



July 9, 2009

The Honorable Henry Waxman  
Chairman  
Committee on Energy and Commerce  
U.S. House of Representatives  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Waxman:

The undersigned organizations, representing pharmacy providers and the major stakeholders in the prescription drug supply chain, are writing with respect to the Medicaid AMP provisions contained in the House Health Care Reform Discussion Draft legislation released on June 19, 2009. Our coalition has written to Congress before, most recently on May 1st, in support of the "Fair Medicaid Drug Payment Act" (H.R.3700 and S. 1951), legislation introduced by Representative Frank Pallone and Senator Max Baucus in the last Congress. We continue to believe that the policies reflected in that bill will create the most fair and accurate reimbursement system for generic medicines dispensed to Medicaid recipients.

The coalition deeply appreciates that Section 1841 of the House draft seeks to address this critical issue. We support the language that would base federal upper limits (FULs) for generic drugs using the weighted average AMP rather than the lowest AMP, as required by the Deficit Reduction Act of 2005 (DRA.) Use of the lowest AMP will not reflect the wide range of market prices for generic drugs, where a weighted average AMP will. Using a weighted average ensures that the AMP is an appropriate metric for pharmacy reimbursement.

In addition, we appreciate the provision that will strike the DRA requirement that brand and generic AMPs be posted on a public website. Posting of AMPs is of no real value to either payers or consumers and has the potential to distort the marketplace and reduce incentives for manufacturers to discount drug prices.

However, we respectfully urge the committee to make additional changes to ensure that Medicaid reimbursement policies create the proper incentives for the dispensing of generics and are adequate to ensure that pharmacies can serve their Medicaid patients.

- Average manufacturer price, which will be used as the basis for reimbursement, must be defined accurately. AMP is supposed to represent the average price paid by wholesalers for drugs distributed to the retail class of trade, so it is imperative that this definition exclude rebates, discounts, and sales that are not part of the retail class of trade, i.e., pharmacy benefit manager (PBM) rebates, and sales to physicians, surgical centers, and mental health centers.
- In addition, we are deeply concerned about the 130% multiplier in the draft. The “multiplier” needs to be high enough to ensure reimbursement covers pharmacies’ costs and provides an incentive to dispense low cost generics, which will help save Medicaid money in the long run. Discussion on an appropriate multiplier is difficult to address without first making the necessary corrections described above regarding clarifying the AMP definition. Even so, preliminary analysis suggests the 130% proposed in the draft legislation would not be sufficient to ensure pharmacies are reimbursed adequately.

We urge you to make these important changes during the committee’s consideration of the health reform legislation.

We also wish to stress that it is crucial that this issue be properly addressed before October 1<sup>st</sup> of this year. Without action by then, the DRA-imposed AMP cuts could reduce pharmacy reimbursement by more than 30 percent and pay them one-third below cost for many commonly prescribed generic drugs. This threatens to force the closure of as many as 11,000 pharmacies nationwide, a full 20% of all pharmacies, which would disproportionately hurt low income areas.

We understand you are considering many significant health policy issues at this time. None, however, seem more important than protecting Americans’ access to affordable medications, their local pharmacies, and pharmacist services. As Congress moves forward to negotiate healthcare reform legislation, we urge you to act soon to stop the AMP cuts, and to enact a workable reimbursement system like that proposed in the “Fair Medicaid Drug Payment Act.” We deeply appreciate your attention to this issue thus far, and respectfully request that you adopt the modifications requested in this letter. We stand ready to meet with you or your staff if that would be of assistance to you.

Sincerely,

**American Pharmacists Association  
Food Marketing Institute  
Healthcare Distribution Management Association  
National Alliance of State Pharmacy Associations  
National Association of Chain Drug Stores  
National Community Pharmacists Association  
Pharmaceutical Care Management Association**

cc: Bipartisan House Leadership  
Members of the Energy and Commerce Committee