



News Releases

NACDS Expresses Opposition to Court's Approval of First DataBank-Medi-Span Final Settlements

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March 17, 2009

Alexandria, Va. – Today the National Association of Chain Drug Stores (NACDS) expressed its opposition to court approval of the final settlements in the First DataBank and Medi-Span lawsuits.

The ruling by Judge Patti B. Saris of the United States District Court for the District of Massachusetts will reduce the average wholesale prices (AWPs) used to set pharmacy reimbursement rates to 120% of wholesale acquisition cost (WAC). First DataBank and Medi-Span have also announced that they will eventually stop publishing AWPs, which are used as a prescription drug pricing benchmark.

NACDS and the Food Marketing Institute (FMI) previously filed a legal brief to counter the proposed settlements that included an economic analysis, detailing the numerous ways in which the cost savings and impact of the settlements were based on inaccurate economic analysis and would unfairly hurt retail pharmacies. The AWP reductions will cut Medicaid reimbursement by about \$68 million each year. In addition, pharmacies that are unable to renegotiate their private sector reimbursement contracts will face a net 4 percent reduction in AWP-based reimbursement.

In January 2008, Judge Saris initially rejected the first set of proposed settlements, revealing a confirmation that they would disproportionately impact retail pharmacies, as argued by NACDS and FMI. The court indicated that it would eventually approve new litigation settlements that reduced a smaller number of AWPs.

"NACDS opposed the settlements, and we appreciate that the court prevented the settlements from moving forward initially," said NACDS President & CEO Steven C. Anderson, IOM, CAE. "However, these new, approved settlements unduly and inappropriately penalize pharmacies, as well as patients if pharmacies are forced to close or alter their business practices."

"We are currently engaging with our members to determine next steps regarding the ruling and will determine the course of action that best represents pharmacy for the benefit of the patients," said Anderson.

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