



September 18, 2009

The Honorable Harry Reid
Majority Leader
United States Senate

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives

The Honorable Mitch McConnell
Minority Leader
United States Senate

The Honorable John Boehner
Minority Leader
U.S. House of Representatives

To the Bipartisan Congressional Leadership:

As Congress returns to the important task of developing a health care reform proposal this month, the undersigned organizations urge you to take steps to prevent potentially devastating cuts to pharmacy reimbursement in Medicaid and to permanently reform this payment system to ensure low income Americans maintain access to neighborhood pharmacies, the services of professional pharmacists and cost effective generic medicines.

As you know, the Average Manufacturer Price (AMP) reimbursement system for generic drugs in Medicaid was created under the Deficit Reduction Act of 2005 (DRA). If fully implemented, this law will result in unsustainable cuts to pharmacy reimbursement, distortions in the prescription drug marketplace, and most important, could very well curtail patient access to pharmacies and cost effective generic drugs. According to government studies, AMP-based payments would reimburse pharmacies on average one third below what it costs them to purchase many generic medications. Other studies indicate that as much as 20% of all pharmacies could be forced to close their doors if these cuts are instituted. Clearly, such consequences would reduce access to pharmacy services and cost effective prescription medicines.

Understanding the potential for these grave consequences, Congress approved a moratorium of the AMP cuts under the Medicare Improvements for Patients and Providers Act (MIPPA) of 2008. However, because the moratorium expires September 30, 2009, we urge Congress to take whatever actions are needed to prevent the Centers for Medicare and Medicaid Services from implementing these cuts once the moratorium expires. Both the Senate Finance Committee and House Energy and Commerce Committee have clearly indicated they intend to rewrite the law governing generic drug reimbursement in Medicaid and have included such measures in their respective health care reform drafts. It would be a mistake for CMS to implement a law that the Congress clearly wishes to reform.

With regard to those reform efforts, the coalition appreciates that both the House health reform bill (H.R. 3200) and the Senate Finance Committee's health reform measure include provisions to address Medicaid AMP. However, to fully ensure appropriate reimbursement for generic drugs, we urge you to consider two important issues.

First, while H.R. 3200 makes several important improvements to the definition of "average manufacturers' price," additional changes are needed to ensure that it more accurately approximates pharmacy acquisition costs. Specifically, sales of certain drugs to hospitals, physicians, and clinics remain part of the AMP definition under the House bill. Clearly, these entities are not part of the retail pharmacy class of trade, and inclusion of sales to these groups skews the AMP reimbursement benchmark downward. Therefore, these sales should be removed from the AMP definition under any final bill.

Second, it is extremely important to ensure that the appropriate "multiplier" is used to set the Federal Upper Limits for generic drug reimbursement. Keeping in mind that Medicaid dispensing fees set by the states reimburse pharmacies well below their actual costs to dispense, a multiplier that is too low will result in insufficient total reimbursement to pharmacies for dispensing generics. While the Senate multiplier of 175% is preferable to the House multiplier of 130%, the coalition is reserving judgment on a specific multiplier until additional analysis makes clear that whatever multiplier is used, it assures a reimbursement level that promotes the dispensing of generics and is adequate for pharmacies to care for Medicaid patients. In addition, the original Finance Committee "framework" document included language that assured the Federal government would be willing to provide its matching rate at "no less than" the 175% level. This language would allow CMS the flexibility to increase the FUL for certain products when appropriate, and we would respectfully request that this language be reinserted into the final bill. Finally, we would note that in the 110th Congress, the coalition supported the Fair Medicaid Drug Payment Act, (S.1951 and H.R.3700) by Senator Max Baucus and Representative Frank Pallone, which proposed a multiplier of 300%.

Finally, the DRA required the posting of AMPs for brand and generic drugs on a public website. Since AMP is intended to reflect the prices that wholesalers pay manufacturers for drugs bound for the retail class of trade, any such data posted would be of little use to the public and has the potential to be confusing to consumers. While it is important to maintain the appropriate reporting of AMP data to CMS, public posting of confusing information does not meet that goal and any final legislation must avoid this risk.

We understand you are considering many significant health policy issues at this time. None, however, are more important than protecting Americans' access to affordable medications, their local pharmacies, and professional pharmacist services. As Congress moves forward to negotiate health care reform legislation, we urge you to prevent the devastating reimbursement cuts that DRA would impose, and to enact a workable reimbursement system that encourages the dispensing of cost saving generic medications. The issue is of such importance that we urge Congress to address it this year, regardless of whether a health reform bill passes or not. We deeply appreciate your attention to this issue thus far, and respectfully request that you adopt the recommendations requested in this letter. We stand ready to assist you in any way we can.

Sincerely,

**American Pharmacists Association
Food Marketing Institute
Healthcare Distribution Management Association
National Association of Chain Drug Stores
National Alliance of State Pharmacy Associations
National Community Pharmacists Association
Pharmaceutical Care Management Association**

CC: The Honorable Max Baucus, Chairman, Senate Finance Committee
The Honorable Chuck Grassley, Ranking Member, Senate Finance Committee
The Honorable Henry Waxman, Chairman, House Energy and Commerce Committee
The Honorable Joe Barton, Ranking Member, House Energy and Commerce Committee
The Honorable Frank Pallone, Chairman, House Energy and Commerce Subcommittee on Health
The Honorable Nathan Deal, Ranking Member, House Energy and Commerce Subcommittee on Health