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United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

KOLAN L. DAVIS, *Chief Counsel and Staff Director*
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October 27, 2017

VIA ELECTRONIC TRANSMISSION

Mr. Tom Miller
Attorney General of Iowa
Hoover State Office Building
1305 E. Walnut Street
Des Moines, Iowa 50319

Dear Attorney General Miller,

On September 25, 2017, your office announced that the state of Iowa would receive \$1.5 million as part of the federal government's settlement with Mylan for allegations that it misclassified the EpiPen. The cost of EpiPen hit home for a lot of Iowans which is why I have written you on several occasions out of concern that Iowa be made whole from the settlement.

Specifically, on July 6, 2017, I wrote a letter to you that asked whether your office knew how much financial compensation would be needed to make Iowa whole from EpiPen's misclassification. In response, on July 27, 2017, you wrote that you did not know how much financial compensation was necessary to make Iowa whole because the requisite pricing information is confidential under federal law. Your letter also said that, "[t]o come to a settlement with the state Medicaid programs, Mylan waives its confidentiality under the statute...and provides rebate and pricing information concerning EpiPens to [the National Association of Medicaid Fraud Control Unit] negotiators so that injury to the states can be properly assessed." Since it appears that Mylan can waive its confidentiality to pricing information, has your office ever asked it to do so with respect to Iowa and EpiPen? If not, why not?

In that same response you stated that once the National Association of Medicaid Fraud Control Units reached a settlement with Mylan it would send Iowa a "settlement packet which includes the proposed settlement agreement, a preliminary distribution of proceeds from the settlement for each state, and a confidential transmittal memorandum" to explain how the settlement amount was calculated. As you are aware, the Committee has been investigating Mylan's misclassification of its EpiPen. In light of that, it would be helpful to the Committee's investigation to review the documentation your office has been provided. Accordingly, please provide all records from the settlement packet and please explain how your office determined that \$1.5 million is fair and just compensation for the state of Iowa.

Thank you in advance for your cooperation with this request. Please respond no later than November 10, 2017. If you have questions, contact Josh Flynn-Brown of my Judiciary Committee staff at (202) 224-5225.

Sincerely,

A handwritten signature in blue ink that reads "Chuck Grassley". The signature is written in a cursive, flowing style.

Charles E. Grassley
Chairman
Committee on the Judiciary