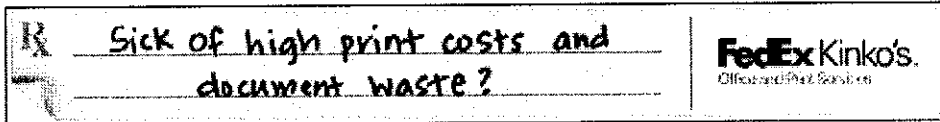


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## Nev. joins whistle-blower lawsuit over Merck pricing

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Nevada intervened in a whistle-blower lawsuit alleging that Merck & Co. abused a loophole in federal law to significantly discount prices to some hospitals without extending the same discounts to state Medicaid programs. Similar whistle-blower lawsuits are expected to be filed in other states. Merck spokesman Chris Loder said the company had not seen the complaint and could not comment on the details, but said Merck "believes all of its pricing practices are consistent with the law."

Drugmakers must give Medicaid programs the best price given to any customer, except in the case of "charitable institutions" that receive "nominal pricing" -- at least 90% discounted -- because they treat disproportionately high numbers of poor and uninsured. According to the whistle-blower lawsuit unsealed this week in state court in Carson City, Nev., Merck offered nominal pricing on its cholesterol-lowering drug Zocor to hospitals that didn't deserve "charitable institution" status in order to fight off increased competition from a rival drug by Pfizer. The lawsuit made similar allegations regarding Merck's pain reliever Vioxx, according to Steve Cohen of Chicago and Mark Kleiman of Los Angeles, attorneys who represent the whistle-blower, a former Merck employee. -- *by Mark Taylor*