

NEWS RELEASE

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CONTACT:

Lisa Camooso Miller / John Norton
(703) 683-8200

lisa.miller@ncpanet.org / john.norton@ncpanet.org

Interim Final Rule Development is Step in Right Direction in Lawsuit to Block Pharmacy Reimbursement Cuts

CMS Acknowledges Legal Concerns with Definition of 'Multiple Source Drug'

ALEXANDRIA, Va. (Mar. 14, 2008) — The following is a statement by National Community Pharmacists Association (NCPA) CEO & Executive Vice President Bruce Roberts, R.Ph. and National Association of Chain Drug Stores (NACDS) President & CEO, Steven C. Anderson, IOM, CAE, upon the release of an interim final rule to redefine a 'multiple source drug':

"NCPA and NACDS are pleased that the Centers for Medicare & Medicaid Services (CMS) have acknowledged serious legal concerns about the agency's definition of 'multiple source drug.' CMS acknowledges that it revised the definition in response to our lawsuit, which challenged the definition of multiple source drugs contained in the original rule July 17, 2007. We are reviewing the proposed revised rule to ensure that CMS will in fact comply with the Medicaid statute. If we determine that the revised rule does not comply with the statute we may need to raise the issue with the federal court that has jurisdiction over our ongoing lawsuit.

"It is important to note that this revised rule does not eliminate the lawsuit filed by NCPA and NACDS in November of 2007 to block the average manufacturers price (AMP) rule, which would drastically cut reimbursement payments to community pharmacies that serve disadvantaged Americans in the Medicaid program. The December 19, 2007 injunction against the AMP rule remains in place.

"This rule does not address two other major arguments in the lawsuit: 1) the AMP rule does not comply with the Social Security Act's definition of AMP; and 2) the AMP rule improperly applies federal upper limits on reimbursement to non-equivalent drug products.

"While we are hopeful for continued success in court, NCPA and NACDS will continue to encourage Congress to work with pharmacy to find more appropriate models for pharmacy reimbursement for generics under Medicaid."

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.

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