

FOR IMMEDIATE RELEASE
November 22, 2011

Contact: [Chrissy Kopple](mailto:Chrissy.Kopple@dhcs.ca.gov)
(703) 837-4266

Provider Groups File Lawsuit Against Centers for Medicare & Medicaid Services & California Department of Healthcare Services

Recently approved reimbursement cuts did not follow proper legal channels

Sacramento, Calif. – The California Medical Association (CMA), the California Dental Association (CDA), the California Pharmacists Association (CPhA) and the National Association of Chain Drug Stores (NACDS) joined together to file a lawsuit against California Department of Healthcare Services (DHCS) and the US Department of Health and Human Services. The suit is in response to CMS's recent approval of a ten percent reimbursement rate cut in California's Medicaid program, known as Medi-Cal.

"In late September, the Centers for Medicare & Medicaid Services (CMS) asked DHCS for more information that would substantiate its state plan amendments (SPAs) for cuts in the Medi-Cal program. Without receiving that information, CMS went ahead and approved the cuts before them," Francisco J. Silva, CMA General Counsel and Vice President said. "It is clear that CMS did not follow protocol and applied the wrong legal standard. The approval of the SPAs will have dramatic affects on access to health care for the poorest, most vulnerable Californians."

The California Legislature passed and Governor Brown signed AB 97, which included a 10 percent reimbursement rate cut for physicians, dentists and pharmacists. Federal approval was required before the state can implement its proposed cuts. By law, the state is required to submit underlying documents to CMS clearly documenting that access to care for Medi-Cal patients would not be impacted by the state plan amendments.

The California Dental Association believes this latest attack on the already inadequate Medi-Cal network of dental care will result in further hindrance of dentists' ability to provide appropriate care.

"The state's elimination of adult dental services in 2009 was devastating to low-income Californians. More cuts to children's services are unconscionable," said Dan Davidson, DMD, president of the California Dental Association. "California's vulnerable children deserve better, and we must take a stand against the state's willingness to obstruct their access to care."

The information that CMS relied on to approve the State's cuts do not measure whether and how patients' access to care would be impacted or otherwise take into consideration, as required by law, the costs to provide the care. In fact, [a recent poll and independent studies show](http://www.cmanet.org/files/assets/news/2011/10/medi-cal-access-survey-memo.pdf) (www.cmanet.org/files/assets/news/2011/10/medi-cal-access-survey-memo.pdf) that access to care is already unequal, making the recent cuts illegal by federal standards.

"Provider cuts may satisfy this year's State budget but will ultimately result in greater long-term costs. This case isn't about pharmacist profits; it's about pharmacists being reimbursed less than what they pay for the medication itself, not to mention any consideration for their professional services as a health care provider. Patients are the ones who are going to suffer," said Jon R. Roth, CPhA Chief Executive Officer.

Because California Medi-Cal rates are already extremely low and many prescription medications are reimbursed at breakeven, many providers cannot afford to participate. Kaiser State Health Facts lists California as the [lowest reimbursed state in the nation](http://www.statehealthfacts.org/comparabletable.jsp?typ=4&ind=183&cat=4&sub=47&sortc=5&o=a) (<http://www.statehealthfacts.org/comparabletable.jsp?typ=4&ind=183&cat=4&sub=47&sortc=5&o=a>). The copayments and arbitrary limits on services will create additional barriers for sick, vulnerable patients seeking care and ultimately, they will be forced to delay care or use emergency rooms for basic health services.

"As studies have shown repeatedly, jeopardizing patients' access to community pharmacy services diminishes health and increases the reliance on costly forms of care. These drastic cuts are not in the best interest of patient care, nor are they in the best interest of the state's finances," said NACDS President and

Chief Executive Officer, Steven C. Anderson. "Community pharmacies help to reduce direct drug spending through strategies including utilization of generic medications. They also help to make healthcare more affordable through health-improving services such as medication counseling, vaccinations, education and screenings. These cuts would turn the state's back on innovative and affordable approaches to patient care, and turn the state's back on patients themselves."

The lawsuit was filed with the California Central Federal District Court. The California Hospital Association recently filed a suit on behalf of the Subacute Distinct Part Nursing Facilities that is set to be heard on December 19th.

CMA, CPhA, and CDA successfully sued in the past to enjoin prior Medi-Cal cuts and expect to once again demonstrate that federal law, which ensures that Medi-Cal patients have equal access to health care, was not followed.

###

The National Association of Chain Drug Stores (NACDS) represents traditional drug stores, supermarkets, and mass merchants with pharmacies – from regional chains with four stores to national companies. Chains operate more than 40,000 pharmacies and employ more than 3.5 million employees, including 130,000 pharmacists. They fill over 2.6 billion prescriptions annually, which is more than 72 percent of annual prescriptions in the United States. The total economic impact of all retail stores with pharmacies transcends their \$900 billion in annual sales. Every \$1 spent in these stores creates a ripple effect of \$1.81 in other industries, for a total economic impact of \$1.76 trillion, equal to 12 percent of GDP. For more information about NACDS, visit www.NACDS.org.

Pharmacies. The face of neighborhood healthcare.