

Exhibit #4
Provigil® Consumer Distribution Plan

The State of California's Eligible Consumers may be eligible to receive a distribution from the State's Consumer Fund, from the Class Consumer Fund, or from both, as explained below. All capitalized terms used herein shall have the same meaning as provided for in the Settlement Agreement, unless the capitalized term is expressly defined herein.

I. DIRECT DISTRIBUTION TO ELIGIBLE CONSUMERS

A. Payment from the State's Consumer Fund

Upon final execution of the Settlement Agreement, the State will instruct its Escrow Agent to establish and administer a Consumer Compensation Account and upon receiving Teva's Settlement Payment, to transfer the Consumer Settlement in the amount of U.S. Dollars \$25,250,000 (Twenty-Five Million Two Hundred and Fifty Thousand Dollars) to said account. The funds deposited into the Consumer Compensation Account and any accrued interest after deposit shall be referred to as the State's Consumer Fund. Upon the Effective Date, the State's Consumer Fund shall be available for distributions to Eligible Consumers and as otherwise permitted by this Distribution Plan, subject to deductions for payments of taxes payable on the State's Consumer Fund.

An Eligible Consumer will be entitled to recovery for purchases of Provigil®, Nuvigil®, and/or generic versions of Provigil® (modafinil) from June 24, 2006 through December 31, 2012 made in the District of Columbia or any state provided that the Eligible Consumer must have resided in the State of California at the time of the purchase ("California Eligible Consumers"). Proof of purchase will not be required for a payment from the State's Consumer Fund. The purchase need not have been made out-of-pocket. Insured consumers are also entitled to recovery from the State's Consumer Fund. The State's Claims Administrator will vet the consumer claims for legitimacy.

The State's Consumer Fund will be distributed to California Eligible Consumers. Each California Eligible Consumer that submits a Claim Form for payment from the State's Consumer Fund shall be referred to as a California Claimant. The \$25.25 million dollars in overcharges recovered by the Attorney General on behalf of all California Eligible Consumers shall be apportioned equally across approximately 1,182,690 total prescriptions dispensed to Californians ("Total California Prescriptions") during the relevant period, or \$21.34 in recovered overcharges per prescription ("Recovery Per Prescription"). Each California Claimant shall be entitled to claim the Recovery Per Prescription for each prescription filled as reported on that claimant's Claim Form and vetted for legitimacy by the Claims Administrator. To more fully compensate California Eligible Consumers and incentivize them to submit claims, if the proportion of Total California Prescriptions submitted for claims (the "Claims Rate") is 20% or less, each California Claimant shall be entitled to receive 200% of his or her Recoveries Per Prescription, or \$42.68 per prescription. If the Claims Rate is between 20% and 40%, each California Claimant shall be entitled to receive 150% of his or her Recoveries Per Prescription, or \$32.01. If the Claims Rate is 40% or greater, each California Claimant shall receive 100% of his or her Recoveries Per Prescription.

B. Payment from the Class Consumer Fund

A settlement in *In re Modafinil Antitrust Litigation, Vista Health Plan Inc. v. Cephalon Inc. et al.* 2:06-cv-01833 (E.D. Penn.) also provides a monetary distribution to consumers represented by the class (“Class Consumer Fund”), which class has been defined to include California Eligible Consumers. Thus, in addition to receiving a payment from the State’s Consumer Fund, a California Eligible Consumer could also receive a payment from the Class Consumer Fund if that consumer meets the class requirements for payment as set forth on the Claim Form.

C. Separate Payment Checks to be Issued by Claims Administrator

In all instances, California Eligible Consumers will receive one check from the State’s Consumer Fund and a separate check from the Class Consumer Fund.

II. CYPRES DISTRIBUTION OF RESIDUE CORPUS

If, following the State’s distribution to California Eligible Consumers (as described above under Section I, Paragraph A), any funds remain in the State’s Consumer Fund (the “Remaining Settlement Funds”), the funds will be distributed *cy pres* to public interest organizations following a competitive grant-making process. This process will ensure that the grantees will use the funds for a purpose that aligns with the purpose of the litigation and harm incurred by California Eligible Consumers. To ensure that the grant-making process is as transparent and competitive as possible, the Attorney General will engage qualified neutral third-party administrator(s) (“*Cy Pres* Administrator”) to administer the *cy pres* distribution of the Remaining Settlement Funds. The *Cy Pres* Administrator will solicit, evaluate, and select grant applicants under the Attorney General’s supervision.

The Attorney General, which has overseen the *cy pres* distribution of residual funds from several antitrust settlements obtained on behalf of consumers previously in its role as *parens patriae*, will ensure the grant-making process aligns with its internal guidelines for approving payment of funds to non-parties, and will retain supervision over the Remaining Settlement Funds and their distribution. With regard to settlements that involve payments to non-parties, the relevant portion of the Attorney General’s guidelines provide:

The non-party recipient of a payment arising out of a settlement must be identified in the settlement agreement, if the recipient is known at the time of the settlement. If the recipient is not known at the time of settlement, the method of selecting the recipient must be set forth in the settlement agreement or in a separate public document referenced in the agreement. The identity of the recipient is public information.

Settlement funds that are directed to a non-party to fund a beneficial project or service must be spent in a manner that has a nexus to the basis for the litigation. (See, e.g., *Lane v. Facebook, Inc.* (9th Cir. 2012) 696 F.3d 811,

821 [in class-action context, the “nexus” requirement means that a “*cy pres* remedy ‘must account for the nature of the plaintiffs’ lawsuit, the objectives of the underlying statutes, and the interests of the [plaintiffs]’”].)

Any non-party recipient of a payment under a settlement agreement must be a non-profit organization, a government entity, or an entity subject to court supervision. The recipient must agree and be able to demonstrate how the funds will be spent and to ensure that the funds are being spent for that purpose. Attorneys responsible for negotiating the settlement should consider whether it is appropriate for the agreement to require that the non-party recipient periodically report on its use of settlement funds.

Based on the Attorney General’s previous experience supervising the distribution of *cy pres* funds in similar cases, this Office believes that any decision pertaining to the solicitation and selection of grantees, as well as the amount of money to be given to each, should be deferred until the claims process has concluded. At that point, it will be known whether there are Remaining Settlement Funds, their extent, and when they can be made available for distribution. Without that information, the grant-making process would be unduly speculative and burdensome to potential grant applicants.

The Attorney General will seek the court’s approval of its plan to distribute the Remaining Settlement Funds *cy pres* in its Motion for Preliminary Approval of the Consumer Settlement.