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Kidney Dialysis Center Deal With Amgen Blocks Roche

By ANDREW POLLACK

In a move that could help preserve its lucrative monopoly on an important anemia drug, Amgen has reached an agreement that will make it the sole supplier of the drug to one of the nation's two main operators of kidney dialysis centers.

The deal, announced yesterday by the dialysis provider, Fresenius Medical Care, comes as Roche is preparing to enter the market next year with a drug that would offer the first competition to Amgen's drug, which is known as Epogen.

Now, it appears, Roche will not be able to sell its drug to Fresenius, which represents about 35 percent of the American dialysis market.

Some analysts said the deal, which lasts for five years, could raise antitrust concerns. "We would use an analogy of Microsoft signing an exclusive supply agreement with Dell precluding Dell from selling any computers with a competitive operating system a few months before a market entry of a competitor," Michael Aberman, biotechnology analyst at Credit Suisse, wrote yesterday in a note to clients.

Dr. Aberman said in an interview that a deal with Fresenius alone might not attract concern. But if Amgen were to arrange a similar exclusive supply agreement with DaVita, the other major provider of dialysis, with about 30 percent of the market, it would draw attention.

Marie Fay, an Amgen spokeswoman, said the company did not think the deal presented any antitrust issues. She said that Fresenius had approached Amgen, not the other way around, about having a broader collaboration.

Still, the deal comes as Amgen's marketing practices are drawing increasing scrutiny. Representative Bill Thomas, the California Republican who is chairman of the House Ways and Means Committee, has asked the Government Accountability Office to do a report on pricing and other aspects of drugs used for dialysis patients.

Medicare, which pays most expenses for dialysis, even for people younger than 65, is estimated to spend roughly $2 billion a year on Epogen, representing one of its biggest expenditures on any drug.

Epogen had $2.5 billion in sales last year. It and Aranesp, a similar drug that also is used to treat anemia, together accounted for nearly half of Amgen's overall $12.4 billion in revenue last year.

Both drugs are synthetic forms of erythropoietin, also called EPO, a protein normally made in the kidney that spurs the production of oxygen-carrying red blood cells.

Epogen, approved in 1989, was Amgen's first product and helped transform the company into the world's largest biotechnology concern. While the basic patent protecting the product has already expired in Europe, Amgen got several patents in the United States, which could protect its franchise here until 2015.

Roche, the Swiss pharmaceutical company, has developed CERA, a form of EPO it says can be given less frequently than Amgen's drugs. Roche is expected to begin selling the drug next year, assuming approval by the Food and Drug Administration.

To block Roche, Amgen has filed a patent infringement suit against it in federal District Court in Boston. Roche said its drug did not infringe on the patent.

The deal with Fresenius, which is based in Germany, could provide further protection to Amgen.

Dr. Ben Lipps, chief executive of Fresenius, said that his company "selected Amgen as our sole supplier based on more than 10 years of demonstrated clinical efficacy and safety with Epogen." Analysts said Fresenius probably used the looming threat from Roche to extract a bigger discount from Amgen in return for making it the sole supplier.