



NATIONAL ASSOCIATION OF  
CHAIN DRUG STORES



NATIONAL COMMUNITY  
PHARMACISTS ASSOCIATION



MINNESOTA PHARMACISTS ASSOCIATION



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Minnesota Retailers Association

# NewsRelease

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## **Pharmacy Groups File Suit in Minnesota over Unlawful Medicaid Cuts, Citing Failure to Assure Medicaid Patient Access, Quality of Care**

*Say decisions in MN not to preserve pharmacy Medicaid reimbursement in light of reductions in published average wholesale prices violates federal and state laws*

**Alexandria, VA** – The state of Minnesota has not met its legal requirements to assure Medicaid patients receive access and quality of care at least equal to patients in the general public, according to a lawsuit filed in federal courts today by the National Association of Chain Drug Stores (NACDS), the National Community Pharmacists Association (NCPA), the Minnesota Pharmacists Association, the Minnesota Retailers Association and numerous businesses.

When First DataBank and Medi-Span reduced the published drug-cost benchmark known as “average wholesale price” (AWP) on September 26, the *Social Security Act* required states to adjust reimbursement as a result of these reductions. The lawsuits challenge the states’ failure to take action to prevent pharmacies from being reimbursed at below cost for prescription drugs under state Medicaid programs. Pharmacy reimbursement at below cost may result in pharmacies leaving the Medicaid program to maintain their business’ viability, reducing hours and services, or closing altogether, thereby threatening Medicaid beneficiary care and access. The AWP reductions arise from the settlements coming out of the First DataBank and Medi-Span fraud and conspiracy lawsuits.

In addition to violating the *Social Security Act*, the pharmacy organizations also maintain that states must obtain approval by the Centers for Medicare & Medicaid Services for changes to reimbursement, and that the cuts resulting from the AWP reductions were not approved as required. Also, these cuts run contrary to the states’ certifications that current reimbursement is the states’ best estimate of actual acquisition cost, as required by federal law. The plaintiffs also raised some state-specific claims.

“Pharmacies provide vital medications and services to Medicaid patients that improve and save lives, and help prevent higher long-term healthcare costs. Some private payers and some states already have taken action to adjust reimbursements appropriately, to maintain the quality and accessibility of

pharmacy patient care and its benefits. Federal Medicaid law obligates the states, including Minnesota, to do the same,” said NACDS President and Chief Executive Officer Steven C. Anderson, IOM, CAE.

“The failure to act by Minnesota has produced a perverse outcome whereby underserved patients who need access to health care the most, will get it the least,” said NCPA Executive Vice President and CEO Bruce T. Roberts, RPh. “Independent community pharmacies frequently serve urban or rural areas where a disproportionate share of Medicaid beneficiaries live. In some of these communities, the pharmacy is the only health care provider for miles around. Left unchecked, these unfair cuts could push some community pharmacies to the breaking point. Even in tough budget times, the reductions are short-sighted. Faced with diminished pharmacy access, Medicaid patients will turn to more expensive doctor’s offices or emergency rooms – driving up costs to the state.”

“MPhA is deeply disappointed in the decision of the Department of Human Services to not exercise its authority and responsibility to assist pharmacies in what will be a devastating blow to their ability to provide services to their patients,” said Julie K. Johnson, Pharm.D., Executive Vice President and CEO, Minnesota Pharmacists Association.

“The pharmacy members of the Minnesota Retailers Association have had a long and positive working relationship with the Department of Human Services. Our Association joins this lawsuit not as a first option but as our only option,” said Bruce W. “Buzz” Anderson, President, Minnesota Retailers Association.

Yesterday, NACDS, NCPA, other state-based associations and pharmacies filed similar lawsuits in California, New York and Washington.

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*The National Association of Chain Drug Stores (NACDS) represents traditional drug stores, supermarkets, and mass merchants with pharmacies. Its more than 160 chain member companies include regional chains with a minimum of four stores to national companies. NACDS members also include more than 1,000 suppliers of pharmacy and front-end products, and 85 international members representing 28 countries. Chains operate 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. For more information about NACDS, visit [www.NACDS.org](http://www.NACDS.org).*

*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](http://www.ncpanet.org).*

***Pharmacies. The face of neighborhood healthcare.***