

JURISDICTION AND VENUE

1. Jurisdiction over the subject matter of this complaint is based upon Title 26, Chapter 20 of the Utah Health Code, which provides remedies to redress Defendant's actions under the Utah False Claims Act. The Attorney General files this action pursuant to Title 67, Chapter 5, Section 1(18) of the Utah Code.

2. Personal jurisdiction over Defendant is proper under the Utah Long Arm Statute as codified in §§ 78-27-22 and 78-27-24 of the Utah Code Annotated.

3. Venue is proper in the Third Judicial District and Salt Lake County pursuant to Utah Code Annotated § 78-13-7, in that many of the unlawful acts committed by Defendant were committed in Salt Lake County, including the making of false statements and misrepresentations of material fact to the State of Utah, its departments, agencies, instrumentalities, and contractors, and to the Utah Medicaid Program.

PARTIES

4. Plaintiff is the State of Utah.

5. Defendant Eli Lilly & Company is an Indiana corporation with its principal place of business in Indianapolis, Indiana. At all times relevant hereto, Eli Lilly & Company was engaged in the business of licensing, manufacturing, marketing, distributing, and/or selling, either directly or indirectly, through third parties or related entities, the prescription drug Zyprexa (hereinafter "Zyprexa" or "the product"). At all times relevant to this action, Eli Lilly did business within the State of Utah by marketing and selling Zyprexa within the State to the State, its agencies, and to the general public.

NATURE OF THE CASE

6. This is a civil action for damages and civil penalties pursuant to the Utah False Claims Act and other statutory and common law causes of action.

THE MEDICAID PROGRAM

7. The Utah Medicaid program provides medical assistance to low-income state residents. The primary purpose of the Medicaid program is to enable the State to furnish medical assistance on behalf of families with dependent children and of aged, blind or disabled individuals, whose income and resources are insufficient to meet the costs of necessary medical services. Utah enjoys a broad measure of flexibility in tailoring the scope and coverage of its Medicaid plan. By state law, Utah is required to recover Medicaid funds which have been improperly provided to participants and suppliers.

8. Utah's Medicaid plan includes an optional prescription drug program. Pursuant to Utah Code Annotated 26-18-2.4(1)(a) this plan provides care, including prescription drugs, that must be based upon clinical and cost-related factors, including "medical necessity."

9. Under State administrative rule, drug prescriptions are only to be covered under Utah Medicaid when "medically efficacious." "Medically efficacious" means that a prescription has been determined effective, is widely utilized as a standard medical practice for specific conditions, and has been approved on the basis of "medical necessity." This requirement that a prescription be "medically efficacious" is included within the administrative rules governing the Medicaid plan.