

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

March 4, 2008

The Honorable Harry Reid  
Majority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable Nancy Pelosi  
Speaker  
United States House of Representatives  
Washington, D.C. 20515

The Honorable Mitch McConnell  
Minority Leader  
United States Senate  
Washington, D.C. 20510

The Honorable John Boehner  
Minority Leader  
United States House of Representatives  
Washington, D.C. 20515

To the Bipartisan Congressional Leadership:

413 North Lee Street  
Alexandria, Virginia  
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The National Association of Chain Drug Stores (NACDS) urges Congress to enact “The Fair Medicaid Drug Payment Act” (S. 1951 and H.R. 3700). Enactment of this legislation is necessary to prevent billions of dollars in reimbursement cuts to the Medicaid program. Such cuts in reimbursement could result in low-income Americans across the nation losing access to the medications they need from local pharmacies whose businesses are unable to bear such devastating reductions. We urge Congress to support pharmacies and Medicaid beneficiaries by making passage of this legislation a top priority for this legislative session.

NACDS represents the nation’s leading retail chain pharmacies and suppliers, helping them better meet the changing needs of their patients and customers. Chain pharmacies operate more than 38,000 pharmacies, employ 114,000 pharmacists, fill over 70 percent of the over 3.4 billion prescriptions dispensed annually in the United States, and are a major provider of pharmacy services to Medicaid beneficiaries.

The Deficit Reduction Act (DRA) of 2005 and implementing regulations by the Centers for Medicare & Medicaid Services (CMS) made significant cuts to Medicaid pharmacy reimbursement for generic drugs, which were scheduled to take effect in late January 2008. The DRA and implementing regulations also required CMS to make public the benchmarks used to set the drastically low reimbursement for generic drugs, thus making it available for use by other payers as well. However, on December 19, 2007, a federal district court intervened, imposing a preliminary injunction on the implementation of the regulations stating that such aggressive cuts in reimbursement would cause “irreparable harm” to pharmacies as well as Medicaid beneficiaries who “may find access to their retail community pharmacies reduced or eliminated.”

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While the pharmacy industry realized a major victory in the intervention by the federal district court judge, the devastating cuts to Medicaid reimbursement of generic drugs continue to loom over the retail pharmacy industry. The preliminary injunction only delays the decrease in Medicaid reimbursement to pharmacies for generic drugs and does not provide a permanent solution. The Fair Medicaid Drug Payment Act, if enacted, would change the law to ensure the fair reimbursement of pharmacy providers and continued beneficiary access to pharmacy services. We cannot over-emphasize how necessary it is for Congress to address this issue in this legislative session by enacting “The Fair Medicaid Drug Payment Act.”

It has been estimated that the CMS-proposed cuts to generic drug reimbursement would result in Medicaid payments to pharmacies being slashed by more than \$8.4 billion over five years. This represents a 78% reduction in reimbursement which could result in the closing of up to 12,000 pharmacies, according to sworn court testimony by a nationally renowned pharmacoeconomics expert.

In addition, a report by the Government Accountability Office (GAO) stated that, on average, the reimbursement for many generic drug products will be one-third or more below what it costs pharmacies to purchase these drugs. No health care provider should be asked to provide services at a loss. Furthermore, to cut reimbursement of generic drugs, the most cost effective medications available, is illogical and would result in an economic disincentive for dispensing generic drugs and higher costs to the Medicaid program, an unintended effect of DRA.

The Fair Medicaid Drug Payment Act of 2007 (S. 1951/H.R. 3700) supports the use of generic drugs and continued beneficiary access to Medicaid pharmacy services. It creates a fair and reasonable benchmark for Medicaid pharmacy reimbursement for generic prescription drugs by redefining “average manufacturer price” (AMP) to exclude prices that do not represent prices paid by retail pharmacy, better reflecting the true drug acquisition costs in community retail pharmacies. The legislation also increases the percentage of the average manufacturer price used and applies a weighted average AMP instead of the lowest AMP to set reimbursement. It restores the delay of calculating “federal upper limits” (FULs) to set reimbursement for generics until there are three or more (rather than two or more) equivalent drug products on the market, as had been the practice prior to the DRA. Finally, it eliminates the public posting of drug pricing data by CMS, allowing CMS to share the data with State Medicaid agencies only.

Medicaid beneficiaries deserve access to the cost-effective medications dispensed at their corner pharmacy, but pharmacies may be unable to effectively provide those prescription drugs at the reimbursement levels currently set under the DRA. The preliminary injunction has provided Congress a temporary window of opportunity to intervene on behalf of pharmacies for a permanent solution. Therefore, we urge

Congress to pass the Fair Medicaid Drug Payment Act before adjourning for the year.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven C. Anderson". The signature is fluid and cursive, with a long horizontal stroke at the end.

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

Cc: The Honorable Max Baucus, Chairman, Senate Finance Committee

The Honorable Frank Pallone, Chairman, House Committee on Energy and  
Commerce, Subcommittee on Health