



Strict implementation of the terms to request reimbursement of fees. It is important to pay attention to them in order not to lose money

Judgment of the National High Court, of 14 and 17 of January of 2013, on reimbursement of fees for applications to the AEMPS

These are difficult times for everyone and healthcare administrations are no exception. The containment of the deficit imposed by our European partners makes us scrutinize every euro that we spend, and an example of this would be the tightening of the criteria applied by the AEMPS for the access to the reimbursement of the fees paid by the pharmaceutical industry for the processing of their applications.

The fact is that in such an extremely competitive market it is not surprising that strategic decisions may change overnight and therefore before making a big payment of fees corresponding to activities that we plan to request from the AEMPS it is advisable to keep in mind when and under what conditions we will be able to recover such investment in case that we finally decide not to submit the applications corresponding to such fees. Two recent judgments of the National High Court provide us with very useful insights in this sense.

Requirements for the reimbursement of fees

The cases that were submitted before the National High Court were originated when the AEMPS denied the reimbursement of a series of fees, on the basis that the pharmaceutical company had not proven that it had been impossible for it to submit the applications for which such fees were paid within the term established. The pharmaceutical company appealed by putting forward, not without certain reason, that the taxable event for which

such fees were paid consisted of the provision of a series of services by the AEMPS, and that such services had not been provided since the corresponding applications had never even been submitted.

The Court, however, considered that the law is clear when establishing that, once the fee is paid, the pharmaceutical company must submit the corresponding application within a maximum of three months. The reimbursement may be requested only if the company is able to prove that it was impossible to submit the request in due time, for reasons beyond its control. It is therefore important to keep in mind that if we do not submit the applications by a given date we will not be able to claim the reimbursement, unless we can prove that its submission was objectively impossible.

Be careful with time limits

It is equally interesting that in spite of having submitted a request for reimbursement, thereby having fulfilled all the requirements that must be met, our right to obtain the amount to be reimbursed can expire if after we pay the fees we wait for four years without reminding the AEMPS that we have requested such reimbursement, and that it has the legal obligation to answer our request. In fact, the AEMPS has already sent some letters in this sense. Fortunately, this situation can be easily avoided, but it is advisable not to neglect the terms in order not to lose the right to receive reimbursements of significant amounts.