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December 14, 2007

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## **Initial Victory for NACDS, NCPA in Lawsuit to Protect Low-Income Patients' Access to Medications**

*Judge Grants Injunction Preventing CMS from Implementing Reimbursement Cuts, Posting Flawed AMP Data*

**Alexandria, Va.** - The National Association of Chain Drug Stores (NACDS) and the National Community Pharmacists Association (NCPA) received an initial victory in their legal strategy to prevent Medicaid pharmacy reimbursement cuts. On the preliminary injunction motion filed by the groups on November 15, the *United States District Court for the District of Columbia* put the brakes on efforts by the Centers for Medicare and Medicaid Services (CMS) to impose Medicaid pharmacy reimbursement reductions scheduled to be implemented next month, and hamper access for low-income patients' to medications.

Judge Royce Lamberth ruled today that CMS will not be permitted to post data on the Internet related to the average manufacturer price (AMP) of generic pharmaceuticals. Nor will Medicaid reimbursement cuts take effect before Judge Lamberth has had an opportunity to fully review and make a final decision the merits of the lawsuit.

NACDS and NCPA filed a lawsuit against CMS and the U.S. Department of Health and Human Services, as well as, in their official capacities, Health and Human Services Secretary Michael O. Leavitt and CMS Acting Administrator Kerry Weems on November 7, 2007.

"We are very pleased that Judge Lamberth's ruling was not only fair, but positive for the community pharmacy industry," said NCPA CEO and Executive Vice President Bruce Roberts, R.Ph. and NACDS President and CEO Steven C. Anderson, IOM, CAE in a joint reaction to the preliminary injunction. "We cannot emphasize enough how these Medicaid cuts would hurt low-income patients who may have difficulty accessing their prescription medications in the nation's pharmacies."

In a recent report, Stephen W. Schondelmeyer, Pharm.D., Ph.D., director of the PRIME Institute at the University of Minnesota, provided dire warnings about the effects of the cuts. Dr. Schondelmeyer indicated the retail pharmacy industry could see a loss of 10,000-12,000 pharmacies - a vast majority of which would be pharmacies in rural or inner city urban areas - over the next few years. As frontline health care providers, Americans rely on their retail pharmacies for medications and health information. The potential loss of a large number of pharmacies nationwide impacts not only Medicaid

patients, but all patients who rely on their pharmacies for prescription and health care services.

He also indicated the dangers of publishing flawed data. “In general, transparency of price information is usually a good thing for consumers and for the market. However, when disclosed information is complex, confusing, or even inaccurate the transparency loses its value or even becomes counterproductive,” he said.

The next step in the legal process is a final ruling by Judge Lamberth on the merits of the lawsuit. Until that time, the AMP rule put forth by CMS will not take effect.

NCPA and NACDS remain vigilant in pushing for a legislative solution. “Only new legislation can completely eliminate the severe damage to community pharmacies and ensure that patients continue to have access to their prescription medications,” Roberts and Anderson said.

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