

**No. 31015/52/2017-Pricing  
GOVERNMENT OF INDIA  
MINISTRY OF CHEMICALS & FERTILIZERS  
DEPARTMENT OF PHARMACEUTICALS**

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A- Wing, Shastri Bhawan,  
New Delhi 110 001

**Subject:** Review application of M/s Glenmark Pharmaceuticals Limited against price fixation of “Budesonide (A) + Formoterol (B) [Inhalation (MDI/DPI) 400 MCG(A)+6MCG(B); 200MCG(A)+6MCG(B) and 100MCG(A)+6MCG(B)] and Tiotropium Inhalation (DPI) 18MCG/Dose)” vide NPPA order No. S.O. 1039(E), dated 01.04.2017 issued under Drugs (Prices Control) Order, 2013 (DPCO 2013).

**Ref:**

- 1) Review application dated 28.04.2017
- 2) NPPA notification under review S.O. 1039(E), dated 01.04.2017
- 3) Record Note of discussions held in the personal hearing held in the matter on 27.06.2017.

1. This is a petition under paragraph 31 of the Drugs (Prices Control) Order, 2013 (hereinafter called the DPCO) filed by M/s Glenmark Pharmaceuticals Limited (hereinafter called the petitioner) against notification S.O. No.1039(E), dated 01.04.2017 issued by the National Pharmaceutical Pricing Authority (hereinafter called the NPPA) fixing the ceiling prices of Budesonide (A) + Formoterol (B) [Inhalation (MDI/DPI) 400 MCG(A)+6MCG(B); 200MCG(A)+6MCG(B) and 100MCG(A)+6MCG(B)] and Tiotropium Inhalation (DPI) 18MCG/Dose).

2. The petitioner has contended as under:-

(i) **Background:-**

In respect of the formulations listed at serial nos. 87, 88 & 89 i.e. **Budesonide - 400 mcg + Formoterol - 6 mcg / Dose, 200 mcg + Formoterol - 6 mcg / Dose, 100 mcg + Formoterol - 6 mcg / Dose**, NPPA had first time announced their Ceiling prices on 27.04.2016 (table below). In the said order, it may further be noted that the Unit mentioned at that time clearly read as “Each Metered Dose”. *Metered Dose* refers to formulations based on MDI (Metered Dose Inhalation) only. Even the work sheet for prices notified on 27<sup>th</sup> April 2016 also indicates that the working had been done for MDI formulations only. Similarly for formulation listed in Serial No 629 (**Tiotropium-18 mcg/ Dose**), NPPA had notified Ceiling Price on 9<sup>th</sup> May 2016. The unit indicates as “Each Metered Dose”. Worksheet also indicated the same as MDI as only MDI formulations prices had been considered for working out the Ceiling Price.

**S.O. no. 1560 (E) dated 27.04.2016:**

Sl. No.	Name of the Scheduled Formulation	Strength	Unit	Ceiling Price (Rs.)
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(1)	(2)	(3)	(4)	(5)
48	Budesonide+ Formoterol Inhalation	Budesonide-400 mcg + Formoterol-6 mcg/Dose	Each Metered Dose	2.74
49	Budesonide+ Formoterol Inhalation	Budesonide-200 mcg + Formoterol-6 mcg/Dose	Each Metered Dose	2.19
50	Budesonide+ Formoterol Inhalation	Budesonide-100 mcg + Formoterol-6 mcg/Dose	Each Metered Dose	1.74

**S.O. no. 1687 (E) dated 09.05.2016:**

Sl. No.	Name of the Scheduled Formulation	Strength	Unit	Ceiling Price (Rs.)
(1)	(2)	(3)	(4)	(5)
36	Tiotropium Inhalation	Tiotropium-18 mcg/ Dose	Each Metered Dose	2.29

**(ii) Subsequent action of NPPA and the present cause of action:-**

On 01.04.2017, Vide SO 1039(E), NPPA has notified revised prices taking into account the WPI Value of the calendar year 2016. Please find below the excerpts in the tables below of the price notified by NPPA with reference to company's products.

**S.O. 1039(E) dated 1 April 2017:**

Sl. No.	Name of the medicine	Dosage form and Strength	Unit	Ceiling Price (W.e.f 1.04.2017 with WPI @1.97186%) (Rs.)	Existing SO no & Existing Date	
(1)	(2)	(3)	(4)	(5)	6(a)	6(b)
87	Budesonide(A)+ Formoterol(B)	Inhalation (MDI/DPI) 400 Mcg(A)+6Mcg(B)	1 Dose	2.79	1560(E)	27.04.2016
88	Budesonide(A)+ Formoterol(B)	Inhalation (MDI/DPI) 200 Mcg(A)+6Mcg(B)	1 Dose	2.23	1560(E)	27.04.2016
89	Budesonide(A)+ Formoterol(B)	Inhalation (MDI/DPI) 100 Mcg(A)+6Mcg(B)	1 Dose	1.77	1560(E)	27.04.2016
629	Tiotropium	Inhalation (DPI) 18Mcg/Dose	1Dose	2.34	1687(E)	9.05.2016

This time, in S.O. 1039(E) dated 1 April 2017, at serial nos. 87, 88, 89 and 629 the Dosage form, Strength as well as Unit is not in line with what was mentioned in the original notifications, namely S.O. nos. 1560(E) dated 27.04.2016 & 1687(E) dated 09.05.2016, which SO 1039(E) is supposed to supersede. Most importantly, in the present notification, besides MDI which was the dosage form and strength originally; DPI (which means Dry powder inhalation) too has been erroneously incorporated at serial no. 87, 88, 89 and 629, the unit has been changed as "1 Dose".

(iii) Company further mentioned that there is a basic difference in both the formulations. MDI means Metered Dose Inhalation, which comes in AEROSOL form. DPI means Dry Powder Inhalation, which comes in the form of CAPSULES. For administration, AEROSOL is actuated directly in the patient's mouth for inhalation. However in the case of DPI, the capsules are broken and put into a special device, which needs to be kept in mouth and inhaled by the patient. The manufacturing license, process of manufacturing, method of administration, the technology platform as well as the patient type is completely different for the 2 sets of dosage forms and both these products cannot be interchangeably used in the same patient.

**(iv) Glenmark action before preferring a review:-**

Company submitted that NPPA has not fixed a price for the DPI dosage forms at all and hence applying the WPI on the MDI dosage forms to be made applicable to the DPI dosage forms is incorrect. They further submit re-notifying the ceiling price for the MDI form, in view of the change in WPI, would be applicable only to the MDI form and cannot be made applicable to the DPI dosage form thru this notification.

(v) Company has already complied with the price notified vide S.O. No. 1039(E) dated 1.4.2017 with reference to the MDI dosage form and strength of the products mentioned at Serial nos. **87, 88, 89 and 629 of the subject matter.**

**(vi) Prayer: -**

In respect of the erroneous inclusion of the dosage form "DPI" in the aforesaid entries, They preferred a review under Para 31 of DPCO to rectify the erroneous error in the notification S.O.1039(E) dated 1.4.2017 on the grounds that though no initial price has been fixed by NPPA for DPI forms in the earlier notifications of 2016, thus the applicability of WPI under the present notification is only applicable to MDI and not DPI.

**3. Comments of NPPA:**

- I. Ceiling price of Rs.2.79/dose for Budesonide 400mcg + Formoterol 6 mcg (Inhalation (MDI/DPI)) 1 Dose, Rs. 2.23/dose for Budesonide 200 mcg+ Formoterol 6 mcg (Inhalation (MDI/DPI)) 1 Dose, & Rs.1.77/dose for Budesonide 100 mcg+ Formoterol 6 mcg (Inhalation (MDI/DPI)) 1 Dose & Rs.2.34/dose for Tiotropium 18mcg (Inhalation (DPI)) 1 Dose was notified vide S.O. 1039(E) dated 01.4.2017 as per para 4, 10, 11, 14, 16, 17, & 18 of DPCO, 2013.
- II. Company has stated that vide S.O. 1039(E) dated 01.4.2017 NPPA revised the ceiling price of above mentioned formulation taking into account the WPI value of

the calendar year 2016 and that dosage form is not in line with what was mentioned in the original notification.

- III. NPPA vide S.O. 1560(E) dated 27.4.2016 notified the ceiling price of Budesonide + Formoterol inhalation as follows:-

Sl. No.	Name of the Scheduled Formulation	Dosage form & Strength	Unit	Ceiling Price (Rs.)
(1)	(2)	(3)	(4)	(5)
1.	Budesonide+ Formoterol Inhalation	Budesonide-400 mcg + Formoterol-6 mcg/Dose	Each Metered Dose	2.74
2.	Budesonide+ Formoterol Inhalation	Budesonide-200 mcg + Formoterol-6 mcg/Dose	Each Metered Dose	2.19
3.	Budesonide+ Formoterol Inhalation	Budesonide-100 mcg + Formoterol-6 mcg/Dose	Each Metered Dose	1.74

- IV. After WPI implementation the same was revised as mentioned below:-

Sl. No.	Name of the Scheduled Formulation	Dosage form & Strength	Unit	Ceiling Price (Rs.)
(1)	(2)	(3)	(4)	(5)
1.	Budesonide (A)+ Formoterol (B)	Inhalation (MDI/DPI) 400 mcg (A) + 6 mcg (B)	1 Dose	2.79
2.	Budesonide (A)+ Formoterol (B)	Inhalation (MDI/DPI) 200 mcg (A) + 6 mcg (B)	1 Dose	2.23
3.	Budesonide (A)+ Formoterol (B)	Inhalation (MDI/DPI) 100 mcg (A) + 6 mcg (B)	1 Dose	1.77

- V. The company has also pointed out the same grievance regarding ceiling price of Tiotropium Inhalation 18mcg/metered dose notified vide S.O. 1687(E) dated 09.5.2016, which was revised to Rs.2.34/dose for Tiotropium Inhalation (DPI) 18mcg/dose vide S.O. 1039(E) dated 01.4.2017.
- VI. The committee of Experts in its meeting dated 02.5.2017 decided that:-

*“The Committee observed that Budesonide is a respiratory medicine. The conventional dosage is 100mcg, 200mcg & 400mcg. This is often given in combination with Formeterol in dose of 6 mcg. There are different delivery systems available for inhalations ranging from simple/conventional inhalation device to metered dose inhaler/digital inhaler and autohaler. There may be other different variants/drug dispensing mechanisms available in the market. Although they offer technological advantage/ease of administration say in old age/children or patients with poor coordination ability, there is no significant difference in clinical efficacy and therapeutic outcome once an adequate dose is administered / delivered. Hence, separate price for metered dose counter/digital inhaler and*

*autohaler may not be considered, rather they should be clubbed together for the purpose of price fixation.”*

*“The Committee observed that the inhalational drugs used for bronchial asthma are given by different methods like MDI, DPI, Soft-mist inhaler and Nebulizer. The DPI can be given as single dose, multi-dose and powder assisted system. This has advantage of portability, does not require much coordination and no spacer is required whereas MDI requires Aerosol which is also portable and independent, reproducing doses & has relatively low cost. In India, the Physician’s feedback is that DPI is relatively less used as compared to MDI. Thus, there is not much significant clinical advantage in terms of therapeutic outcome by using DPI over MDI.”*

4. During the personal hearing, the representatives of the company made the following submissions in addition to the written submission already submitted –

**Background:**

In respect of the formulations listed at serial nos. 87, 88 & 89, NPPA had first time announced their Ceiling prices on 27.04.2016 (see table below). In the said order. It may further be noted that the Unit mentioned at that time clearly read as “Each Metered Dose”. *Metered Dose* refers to formulations based on MDI (Metered Dose Inhalation) only. Even the work sheet for prices notified on 27<sup>th</sup> April 2016 also indicated that the working had been done for MDI formulations only. Similarly for formulation listed in Serial No 629 (Tiotropium), NPPA had notified the Ceiling Price on 9<sup>th</sup> May 2016. The unit indicates as “Each Metered Dose”. Worksheet also indicated the same as MDI as only MDI formulation prices had been considered for working out the Ceiling Price.

**SO. no. 1560 ( E ) dated 27.04.2016:**

Sl. No.	Name of the Scheduled Formulation	Strength	Unit	Ceiling Price (Rs.)
(1)	(2)	(3)	(4)	(5)
48	Budesonide+ Formoterol Inhalation	Budesonide-400 mcg + Formoterol-6 mcg/Dose	Each Metered Dose	2.74
49	Budesonide+ Formoterol Inhalation	Budesonide-200 mcg + Formoterol-6 mcg/Dose	Each Metered Dose	2.19
50	Budesonide+ Formoterol Inhalation	Budesonide-100 mcg + Formoterol-6 mcg/Dose	Each Metered Dose	1.74

**SO. No 1687(E) dated 09.05.2016:**

Sl. No.	Name of the Scheduled Formulation	Strength	Unit	Ceiling Price (Rs.)
(1)	(2)	(3)	(4)	(5)
36	Tiotropium Inhalation	Tiotropium-18 mcg/ Dose	Each Metered Dose	2.29

**Subsequent action of NPPA and the present cause of action:-**

On 01.04.2017, Vide SO 1039(E), NPPA notified revised ceiling prices, taking into account the WPI Value of the calendar year 2016. Please find the excerpts in the tables below of the price notified by NPPA with reference to our products.

**SO. 1039(E) dated 1 April 2017:**

Sl. No.	Name of the medicine	Dosage form and Strength	Unit	Ceiling Price(Wef 1.04.2017 with WPI @1.97186%) (Rs.)	Existing SO no & Existing Date	
					6(a)	6(b)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
87	Budesonide(A)+ Formoterol(B)	Inhalation (MDI/DPI) 400 Mcg(A)+6Mcg(B)	1 Dose	2.79	1560(E)	27.04.2016
88	Budesonide(A)+ Formoterol(B)	Inhalation (MDI/DPI) 200 Mcg(A)+6Mcg(B)	1 Dose	2.23	1560(E)	27.04.2016
89	Budesonide(A)+ Formoterol(B)	Inhalation (MDI/DPI) 100 Mcg(A)+6Mcg(B)	1 Dose	1.77	1560(E)	27.04.2016
629	Tiotropium	Inhalation (DPI) 18Mcg/Dose	1Dose	2.34	1687(E)	9.05.2016

This time, in **SO. 1039(E) dated 1 April 2017**, at serial nos. 87, 88, 89 and 629 the Dosage form, Strength as well as Unit has suddenly undergone a change without assigning any reason or logic and ceases to be in line with what was mentioned in the original notifications, namely S.O. nos. 1560 (E) dated 27.04.2016 & 1687 (E) dated 09.05.2016, the two SO's which the S.O. 1039(E) is supposed to supersede.

Most importantly, in the present notification, besides MDI which was the only dosage form and strength in the original notification; DPI (which means Dry powder inhalation) too has been erroneously incorporated at the impugned serial nos ie 87, 88, 89. In the case of serial number 629, it is even more confusing as the name of formulation is changed from MDI to now read as DPI. In all 4 serial nos., the unit too

has suddenly been changed as “1 Dose”. All this shows non-applicability of mind and is error apparent on the face of record.

The company pointed out that there is a basic difference in both the formulations. MDI means Metered Dose Inhalation, which comes in AEROSOL form. DPI means Dry Powder Inhalation, which comes in the form of CAPSULES. For administration, AEROSOL is actuated directly in the patient’s mouth for inhalation. However in the case of DPI, the capsules are broken and put into a special device, which needs to be kept in mouth and inhaled by the patient. The manufacturing license, process of manufacturing, method of administration, the technology platform as well as the patient type is completely different for the 2 sets of dosage forms and both these products cannot be interchangeably used in the same patient.

At this juncture, the company referred to the minutes of the meeting dated 2.05.2017 of the expert committee under para 11(3)&(4) which deliberated on the topic of DPI/MDI inhalers. One important point to be noted here is that the expert committee did not have a Pulmonologist who are the subject experts for patients with respiratory ailments. On a plain reading of the said minutes it is amply clear that the group of experts perceived the MDIs and DPis as mere delivery systems. Moreover experts have reportedly understood wrongly that DPis are relatively less used as compared to MDIs. This is factually incorrect as data proves to the contrary!

Pharmatrac (AWACS) data for the period August 2015 (MAT) is reproduced below in tabular form, which clearly shows that the use of different strengths of Budesonide and Formoterol based DPis is almost at par to MDIs of the same combination:

	Units 000			MAT Rs Cr		
	DPI	MDI	Total	DPI	MDI	Total
6/100 MCG	38965	54243	93208	11	9	20
6/200 MCG	278427	319086	597513	113	68	181
6/400 MCG	166206	130929	297134	87	34	121
	483597	504258	987856	212	111	322
	49.0%	51.0%		65.7%	34.3%	

It is more interesting to note that on unit basis, DPis and MDIs are being used on equal basis. On value basis DPis are actually used much more than MDIs. This basic surmise that DPis are relatively less used made experts to observe that there is not much significant clinical advantage in terms of therapeutic outcome by using DPis over MDIs and is thus factually incorrect. The two formulations are manufactured and marketed separately as Metered Dosage Inhalers (MDI) and Dry Powder Inhalers (DPI). DPI is the advanced and innovative drug delivery platform as compared to the MDI.

In view of the above facts, the company submitted that a separate Ceiling price may be fixed for DPI formulation and the same may be issued at the earliest.

NPPA did not make further submission in addition to as stated above.

## 5. Examination:

The company submitted that NPPA, while fixing the ceiling prices of subject formulations, considered the data of only MDI formulations, and while revising the ceiling prices of 660 formulations, including these formulations, treated the formulations as “MDI/DPI”. The company’s submission is that there is basic difference in both the formulations. MDI comes in AEROSOL form whereas DPI comes in the form of CAPSULES. For administration, AEROSOL is actuated directly in the patient’s mouth for inhalation, whereas in the case of DPI, the capsules are broken and put into a special device, which needs to be kept in mouth and inhaled by the patient. Hence, separate ceiling prices should be fixed for both types of formulations.

The issue of considering separate price fixation for metered dose counter/digital inhaler and autohaler was discussed in the Expert Committee of NPPA on 8.5.2017. The Committee observed that Budesonide is a respiratory medicine. The conventional dosage is 100mcg, 200mcg & 400mcg. This is often given in combination with Formoterol in dose of 6 mcg. There are different delivery systems available for inhalations ranging from simple/conventional inhalation device to metered dose inhaler/digital inhaler and autohaler. There may be other different variants/drug dispensing mechanisms available in the market. Although they offer technological advantage/ease of administration say in old age/children or patients with poor coordination ability, there is no significant difference in clinical efficacy and therapeutic outcome once an adequate dose is administered / delivered. Hence, separate price for metered dose counter/digital inhaler and autohaler may not be considered, rather they should be clubbed together for the purpose of price fixation.”

The Committee also observed that the inhalational drugs used for bronchial asthma are given by different methods like MDI, DPI, Soft-mist inhaler and Nebulizer. The DPI can be given as single dose, multi-dose and powder assisted system. This has advantage of portability, does not require much coordination and no spacer is required whereas MDI requires Aerosol which is also portable and independent, reproducing doses & has relatively low cost. In India, the Physician’s feedback is that DPI is relatively less used as compared to MDI. Thus, there is not much significant clinical advantage in terms of therapeutic outcome by using DPI over MDI.

On going through the calculation sheets of earlier notifications, i.e. SO 1560(E), dated 27.4.2016 fixing the ceiling price for Budesonide (A) + Formoterol (B) [Inhalation (MDI/DPI) 400 MCG(A)+6MCG(B); 200MCG(A)+6MCG(B) and 100MCG(A)+6MCG(B)], it is noticed that PTR of only MDI formulations were considered. Similarly, the ceiling price of Tiotropium Inhalation (DPI) 18Mcg/Dose was fixed vide SO 1687(E), dated 9.5.2016 by considering PTR of only MDI formulations.

As regards NPPA’s submission about violating the provisions of DPCO, 2013 for non-implementation of ceiling price of DPI range of formulations by the company, the same cannot be accepted as NPPA has never fixed the ceiling price for Dry Powder Inhalers. Vide SO 1039(E), dated 1.4.2017, NPPA has only revised the CP of the formulations and not fixed the CP. Unless any ceiling price is notified, the company cannot be expected to follow the ceiling price. Therefore, there is no violation of the provisions of DPCO, 2013 on the part of the company.



In view of the above, it is proposed that NPPA may be directed to re-fix the ceiling prices of Budesonide (A) + Formoterol (B) [Inhalation (MDI/DPI) 400 MCG(A)+6MCG(B); 200MCG(A)+6MCG(B) and 100MCG(A)+6MCG(B)] and Tiotropium Inhalation (DPI) 18Mcg/Dose by considering PTR of both types of inhalers, i.e. Metered Dose Inhaler (MDI) and Dry Powder Inhaler (DPI).

**6. Government Decision:**

**“NPPA is hereby directed to re-fix the ceiling prices of Budesonide (A) + Formoterol (B) [Inhalation (MDI/DPI) 400 MCG(A)+6MCG(B); 200MCG(A)+6MCG(B) and 100MCG(A)+6MCG(B)] and Tiotropium Inhalation (DPI) 18Mcg/Dose by considering PTR of both types of inhalers, i.e. Metered Dose Inhaler (MDI) and Dry Powder Inhaler (DPI).”**

Issued on this date, the 30<sup>th</sup> day of October, 2017.

**(M.K. Bhardwaj)**  
**Deputy Secretary**  
**For and on behalf of the President of India**

To

1. M/s Glenmark Pharmaceuticals Limited,  
7-D, Atmaram House, Tolstoy Marg,  
NEW DELHI-110001.
2. The Member Secretary,  
National Pharmaceutical Pricing Authority,  
YMCA Cultural Centre Building, New Delhi-110001

Copy to :

1. PS to Hon'ble Minister (C&F), Shastri Bhawan, New Delhi for information.
2. PSO to Secretary (Pharma), Shastri Bhawan, New Delhi for information.
3. T.D., NIC for uploading the order on Department's Website