COSMOS
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21 U.S. Code § 355-2

Actions for delays of generic drugs and biosimilar biological products

(a) Definitions

In this section—

(1) the term "commercially reasonable, market-based terms" means—

(A) a nondiscriminatory price for the sale of the covered product at or below, but not greater than, the most recent wholesale acquisition cost for the drug, as defined in section 1395w–3a(c)(6)(B) of title 42;

(B) a schedule for delivery that results in the transfer of the covered product to the eligible product developer consistent with the timing under subsection (b)(2)(A)(iv); and

(C) no additional conditions are imposed on the sale of the covered product;

(2) the term "covered product"—

(A) means—

(i) any drug approved under subsection (c) or (j) of section 355 of this title or biological product licensed under subsection (a) or (k) of section 262 of title 42;

(ii) any combination of a drug or biological product described in clause (i); or

(iii) when reasonably necessary to support approval of an application under section 355 of this title, or section 262 of title 42, as applicable, or otherwise meet the requirements for approval under either such section, any product, including any device, that is marketed or intended for use with such a drug or biological product; and

(B) does not include any drug or biological product that appears on the drug shortage list in effect under section 356e of this title, unless—

(i) the drug or biological product has been on the drug shortage list in effect under such section 356e of this title continuously for more than 6 months; or

(ii) the Secretary determines that inclusion of the drug or biological product as a covered product is likely to contribute to alleviating or preventing a shortage.

(3) the term "device" has the meaning given the term in section 321 of this title;

(4) the term "eligible product developer" means a person that seeks to develop a product for approval pursuant to an application for approval under subsection (b)(2) or (j) of section 355 of this title or for licensing pursuant to an application under section 262(k) of title 42;

(5) the term "license holder" means the holder of an application approved under subsection (c) or (j) of section 355 of this title or the holder of a license under subsection (a) or (k) of section 262 of title 42 for a covered product;

(6) the term "REMS" means a risk evaluation and mitigation strategy under section 355–1 of this title;

(7) the term "REMS with ETASU" means a REMS that contains elements to assure safe use under section

355–1(f) of this title;

(8) the term "Secretary" means the Secretary of Health and Human Services;

(9) the term "single, shared system of elements to assure safe use" means a single, shared system of elements to assure safe use under section 355–1(f) of this title; and