUMANA INSURANCE COMPAN	\$8.77
H3655	COMMUNITY INSURANCE COM	\$4.27
H3660	SUMMACARE INC.	\$5.00
H3749	PACIFICARE OF OKLAHOMA	\$6.91
H3755	COMMUNITY CARE HMO INC	\$14.73
H3832	HAWAII MEDICAL SERVICE	\$2.00
H3907	UNIVERSITY OF PITTSBURG	\$6.14
H3909	INDEPENDENCE BLUE CROSS	\$5.00
H3912	UNITED HEALTHCARE INSUR	\$3.84
H3916	HIGHMARK INC.	\$60.48
H3923	CAPITAL ADVANTAGE INSUR	\$29.73
H3931	AETNA HEALTH INC	\$14.67
H3952	KEYSTONE HEALTH PLAN EA	\$22.40
H3954	GEISINGER HEALTH PLAN	\$85.59
H3957	KEYSTONE HEALTH PLAN WE	\$68.48
H4003	MMM HEALTHCARE INC.	\$356.93

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H4004	PREFERRED MEDICARE CHOI	\$309.96
H4005	TRIPLE-S INC.	\$2.50
H4006	MCS LIFE INSURANCE COMP	\$62.31
H4007	HUMANA HEALTH PLANS OF	\$191.65
H4012	TRIPLE-S INC.	\$62.31
H4102	UNITED HEALTH PLANS OF	\$6.30
H4152	BLUE CROSS SHIELD OF RI	\$4.05
H4155	PUBLIC HEALTH TRUST OF	\$3.40
H4209	BLUE CROSS AND BLUE SHI	\$23.30
H4406	UNITED HEALTHCARE OF TE	\$21.25
H4454	HEALTHSPRING INC.	\$4.50
H4461	CARITEN HEALTH PLAN IN	\$22.00
H4514	EVERCARE OF TEXAS LLC	\$6.58
H4590	PACIFICARE OF TEXAS IN	\$23.23
H4604	UNITEDHEALTHCARE OF UTA	\$1.49
H4909	ANTHEM HEALTH PLANS OF	\$17.78
H4910	AETNA HEALTH INC.	\$5.67
H5042	CDPHP UNIVERSAL BENEFIT	\$22.40
H5417	UNITED HEALTHCARE INSUR	\$12.21
H5424	UNITED HEALTHCARE INSUR	\$11.52
H5425	SCAN HEALTH PLAN	\$19.95
H5435	PACIFICARE LIFE AND HEA	\$3.66
H5508	ADVANTAGE HEALTH SOLUTI	\$4.00
H5509	COVENTRY HEALTH AND LIF	\$6.77
H5516	UNITED HEALTHCARE INS.	\$24.89
H5521	AETNA LIFE INSURANCE CO	\$47.79
H5522	HEALTH ASSURANCE PENNSY	\$40.39
H5526	HEALTHNOW NEW YORK INC.	\$20.39
H5528	GROUP HEALTH INCORPORAT	\$12.50
H5576	VANTAGE HEALTH PLAN, I	\$0.47
H5577	RED MEDICA DE PUERTO RI	\$193.19
H5732	AUXILIO PLATINO INC.	\$2.50
H5749	UNITED HEALTHCARE INSUR	\$3.84
H5774	AMERICAN HEALTH INC.	\$689.93
H5883	BLUE CARE NETWORK OF MI	\$4.16
H5938	CAPITAL HEALTH PLAN	\$7.10
H5970	HUMANA INSURANCE COMPAN	\$8.13
H6609	HUMANA INSURANCE COMPAN	\$50.59
H7187	UNITED HEALTHCARE INSUR	\$6.30
H7917	BLUE CROSS BLUE SHIELD	\$12.90
H8145	HUMANA INSURANCE COMPAN	\$33.02

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H8953	HUMANA HEALTH PLAN OF O	\$8.70
H8980	COVENTRY HEALTH AND LIF	\$6.28
H9001	FALLON COMMUNITY HEALTH	\$5.00
H9302	PUGET SOUND HEALTH PART	\$3.00
H9572	BLUE CROSS BLUE SHIELD	\$17.00
H9847	COVENTRY HEALTH AND LIF	\$26.26
H9947	BLUE CROSS BLUE SHIELD	\$16.78
R3332	BLUE CROSS AND BLUE SHI	\$4.73
R5287	UNITED HEALTHCARE INSUR	\$84.80
R5342	UNITED HEALTHCARE INSUR	\$53.11
R5826	HUMANA INSURANCE COMPAN	\$54.54
R5941	ANTHEM INSURANCE COMPAN	\$47.96
R6801	CARE IMPROVEMENT PLUS O	\$19.45
R7439	HAWAII MEDICAL SERVICE	\$7.45
R9896	CARE IMPROVEMENT PLUS S	\$8.00
S0064	UNITED PROSPERITY LIFE	\$11.94
S0128	HEALTHMARKETS INSURANCE	\$8.13
S1030	BCBS OF ALABAMA AND BCB	\$18.72
S2321	QCC INS CO D/B/A AMERIH	\$2.42
S2468	CA PHYSICIANS SERVICE	\$44.55
S2893	BLUE CROSS BLUE SHIELD	\$9.31
S3521	EXCELLUS HEALTH PLAN I	\$24.63
S4802	STERLING LIFE INSURANCE	\$2.65
S5540	BLUE CROSS AND BLUE SHI	\$6.00
S5552	HUMANA INSURANCE COMPAN	\$104.85
S5584	BLUE CROSS BLUE SHIELD	\$2.00
S5593	HIGHMARK SENIOR RESOURC	\$42.88
S5596	ANTHEM INSURANCE COMPAN	\$182.98
S5601	SILVERSCRIPT INSURANCE	\$1,601.50
S5617	CONNECTICUT GENERAL LIF	\$228.33
S5660	MEDCO HEALTH SOLUTIONS	\$1,867.49
S5670	COVENTRY HEALTH AND LIF	\$111.90
S5674	FIRST HEALTH LIFE AND H	\$32.90
S5715	HCSC INSURANCE SERVICES	\$48.74
S5743	BLUE CROSS BLUE SHIELD	\$74.27
S5753	WISCONSIN PHYSICIAN SER	\$26.20
S5755	UNITED AMERICAN INSURAN	\$75.36
S5766	FIRST CARE INC.	\$28.48
S5768	FIRST HEALTH LIFE & HEA	\$278.53
S5805	UNITED HEALTHCARE INSUR	\$769.84
S5810	AETNA LIFE INSURANCE CO	\$122.03

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S5820	UNITED HEALTHCARE INSUR	\$1,475.94
S5884	HUMANA INSURANCE COMPAN	\$868.34
S5904	BLUE CROSS AND BLUE SHI	\$41.37
S5907	TRIPLE-S INC.	\$5.74
S5921	PACIFICARE LIFE AND HEA	\$239.68
S5932	HEALTHSPRING INC. HEALT	\$29.10
S5937	LOUISIANA HEALTH SERVIC	\$6.14
S5953	BLUE CROSS AND BLUE SHI	\$2.00
S5960	UNICARE	\$57.65
S5966	GROUP HEALTH INCORPORAT	\$238.44
S5967	WELLCARE PRESCRIPTION I	\$108.00
S5975	ODS HEALTH PLAN	\$5.45
S5983	MEDCO HEALTH SOLUTIONS	\$14.62
S5993	HORIZON HEALTHCARE SERV	\$9.03
S7950	EXPRESS SCRIPTS INSURAN	\$665.17
S8067	AVALON HEALTH LTD	\$5.65
S8841	NMHC GROUP SOLUTION INS	\$1.57
S9579	STONEBRIDGE LIFE INSURA	\$178.96
	Total	\$ 14,492.49