



FOR IMMEDIATE RELEASE
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NACDS, WSPA, NCPA Sue Washington State to Stop Unlawful Medicaid Rule That Threatens Patient Care

In violation of law, state plan would reimburse pharmacies below the actual cost of dispensing prescriptions to Medicaid patients

Olympia, WA – The National Association of Chain Drug Stores (NACDS), the Washington State Pharmacy Association (WSPA), and the National Community Pharmacists Association (NCPA) today sued the State of Washington to stop a “substantively and procedurally flawed” rule that would pay pharmacies below the actual cost to dispense Medicaid prescriptions. The rule would jeopardize reliable patient access to medications responsible for ensuring patient health and preventing more costly forms of care that result from untreated conditions.

“This Motion seeks to halt further reimbursement cuts until such time as the State properly implements Medicaid reimbursement rates that cover the actual costs that pharmacies incur when they serve Medicaid patients, as required by law,” wrote NACDS, WSPA and NCPA in a Motion filed today in the Superior Court of Washington, Thurston County.

At issue is a rule (WSR 17-07-001) by the Washington State Health Care Authority that changes the basis by which the agency determines pharmacies’ cost of acquiring pharmaceuticals, thus reducing reimbursement to pharmacies for medications dispensed to Medicaid patients. Contrary to a federal rule by the U.S. Department of Health and Human Services’ Centers for Medicare & Medicaid Services, the Washington State rule does not make required adjustments to account for another aspect of pharmacies’ costs– the “professional dispensing fee.”

The professional dispensing fee must cover actual costs to safely fill the prescription such as the pharmacist’s professional services. The current dispensing fee in Washington State is significantly lower than the cost of dispensing identified in studies conducted by other states and experts. For example, an independent study commissioned by NACDS and NCPA found that the cost of dispensing in Washington

State is more than double the proposed professional dispensing fee for Medicaid prescriptions in Washington State's new rule.

In addition to failing to adjust professional dispensing fees, as required by federal law, the State also violated rulemaking procedures. The State informed pharmacies after the formal comment period, and after it issued the final rule, that dispensing fees would not be adjusted. As a result, pharmacy did not have an adequate opportunity to comment on this matter, as required by the State's Administrative Procedure Act.

"The State's new rule is both substantively and procedurally flawed," the groups summarized in their motion. "First, it should be stayed because it constitutes arbitrary and capricious agency action that violates federal law. Second, it should be stayed because the State failed to follow the clear procedural directives that apply when amending a rule."

It is notable that the Medicaid pharmacy benefit is valued highly among Washington State residents. In a survey conducted by *Morning Consult* and commissioned by NACDS in March 2017, 80% of registered voters in Washington State indicated their belief that pharmacy benefits should be covered under Medicaid. Residents of Washington State also appreciate the accessibility of pharmacies. In the survey, 88% of respondents indicated they consider it easy to access pharmacies – the highest accessibility among providers tested (pharmacies, doctors, emergency room, nurses, primary care physicians, and specialist physicians).

The following documents are available to the media:

- [Petition for Declaratory Relief and Emergency Stay](#)
- [Emergency Motion for Stay](#)

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NACDS represents traditional drug stores, supermarkets and mass merchants with pharmacies. Chains operate 40,000 pharmacies, and NACDS' more than 100 chain member companies include regional chains, with a minimum of four stores, and national companies. Chains employ more than 3.2 million individuals, including 178,000 pharmacists. They fill over 3 billion prescriptions yearly, and help patients use medicines correctly and safely, while offering innovative services that improve patient health and healthcare affordability. NACDS members also include more than 850 supplier partners and over 60 international members representing 21 countries. Please visit nacds.org.

The Washington State Pharmacy Association (WSPA) represents pharmacists, technicians, and interns practicing within community pharmacies, clinics, nursing homes and hospitals. WSPA members provide care to Medicaid patients throughout Washington's urban, rural and underserved communities. Please visit www.wsparx.org.

The National Community Pharmacists Association (NCPA®) represents the interests of America's community pharmacists, including the owners of more than 22,000 independent community pharmacies. Together they represent an \$81.5 billion health care marketplace and employ more than 250,000 individuals on a full or part-time basis. To learn more, go to www.ncpanet.org, visit facebook.com/commpharmacy, or follow NCPA on Twitter [@Commpharmacy](https://twitter.com/Commpharmacy).

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