Portfolio Media. Inc. | 860 Broadway, 6th Floor | New York, NY 10003 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Biosimilars Clarity Coming As FDA Eyes Sandoz Application

By **Jeff Overley**

Law360, New York (July 24, 2014, 7:16 PM ET) -- The U.S. Food and Drug Administration's acceptance of a biosimilar application from Novartis AG unit Sandoz Inc. is a landmark event that should finally lead to answers about how the copycat products will be named and deemed interchangeable with their branded counterparts, experts say.

Thursday's announcement from Sandoz marked the first known time that the FDA has accepted an application for approval along the biosimilars pathway created in 2010 by the Affordable Care Act. Sandoz's move shows drugmakers won't sit on their hands until the FDA has more fully explained policies that have trickled out slowly in the four years since the ACA's passage.

"This confirms that applicants are going to move forward with biosimilar applications without waiting for either final or comprehensive FDA regulations or guidance documents," said Stephen Paul Mahinka of Morgan Lewis & Bockius LLP.

Sandoz wants clearance for a follow-on version of Amgen Inc.'s Neupogen, or filgrastim, which is used in certain cancer patients to prevent infections. One of the key issues that may be addressed during the FDA's review is so-called interchangeability, which is the highest level of similarity and essential to allowing biosimilars to be widely substituted for branded biologics.

Sandoz declined to say Thursday whether it would seek the interchangeability designation, but if it does, a decision either way would provide fresh insights into the FDA’s thinking.

Another unresolved issue is whether biosimilars should have distinct nonproprietary names — for example, some slight variation on the word filgrastim — to distinguish them from the brand-name drugs on which they're modeled. Experts predicted that the outcome of Sandoz's application will provide valuable information on interchangeability and naming, even if the FDA issues some sort of guidance beforehand on the topics.

"Regardless of whether you issue a draft guidance or not, you're going to have to make some determinations once you approve this product," Mahinka said.

But how quickly the FDA will make those determinations is hard to predict. Regulators committed to acting this year on 70 percent of original biosimilar applications within 10 months of submission. Sandoz's application was submitted in May, meaning that it could win approval by early next year if the FDA sticks to the target time frame.

Still, the FDA has plenty of freedom to slow-walk its reviews, as well as understandable reasons to do so. Lots of attention will be paid to the first biosimilar pathway products it evaluates, so if questions about safety or effectiveness were to emerge after approval, confidence in the products overall could plummet and the promise of lower-cost competition could suffer real damage.

That's especially important because biologics tend to be much more costly than traditional drugs and are growing in popularity. By some estimates, eight of the 10 best-selling drugs globally last year were biologics, collectively raking in tens of billions of dollars in sales.

"The agency obviously has every interest in putting the biosimilar revolution on the right course, so it doesn't want the first few to have any safety or efficacy problems and thereby taint the category," Mahinka said.

There are good reasons to think Sandoz's application will be successful, as it has already won approval to sell filgrastim under the brand name Zarzio in Europe, Japan and other highly regulated markets.

Further, the FDA has a great deal of experience with filgrastim, having approved Neupogen more than 20 years ago. And two years ago, the agency approved Teva Pharmaceutical Industries Ltd.'s tbo-filgrastim. That product was submitted before the ACA's biosimilar pathway existed, but it's sold as a biosimilar to Neupogen in Europe.

While biologics are more complex than traditional drugs, filgrastim is considered to be relatively simple compared with some of the other medications derived from living organisms, such as monoclonal antibodies.

"It's not a surprise that [Sandoz] started with something like filgrastim. It's a good product to test the pathway," said Paul A. Calvo of Sterne Kessler Goldstein & Fox PLLC.

The mere fact that regulators agreed to review the product is a good sign for Sandoz, as the agency can refuse to receive a deficient application.

"You can basically assume it's complete. It's containing all the information that FDA would expect to need to make an approval decision," said Gillian Woollett, a senior vice president at Avalere Health LLC.

Even if Sandoz's filgrastim becomes the first product approved on the biosimilar pathway, some questions are bound to be left unresolved, such as how the FDA will scrutinize the newer and more complicated biosimilars that inevitably will come its way in the future.

Nevertheless, experts on Thursday cheered the arrival of a day that's been eagerly awaited since the ACA's passage.

"It's the first step in actually seeing approval of a biosimilar in the U.S.," Calvo said. "I think the word 'finally' comes to mind."

--Editing by Kat Laskowski and Katherine Rautenberg.
