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# News Release

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FOR IMMEDIATE RELEASE

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## **N.G.A. Applauds Judge's Decision to Stop AMP Rule**

**Arlington, VA** – In a major victory for the retail pharmacy industry, the National Association of Chain Drug Stores and National Community Pharmacists Association won a preliminary injunction stopping the U.S. Department of Health and Human Services (HHS) and the Centers for Medicare and Medicaid Services (CMS) from implementing the Average Manufacturer Price (AMP) rule scheduled to take effect in January 2008. On December 19, 2007, Judge Royce Lamberth, United States District for District of Columbia, found the associations are likely to succeed on the merits that the government violated the Administrative Procedure Act because the AMP rule does not comply with the statutory definition of “average manufacturer price” or “multiple source drug.” The judge also found thousands of pharmacies are likely to suffer irreparable harm if the rule took effect by being forced into reduced hours and services, out of the Medicaid program, or eventually close their operation.

N.G.A. Senior Vice President and General Counsel Thomas Wenning said, “The legal action taken by the two associations is commendable because of its importance to the entire pharmacy industry, including N.G.A.’s grocery retailers that operate pharmacies. The AMP rule would force the pharmacies to sell Medicaid drugs at 36 percent below acquisition costs. The judge’s decision was consistent with comments N.G.A. had filed with CMS in February 2007 and the House Small Business Committee in July 2007 on the adverse effects and irreparable harm it would cause to retail grocers with pharmacy operations.”

Even though HHS has 60 days to appeal the decision, the judge’s issuance of a preliminary injunction is expected to cause CMS to reconsider the rule. The decision also adds support for the pharmacy associations and N.G.A.’s legislative efforts to pass H.R. 3140, Saving Our Community Pharmacies Act of 2007, and S. 1951, The Fair Medicaid Drug Payment Act of 2007 that would overturn and fix the AMP rule.

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N.G.A. is the national trade association representing the retail and wholesale grocers that comprise the independent sector of the food distribution industry. An independent retailer is a privately owned or controlled food retail company operating a variety of formats. Most independent operators are serviced by wholesale distributors, while others may be partially or fully self-distributing. Some are publicly traded but with controlling shares held by the family and others are employee owned. Independents are the true entrepreneurs of the grocery industry and dedicated to their customers, associates, and communities. N.G.A. members include retail and wholesale grocers, state grocers associations, as well as manufacturers and service suppliers. For more information about N.G.A. and the independent sector of the industry, see the N.G.A. website: [www.nationalgrocers.org](http://www.nationalgrocers.org).