



November 13, 2020

Dako North America, Inc.  
Micah Schloss  
Senior Manager, Regulatory Affairs  
6392 Via Real  
Carpinteria, CA 93013

Re: P150013/S020  
Trade/Device Name: PD-L1 IHC 22C3 pharmDX  
Product Code: PLS  
Filed: June 29, 2020

Dear Micah Schloss:

The Center for Devices and Radiological Health (CDRH) of the Food and Drug Administration (FDA) has completed its review of your premarket approval application (PMA) supplement for the PD-L1 IHC 22C3 pharmDX for expanding the indications to include detection of PD-L1 protein in patients with triple-negative breast cancer (TNBC) for treatment with KEYTRUDA. This device is indicated as follows:

For in vitro diagnostic use.

PD-L1 IHC 22C3 pharmDx is a qualitative immunohistochemical assay using monoclonal mouse anti-PD-L1, Clone 22C3 intended for use in the detection of PD-L1 protein in formalin-fixed, paraffin-embedded (FFPE) non-small cell lung cancer (NSCLC), gastric or gastroesophageal junction (GEJ) adenocarcinoma, esophageal squamous cell carcinoma (ESCC), cervical cancer, urothelial carcinoma, head and neck squamous cell carcinoma (HNSCC), and triple-negative breast cancer (TNBC) tissues using EnVision FLEX visualization system on Autostainer Link 48.

PD-L1 protein expression in NSCLC is determined by using Tumor Proportion Score (TPS), which is the percentage of viable tumor cells showing partial or complete membrane staining at any intensity.

PD-L1 protein expression in gastric or GEJ adenocarcinoma, ESCC, cervical cancer, urothelial carcinoma, HNSCC and TNBC is determined by using Combined Positive Score (CPS), which is the number of PD-L1 staining cells (tumor cells, lymphocytes, macrophages) divided by the total number of viable tumor cells, multiplied by 100.

**Companion Diagnostic Indications**

Tumor Indication	PD-L1 Expression Level	Intended Use
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NSCLC	TPS $\geq$ 1%	PD-L1 IHC 22C3 pharmDx is indicated as an aid in identifying NSCLC patients for treatment with KEYTRUDA® (pembrolizumab).**
Gastric or GEJ Adenocarcinoma	CPS $\geq$ 1	PD-L1 IHC 22C3 pharmDx is indicated as an aid in identifying gastric or GEJ adenocarcinoma patients for treatment with KEYTRUDA® (pembrolizumab).
ESCC	CPS $\geq$ 10	PD-L1 IHC 22C3 pharmDx is indicated as an aid in identifying ESCC patients for treatment with KEYTRUDA® (pembrolizumab).
Cervical Cancer	CPS $\geq$ 1	PD-L1 IHC 22C3 pharmDx is indicated as an aid in identifying cervical cancer patients for treatment with KEYTRUDA® (pembrolizumab).
Urothelial Carcinoma	CPS $\geq$ 10	PD-L1 IHC 22C3 pharmDx is indicated as an aid in identifying urothelial carcinoma patients for treatment with KEYTRUDA® (pembrolizumab). **
HNSCC	CPS $\geq$ 1	PD-L1 IHC 22C3 pharmDx is indicated as an aid in identifying HNSCC patients for treatment with KEYTRUDA® (pembrolizumab). **
TNBC	CPS $\geq$ 10	PD-L1 IHC 22C3 pharmDx is indicated as an aid in identifying TNBC patients for treatment with KEYTRUDA® (pembrolizumab).

\*\*See the KEYTRUDA® product label for specific clinical circumstances guiding PD-L1 testing.

We are pleased to inform you that the PMA supplement is approved. You may begin commercial distribution of the device in accordance with the conditions of approval described below. Although this letter refers to your product as a device, please be aware that some approved products may instead be combination products. The Premarket Approval Database located at

<https://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfPMA/pma.cfm> identifies combination product submissions.

The sale and distribution of this device are restricted to prescription use in accordance with 21 CFR 801.109 and under section 515(d)(1)(B)(ii) of the Federal Food, Drug, and Cosmetic Act (the act). FDA has determined that these restrictions on sale and distribution are necessary to provide reasonable assurance of the safety and effectiveness of the device. Your device is therefore a restricted device subject to the requirements in sections 502(q) and (r) of the act, in addition to the many other FDA requirements governing the manufacture, distribution, and marketing of devices.

Expiration dating for this device has been established and approved at 9 months for storage at 2-8°C. This is to advise you that the protocol you used to establish this expiration dating is considered an approved protocol for the purpose of extending the expiration dating as provided by 21 CFR 814.39(a)(7).

Continued approval of the PMA is contingent upon the submission of periodic reports, required under 21 CFR 814.84, at intervals of one year (unless otherwise specified) from the date of approval of the original PMA. This report, identified as "Annual Report" and bearing the applicable PMA reference number, should be submitted to the address below. The Annual Report should indicate the beginning and ending date of the period covered by the report and should include the information required by 21 CFR 814.84.

In addition to the above, and in order to provide continued reasonable assurance of the safety and effectiveness of the PMA device, the Annual Report must include, separately for each model number (if applicable), the number of devices sold and distributed during the reporting period, including those distributed to distributors. The distribution data will serve as a denominator and provide necessary context for FDA to ascertain the frequency and prevalence of adverse events, as FDA evaluates the continued safety and effectiveness of the device.

This is a reminder that as of September 24, 2014, class III devices are subject to certain provisions of the final Unique Device Identification (UDI) rule. These provisions include the requirement to provide a UDI on the device label and packages (21 CFR 801.20), format dates on the device label in accordance with 21 CFR 801.18, and submit data to the Global Unique Device Identification Database (GUDID) (21 CFR 830 Subpart E). Additionally, 21 CFR 814.84 (b)(4) requires PMA annual reports submitted after September 24, 2014, to identify each device identifier currently in use for the subject device, and the device identifiers for devices that have been discontinued since the previous periodic report. It is not necessary to identify any device identifier discontinued prior to December 23, 2013. Combination Products may also be subject to UDI requirements (see 21 CFR 801.30). For more information on these requirements, please see the UDI website, <https://www.fda.gov/medical-devices/device-advice-comprehensive-regulatory-assistance/unique-device-identification-udi-system>.

Before making any change affecting the safety or effectiveness of the PMA device, you must submit a PMA supplement or an alternate submission (30-day notice) in accordance with 21 CFR 814.39. All PMA supplements and alternate submissions (30-day notice) must comply with the applicable requirements in 21 CFR 814.39. For more information, please refer to the FDA guidance document entitled, "Modifications to Devices Subject to Premarket Approval (PMA) - The PMA Supplement Decision-Making Process" <https://www.fda.gov/media/81431/download>.

You are reminded that many FDA requirements govern the manufacture, distribution, and marketing of devices. For example, in accordance with the Medical Device Reporting (MDR) regulation, 21 CFR 803.50 and 21 CFR 803.52 for devices or post-marketing safety reporting (21 CFR 4, Subpart B) for combination products, you are required to report adverse events for this device. Manufacturers of medical devices, including in vitro diagnostic devices, are required to report to FDA no later than 30 calendar days after the day they receive or otherwise becomes aware of information, from any source, that reasonably suggests that one of their marketed devices:

1. May have caused or contributed to a death or serious injury; or
2. Has malfunctioned and such device or similar device marketed by the manufacturer would be likely to cause or contribute to a death or serious injury if the malfunction were to recur.

Additional information on MDR, including how, when, and where to report, is available at <https://www.fda.gov/medical-devices/medical-device-safety/medical-device-reporting-mdr-how-report-medical-device-problems> and on combination product post-marketing safety reporting is available at (see <https://www.fda.gov/combination-products/guidance-regulatory-information/postmarketing-safety-reporting-combination-products>).

In accordance with the recall requirements specified in 21 CFR 806.10 for devices or the post-marketing safety reporting requirements (21 CFR 4, Subpart B) for combination products, you are required to submit a written report to FDA of any correction or removal of this device initiated by you to: (1) reduce a risk to health posed by the device; or (2) remedy a violation of the act caused by the device which may present a risk to health, with certain exceptions specified in 21 CFR 806.10(a)(2). Additional information on recalls is available at

<https://www.fda.gov/safety/recalls-market-withdrawals-safety-alerts/industry-guidance-recalls>.

CDRH does not evaluate information related to contract liability warranties. We remind you, however, that device labeling must be truthful and not misleading. CDRH will notify the public of its decision to approve your PMA by making available, among other information, a summary of the safety and effectiveness data upon which the approval is based. The information can be found on the FDA CDRH Internet Home Page located at

<https://www.fda.gov/medical-devices/device-approvals-denials-and-clearances/pma-approvals>. Written requests for this information can also be made to the Food and Drug Administration, Dockets Management Branch, (HFA-305), 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. The written request should include the PMA number or docket number. Within 30 days from the date that this information is placed on the Internet, any interested person may seek review of this decision by submitting a petition for review under section 515(g) of the act and requesting either a hearing or review by an independent advisory committee. FDA may, for good cause, extend this 30-day filing period.

Failure to comply with any post-approval requirement constitutes a ground for withdrawal of approval of a PMA. The introduction or delivery for introduction into interstate commerce of a device that is not in compliance with its conditions of approval is a violation of law.

You are reminded that, as soon as possible and before commercial distribution of your device, you must submit an amendment to this PMA submission with a copy of all final labeling. Final labeling that is identical to the labeling approved in draft form will not routinely be reviewed by FDA staff when accompanied by a cover letter stating that the final labeling is identical to the labeling approved in draft form. If the final labeling is not identical, any changes from the final draft labeling should be highlighted and explained in the amendment.

All required documents should be submitted, unless otherwise specified, to the address below and should reference the above PMA number to facilitate processing.

U.S. Food and Drug Administration  
Center for Devices and Radiological Health  
Document Control Center - WO66-G609  
10903 New Hampshire Avenue  
Silver Spring, MD 20993-0002

If you have any questions concerning this approval order, please contact Arpita Roy at 240-402-4807 or [Arpita.Roy@fda.hhs.gov](mailto:Arpita.Roy@fda.hhs.gov).

Sincerely,

Reena Philip-S

Reena Philip, Ph.D.

Director

Division of Molecular Genetics  
and Pathology

OHT7: Office of In Vitro Diagnostics  
and Radiological Health

Office of Product Evaluation and Quality

Center for Devices and Radiological Health