

In 1971, in an effort to contain runaway costs within the medical program, the medical reform plan (MRP) was adopted by the State legislature. MRP brought about a new, intensified ceiling price program for the drug component of medical. This program became known as the reimbursable cost list price (RCLP) program.

The first comprehensive list of RCLP prices became effective April 1, 1972. This was a listing of some 198 line items; that is to say, drugs and medical supplies listed by their generic names, strengths, and dosage forms. We are not talking about 198 separate drugs, but rather 198 separate available dosage forms and strength of drugs which were subject to ceiling prices. On the overall, we hoped to save for the Department some \$5,000,000 per fiscal year for a fully implemented and effectively operated RCLP program.

Mr. GORDON. Mr. Michelotti, how many different drugs were involved when the different dosage forms are excluded?

Mr. MICHELOTTI. Those 198 line items represent about a third of that number of separate drugs.

Mr. GORDON. So one third of 198—

Mr. MICHELOTTI. Approximately 70 or so, yes.

Mr. GORDON. You say you hoped to save 5,000,000 per fiscal year. How much did you actually save under the reimbursement cost list program?

Mr. MICHELOTTI. Yes, it did get started and we saved a little over \$2,000,000 in fiscal year 1972-73. I was just telephoned the figures for fiscal 1973-74, and it was \$3,075,000 and some odd dollars—a little over \$3 million savings. This is during 1973-74, a period which excluded some ceiling prices—125 ceiling prices, now, and not 198—saved \$3 million on a total expenditure of \$98.86 million.

Continuing on, at the same time, independently, but with the same goal in mind of effecting savings or reducing drug costs, a parallel program was introduced known as the volume refund program. This second program was a reenactment of an earlier set of circumstances wherein manufacturers came to the state and offered rebates based on the volume of their drug products purchased through the medical program.

If all companies who were participating in the medical program were to come forward and offer a fair share rebate, these two programs together were anticipated to save the State approximately \$13 million per fiscal year. A so-called fair share rebate was considered to be the difference between the average wholesale price (AWP) of the manufacturer's drug product and the RCLP in effect on that particular generic drug at the time. Some companies came forward immediately—notably, Eli Lilly and Co., McKesson Laboratories, and Strong-Cobb-Arner, now known as ICN Pharmaceuticals, offered to participate in this program.

Soon after these programs had begun, the Department was subjected to a lawsuit filed by the Pharmaceutical Manufacturer's Association (PMA) claiming the volume refund program and the reimbursable cost list price program illegal on the grounds that the Department did not follow proper administrative procedures in adopting these programs. This litigation froze the two programs at the level existing in June 1972, and no further changes were made. The remained intact and operational, but frozen from either expanding or contracting, until they were finally shutdown by the