



October 6, 2009

The Honorable Harry Reid  
Majority Leader  
United States Senate  
Washington, DC 20510

The Honorable Max Baucus  
Chairman  
Senate Finance Committee  
United States Senate  
Washington, DC 20510

The Honorable Tom Harkin  
Chairman, Health Education Labor and Pensions Committee  
United States Senate  
Washington, DC 20510

Dear Senators Reid, Baucus and Harkin:

413 North Lee Street  
P.O. Box 1417-D49  
Alexandria, Virginia  
22313-1480

As the Senate merges the Health, Education, Labor and Pensions (HELP) Committee and Finance Committee healthcare reform bills, the National Association of Chain Drug Stores (NACDS) is writing to provide you with our thoughts on several provisions of importance to chain pharmacy and the patients we serve.

NACDS represents traditional drug stores, supermarkets, and mass merchants with pharmacies. Its more than 170 chain member companies include regional chains with a minimum of four stores to national companies. Chains operate more than 39,000 pharmacies, and employ a total of more than 2.5 million employees, including 118,000 pharmacists. They fill more than 2.5 billion prescriptions yearly, and have annual sales of over \$750 billion.

The NACDS membership identified several key priorities for healthcare reform, and the Senate legislative proposals include many of them. Most notably, the bills reform Medicaid pharmacy reimbursement for generic drugs, help to maintain access to durable medical equipment for Medicare beneficiaries, and expand the use of medication therapy management in our healthcare delivery system.

We appreciate the inclusion of these provisions, and believe that they are critical components of any healthcare reform legislation. In addition, we would like to use this opportunity to share with you some suggestions on how to structure a public plan option.

(703) 549-3001

Fax (703) 836-4869

[www.nacds.org](http://www.nacds.org)

While NACDS has not taken a position on whether or not a reformed healthcare system should include a public option, if the Senate elects to move forward with this approach, we do believe it should incorporate several key policy provisions.

***Medicaid Reform:*** We applaud the inclusion in the Senate Finance Committee bill of changes to pharmacy reimbursement for generic drugs in the Medicaid program. As you know, the Deficit Reduction Act of 2005 (DRA) made drastic cuts to pharmacy reimbursement, threatening patient access and eliminating incentives to dispense generic medication.

We believe the Senate Finance Committee bill makes significant improvements to the flawed reimbursement system created by the DRA, taking steps to define average manufacturer price (AMP) in a manner that will result in a more accurate approximation of retail pharmacy's acquisition costs. The legislation also proposes moving from lowest AMP to weighted average AMP to set federal upper limits (FULs), a much needed improvement that takes into account the wide range of market prices for generic drugs.

We are grateful for these important changes, as they will reform Medicaid pharmacy reimbursement in several critical areas. However, we strongly urge improvements in two additional areas: the AMP multiplier, and the provision pertaining to public posting.

We remain concerned about the 175% multiplier in the legislation. Keeping in mind dispensing fees that reimburse pharmacies well below their costs to dispense, this multiplier could result in insufficient reimbursement to pharmacies for dispensing generic drugs in the Medicaid program. We are concerned that this reimbursement will end the incentives to dispense generic medications, which are so critical to reducing prescription drug expenditures in the Medicaid program. We are continuing to analyze the potential impact this multiplier would have on access to pharmacies and we are hopeful that we will be able to work with you to make appropriate adjustments before a final bill is sent to conference with the House.

NACDS appreciates the Senate Finance Committee's decision to modify the DRA requirement to post brand and generic AMPs on a public website. The Committee rightfully recognized that this provision of DRA does not meet the goal of greater transparency in prescription drug pricing. Instead, it would only result in the posting of flawed and inaccurate data. Before any AMP data are publicly posted, it is critical that AMP is defined accurately. When AMPs are collected based on an accurate definition, NACDS supports the public posting of a weighted average AMP. We believe the posting of this benchmark provides the necessary information to consumers and payers, and that the posting of additional benchmarks, such as retail survey price, is unnecessary.

We are committed to continuing to work with the Senate to create a pharmacy reimbursement system that results in fair and accurate reimbursement to pharmacies, assists in controlling prescription drug costs, and encourages generic utilization in the Medicaid program.

***Access to DME Supplies and Services:*** Many Medicare beneficiaries rely on their community pharmacy for durable medical equipment (DME), such as diabetes testing supplies and monitors, in addition to prescription medications. The ability of Medicare beneficiaries to obtain prescription drugs and diabetes supplies at the same location assists with efforts to coordinate care, and encourages patients to adhere to their medications and monitor chronic conditions. We applaud the Senate Finance Committee's inclusion of a limited exemption for pharmacies from Medicare Part B accreditation requirements. These requirements have proven to be overwhelming for many pharmacies, and without this exemption, beneficiary access to these supplies and services may be threatened.

In addition, we encourage the Senate to consider modifications to the requirement that pharmacies obtain a \$50,000 surety bond per location to continue to provide Part B prescription drugs and DME products to Medicare beneficiaries. While we support efforts to curb fraud, waste, and abuse in the Medicare program, to require pharmacies with numerous locations to obtain bonds in amounts that far exceed their total Medicare Part B billings seems excessive, and represents a significant burden and expense.

***Expanding Access to Medication Therapy Management:*** Highly accessible and our healthcare system's medication experts, community pharmacists have an invaluable role in a reformed healthcare delivery system. Professional services provided by pharmacists help to ensure the safety and effectiveness of patients' medication therapy. NACDS has endorsed H.R. 3108, "The Medication Therapy Management Benefits Act of 2009" which strengthens the Medicare Part D medication therapy management (MTM) benefit. We believe that healthcare reform efforts provide an ideal opportunity to ensure that Medicare Part D beneficiaries with chronic conditions and multiple medications have access to MTM services in a community setting.

We are also supportive of the provisions of the Senate HELP legislation to establish grants for community health teams with MTM services and MTM services in the treatment of chronic disease. We appreciate the recognition of this important service in the HELP Committee legislation's medical home pilot project. We are further encouraged by the Finance Committee's inclusion of utilization of MTM as a testing criterion in the CMS Innovation Center, recognition of the importance of a comprehensive medication review as a tool to prevent hospital readmissions, and the potential for Medicare Advantage plans to receive bonus payments for care coordination which includes MTM.

The numerous inclusions of MTM in both the HELP and Finance bills is a clear indication that the Senate has recognized the value of MTM in improving patient health and controlling healthcare costs. Since MTM is already a component of the Medicare Part D program, we believe improving and strengthening this benefit is a top priority. We urge the Senate to adopt the improvements contained in H.R. 3108, which would help standardize and increase access to the MTM benefit in Medicare Part D. In addition, we support the aforementioned provisions in both the HELP and Finance Committee legislation to expand the use of this critical pharmacist-provided service.

**Public Plan Provider Reimbursement:** Finally, while NACDS has not taken a position at this time on whether or not a public option should be part of a reformed healthcare delivery system, should healthcare reform legislation include a public plan option, we urge the Senate to be mindful of the importance of fair and accurate reimbursement for providers. The Senate HELP Committee bill allows the HHS Secretary to negotiate rates for healthcare providers. We are concerned that this could result in insufficient national or regional pharmacy reimbursement rates. These insufficient rates could discourage participation by pharmacies, possibly compromising access to prescription drugs and pharmacy services.

We urge Congress to be mindful that there are two components of pharmacy reimbursement – product reimbursement as well as a dispensing fee – to cover the costs of dispensing a medication. A national study conducted by the accounting firm Grant Thornton found that the actual cost to dispense is approximately \$10.50. In order to create a robust pharmacy network for public plan beneficiaries, fair and accurate reimbursement for product cost as well as the cost to dispense is critical.

NACDS appreciates your efforts to improve our nation's healthcare system and shares the goal of reforming the healthcare system to reduce costs, improve quality, and increase access. We are committed to advancing healthcare reform legislation that meets the needs of our member companies and the patients they serve. We look forward to working with you in the weeks and months ahead to make the necessary reforms to our nation's healthcare system. Should you have any questions, please contact Paul T. Kelly, Vice President, Federal Government Affairs

Sincerely,



Steven C. Anderson, IOM, CAE  
President and Chief Executive Officer

CC.

The Honorable Christopher Dodd, Chairman, Subcommittee on Children and Families,  
Senate Health Education Labor and Pensions Committee  
The Honorable Mitch McConnell, Senate Minority Leader  
The Honorable Charles E. Grassley, Ranking Member Senate Finance Committee  
The Honorable Michael Enzi, Ranking Member, Senate Health Education Labor and  
Pensions Committee