Gemeinsamer Bundesausschuss

Justification

of the Resolution of the Federal Joint Committee (G-BA) on an Amendment of the Pharmaceuticals Directive (AM-RL): Annex XII (Benefit Assessment of Medicinal Products with new active ingredients according to Section 35a, SGB V) and Annex IX (Definition of reference price groups) - Benzodiazepine-related agents, Group 1, tier 2

of 6 May 2021

Contents

1. Legal basis

According to Section 35a (1) sentences 4 and 5 SGB V, the additional medical benefit according to sentence 3 number 3 (additional medical benefit in relation to the appropriate comparator therapy) must be proven as a therapeutic improvement according to Section 35 (1b) sentences 1 to 5 SGB V in the case of medicinal products that are pharmacologically-therapeutically comparable to fixed-price medicinal products. If the pharmaceutical company does not submit the required evidence in time or in full, despite a request by the Federal Joint Committee (G-BA), an additional benefit is deemed not to be proven.

If no therapeutic improvement has been established for a medicinal product in accordance with Section 35a (1) sentence 4 of the SGB V it is to be classified in the decision in accordance with Section 35a (3) of the SGB V in the reference price group in accordance with Section 35 (1) of the GSB V with pharmacologically and therapeutically comparable medicinal products (Section 35a (4) sentence 1 SGB V). A separate written statement procedure pursuant to Section 35 (1b) sentence 7 and (2) SGB V has no need not required (Section 35a (4) sentence 3 SGB V). The decision is part of the guideline according to § 92 paragraph 1 sentence 2 number 6 SGB V, § 94 paragraph 1 SGB V does not apply (§ 35a paragraph 3 sentence 6 SGB V).

Pursuant to Section 35(1) of the SGB V, the Federal Joint Committee (G-BA) determines in the guidelines pursuant to Section 92(1), second sentence, number 6 of the SGB V for which groups of medicinal products reference prices may be fixed. In the groups, medicinal products with

1st the same active ingredients,

2nd pharmacologically-therapeutically comparable active ingredients, in particular with chemically related substances,

3rd therapeutically comparable effect, in particular combinations of medicaments

be summarised.

The Federal Joint Committee shall also determine the arithmetical mean daily or individual doses or other suitable comparative values required in accordance with Section 35(3) of the SGB V.

2. Key points of the resolution

The marketing authorisation holder, Hennig Arzneimittel GmbH & Co. KG, was requested by the Federal Joint Committee to submit a dossier to the Federal Joint Committee in due time, i.e. no later than the date of inclusion of the medicinal product Lunivia® with the active ingredient eszopiclone in the major German specialties tax (Lauer-Taxe). The tender date was 15 February 2021.

The legal consequence of the company's decision not to submit a dossier at the relevant time is the finding of an unproven additional benefit. The pharmaceutical company did not claim a therapeutic improvement, partly due to fewer side effects, or pharmacological-therapeutic non-comparability.

As a starting point for finding whether a medicinal product is pharmacologically-therapeutically comparable to medicinal products in an existing reference price group, the official ATC classification pursuant to Section 73 (8) sentence 5 SGB V is to be used, with tier

1 reflecting the anatomical classification, tiers 2 to 4 of the therapeutic classification and level 5 the chemical classification. The active ingredient eszopiclone has the ATC code N05CF04.

The active ingredients already grouped have the following ATC codes:

Zaleplon	N05CF03
Zolpidem	N05CF02
Zopiclone	N05CF01

Therefore, all active ingredients concerned are assigned to the same ATC code at level 4.

Eszopiclone, the S-enantiomer of zopiclone, is a benzodiazepine-related agent. Benzodiazepine-related agents bind to the benzodiazepine binding sites of the $GABA_A$ receptors and show the same profile of action as the benzodiazepines (sedative-hypnotic, anxiolytic, muscle relaxant, anticonvulsant). As a result, the active ingredients share an identical mechanism of action which is a decisive factor in determining pharmacological comparability.

In addition, all active ingredients included in the reference price group "Benzodiazepine-related agents, group 1" have a common reference point due to their marketing authorisation under pharmaceutical law in the therapeutic indication "short-term treatment of sleep disorders", from which the therapeutic comparability results.

Thus, in the present reference price group of tier 2 pursuant to Section 35(1), second sentence, number 2, SGB V, in which pharmacologically and therapeutically comparable active ingredients, in particular with chemically related substances, are grouped together, there is not only therapeutic but also pharmacological-therapeutic comparability of the active ingredients to be grouped together, as required by Section 35a(4) SGB V.

Therapy options are not restricted, and medically required prescription alternatives are available. The marketing authorisation under pharmaceutical law does not allow the conclusion that one of the included proprietary medicinal products has a singular therapeutic indication.

In its deliberations on the finding of an added benefit of eszopiclone and on the update of the reference price group "Benzodiazepine-related agents, group 1" in tier 2, the Subcommittee on Medicinal Products came to the conclusion, that an additional benefit of eszopiclone according to § 35a (1) sentence 5 SGB V is considered not proven, that the requirements according to § 35a (4) sentence 1 SGB V are fulfilled, and consequently that eszopiclone is assigned to the reference price group "Benzodiazepine-related agents, group 1" in tier 2 according to § 35a (4) sentence 1 in conjunction with § 35 (1) sentence 2 SGB in conjunction with § 35 paragraph 1 sentence 2 number 2 SGB V (fixed amount grouping).

The present Resolution therefore updates the existing reference price group 'Benzodiazepine-related products, group 1' in tier 2 as follows:

- Classification of a new active ingredient 'eszopiclone'.

The documents on which the update of the present fixed amount group is based are attached to the Justification.

According to Chapter 4, Section 29 of the Rules of Procedure of the Federal Joint Committee, the appropriate comparator for the purposes of Section 35(1), sentence 8, of the SGB V is the prescription-weighted average individual or overall potency per active ingredient according to the methodology described in Section 1, Annex I to Chapter 4 of the Rules of Procedure of the Federal Joint Committee.

It is possible to abstain from conducting a written statement procedure according to Section 35a (3) sentence 2 in conjunction with Section 92 (3a) SGB V given that an additional benefit of eszopiclone is not considered proven. This follows from the purpose of the written statement procedure regulated in Section 92(3a) of the SGB V.

The procedure primarily serves the public interest of involving the expertise of third parties in addition to the expertise of the members of the Federal Joint Committee in the determination of the facts underlying the decision-making process and in order to facilitate the weighing processes to be undertaken (see Landessozialgericht Berlin-Brandenburg, decision of 27 February 2008, ref: L 7 B 112/07 KA ER).

However, the present resolution is not based on a substantive assessment of the benefit of eszopiclone according to the generally recognised state of medical knowledge, which could justify the need to conduct written statement procedure. However, with its decision, the Federal Joint Committee merely implements the legal consequence stipulated in Section 35a (1) sentence 5 of the SGB V for the failure to submit a dossier, according to which in this case an additional benefit is deemed not to have been proven.

3. Bureaucratic cost calculation

The proposed resolution does not create any new or amended information obligations for care providers within the meaning of Annex II to Chapter 1 VerfO and, accordingly, no bureaucratic costs.

4. Process sequence

Chronological course of consultation:

Meeting	Date	Subject of consultation
Working Group §35a	3/3/2021	Information that no dossier has been received at the relevant time, advice on classification in the relevant fixed amount group
Subcommittee Medicinal products	10/3/2021	Information that no dossier has been received at the relevant time, advice on classification in the relevant fixed amount group
Subcommittee Medicinal products	7/4/2021	Discussion and consensus on the draft resolution
Plenum	6/5/2021	Resolution

Berlin, 6 May 2021

Federal Joint Committee in accordance with Section 91 SGB V The chairman

Prof. Hecken

5. Annex