

## ACP\*CN Media Release

### **CMS ASSAULTS NEIGHBORHOOD PHARMACIES WITH NEW RULE CUTTING REIMBURSEMENTS FOR GENERIC MEDICAID DRUGS**

*New Rule Issued Threatens Patient Access to Community Pharmacies, as Pharmacies May Be Forced to Drop Medicaid or Close Stores*

Washington, DC-July 9, 2007—Patient access to their neighborhood pharmacist is under assault, as the country's healthcare delivery system teeters on the edge of destruction. The Association of Community Pharmacists Congressional Network (ACP\*CN) is dumbfounded by the Centers for Medicare and Medicaid (CMS) economic attack on independent pharmacies with its new rule to reduce Medicaid reimbursements states pay to pharmacies for generic drugs.

"This ill-conceived rule issued by CMS leaves pharmacies in the dark about how under-reimbursed they will be for generic Medicaid Drugs. The new rule issued July 6th, fails to provide a clear definition of Average Manufacturers Price (AMP), the basis used by states to calculate the Medicaid generic drug reimbursement rate for pharmacies, leaving us to believe the methodology used distorts what pharmacies pay for generic drugs, remarked Mike James, Vice President Governmental Affairs, ACP\*CN.

"Sadly, this latest development combined with the already severe under-reimbursement independent pharmacies receive from Pharmacy Benefit Managers (PBMs) for Medicare D drugs may threaten patient access to medication services by bringing financial ruin to the corner drug store," added James.

CMS oversees Medicaid, a federal and state funded health program for the poor, under which the federal government pays states matching funds for every dollar a state spends on Medicaid. CMS' distorted new rule bases Medicaid reimbursement payments to pharmacies for generic drugs on Average Manufacturer Price (AMP), the price drug manufacturers sell pills to wholesalers who then sell the drugs to pharmacies. AMP has never been used before as a basis for pharmacy reimbursement. Furthermore, the methodology used by CMS to define Average Manufacturer Price was flawed and does not accurately reflect the price a retail pharmacy pays for a generic drug.

In its press release, CMS states "the new payment calculations could result in some reduction in drug-related payments to pharmacies." To arrive at the new AMP, CMS seems to have incorporated prices paid for drugs by different types of purchasers, such as pharmacy benefit managers (PBM) owned mail-order pharmacies, who receive huge discounts on drugs that community pharmacies do not. The new Federal Upper Limit FUL, the maximum amount states can pay pharmacies for generic Medicaid drugs will be based on 250% of the lowest Average Manufacturer Price (AMP).

"The problem is the new AMP definition unfairly assumes retail pharmacies both big and small get the same discounts as these bigger purchasers which just isn't true. It is unfair for CMS to use these discounts on drugs received by other purchasers to establish AMP when independents don't have access to the same price," noted James.

Previously, the Federal Upper Limit (FUL) a state could reimburse pharmacies for Medicaid generic drugs was based on Average Wholesale Price (AWP), the price

the pharmacy pays the drug wholesaler for the drugs. The FUL was set at 150% of the published price for the cheapest drug in that therapeutic category that can be purchased by a pharmacy in quantities of 100 pills. The 150% is to ensure a sufficient range of sources from which pharmacists could purchase drugs.

A June 2007 Office of Inspector General report from the Department of Health and Human Services, concluded CMS' proposed new AMP formula will under-reimburse pharmacies for generic Medicaid drugs. It found that pharmacy acquisition costs for 19 of the highest cost generic drugs would be higher than the new reimbursement amount, resulting in pharmacies dispensing prescriptions at a loss. Another 2006 GAO study concluded the new AMP would on average reimburse pharmacies 36% lower than their acquisition costs for generic Medicaid drugs.

This devastating new rule was part of the Deficit Reduction Act of 2005, mandating Centers for Medicare and Medicaid Services (CMS) reduce federal and state Medicaid costs \$8.4 billion over the next 5 years. More than 90% of the cuts will be borne on the backs of community pharmacy as a result of the new AMP that cuts Medicaid reimbursement to pharmacies for generic drugs.

Under the new guidelines, neighborhood pharmacies will be reimbursed by state Medicaid programs below the costs at which they can purchase most generic drugs. In effect pharmacies will be losing money on every generic Medicaid drug they dispense. As a result, the new rule could have the perverse effect of forcing pharmacies to dispense higher priced brand name drugs, drop Medicaid or go out of business due to the low reimbursement. Medicaid costs will likely increase due to increased emergency room visits because Medicaid patients can't find pharmacy providers to fill their prescriptions. Either way, the patient loses.