

1998/1999 Rebate – Omnicare JJHCS Contract

Omnicare Inc. and Johnson & Johnson Health Care Systems has been debating an issue of rebates on contractual purchases between 1998 and 1999. In question, is a page that had been missing from Omnicare’s contract (Page 34 noting specific market share parameters needed to be reached for rebates known as Exhibit D.) Omnicare’s approach to the rebate was subjective in nature and felt it dealt more with the implementation of a Risperdal Intervention program and an initiative that built as a foundation the correct usage of pain medications. Omnicare felt that they were in compliance with all aspects of the contract. In good faith, we must do the right thing. We didn’t hold our end of the way Omnicare has perceived this contract, while Omnicare has performed and has been able to move Risperdal market share in an extremely competitive market.

These points have been noted:

- 1.) The contract contained vague language
- 2.) Omnicare was not at fault.
- 3.) Omnicare proved that they could move share.
- 4.) The market definitions of the anti-psychotic market changed through the life of the contract. The market definitions initially included atypical’s but was later enlarged to add conventionals.
- 5.) The DACON units were changed to reflect a lower average consumption in geriatric dementia from 1.6 to 1.16.

Omnicare is the example of what Johnson & Johnson believes to be the gold standard of Pharmacy Providers.

They have been able to switch propoxyphene prescriptions to Ultram and have done an outstanding job in generating Risperdal market share.

Here is what Omnicare has been able to generate through the life of the contracts:

3Q97	60.64 market share	
4Q97	58.64 market share	
1Q98	61.21 market share	
2Q98	59.09 market share	
3Q98	29.19 market share	(change in market parameters)
4Q98	38.57 market share	
1Q99	40.90 market share	
2Q99	47.66 market share	