

## **NCPA: Change in Administration and Agency Errors Delay AMP Legal Proceedings Further**

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The National Association of Chain Drug Stores (NACDS) and the National Community Pharmacists Association (NCPA) today applauded a decision by U.S. District Judge Royce C. Lamberth to postpone the hearing scheduled for February 25 regarding the Medicaid Average Manufacturer Price (AMP) case. NACDS, NCPA and the U.S. Department of Health & Human Services (HHS) jointly requested the delay in light of the change in Administration at HHS and given that Centers for Medicare and Medicaid (CMS) must resolve any regulatory issues related to yet another revised definition of "multiple source drug," and is not prepared to proceed with the case at this time. NACDS and NCPA agreed that proceeding at this time is not viable considering that CMS' definition of "multiple source drug" is integral to the Court's ability to consider the case. This will be CMS' fourth attempt to define "multiple source drug." The prior attempt was rendered invalid because, in reviewing CMS documents in preparation for the case, NACDS and NCPA discovered that CMS failed to take into consideration an NACDS-NCPA economic report when developing that definition.

"Unfortunately, the story of CMS' Medicaid AMP rule can be summarized by the often-used phrase, 'mistakes were made,'" said NACDS President and CEO Steven C. Anderson, IOM, CAE, and NCPA CEO and Executive Vice President Bruce T. Roberts, RPh. "We are committed to getting the Medicaid pharmacy reimbursement rule right, for the good of pharmacy, patients and nation's entire healthcare delivery system. While we are hopeful for continued success in court based on the strong merits of the case, NACDS and NCPA continue to encourage Congress to work with pharmacy to find more appropriate models for pharmacy reimbursement for generics under Medicaid, and we are appreciative of true leaders in Congress who continue to make this a priority." NACDS and NCPA filed a lawsuit in November 2007 against HHS and CMS. In that lawsuit the associations successfully obtained a preliminary injunction

blocking the CMS rule on AMP that would have unlawfully reduced pharmacy Medicaid reimbursement.

As a result of yesterday's Court order, no major new developments are expected in the case until at least after May 15, 2009. By that date, NACDS, NCPA and HHS are to notify the Court whether the definition of "multiple source drug" has been finalized such that the case may move forward.

The National Association of Chain Drug Stores (NACDS) represents traditional drug stores, supermarkets, and mass merchants with pharmacies. Its more than 170 chain member companies include regional chains with a minimum of four stores to national companies. NACDS members also include more than 1,000 suppliers of pharmacy and front-end products, and nearly 90 international members representing 29 countries. Chains operate 39,000 pharmacies, and employ a total of more than 2.5 million employees, including 118,000 pharmacists. They fill more than 2.5 billion prescriptions yearly, and have annual sales of over \$750 billion. For more information about NACDS, visit **[www.NACDS.org](http://www.NACDS.org)**.

The National Community Pharmacists Association, founded in 1898, represents the nation's community pharmacists, including the owners of more than 23,000 pharmacies. The nation's independent pharmacies, independent pharmacy franchises, and independent chains dispense nearly half of the nation's retail prescription medicines. To learn more go to [www.ncpanet.org](http://www.ncpanet.org).

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