



802 N. Carancahua Street, Suite 1830 ▪ Corpus Christi, TX 78401 ▪ 877-634-5445 ▪ [www.aprx.org](http://www.aprx.org)

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## **APRx SUES HHSC TO PROTECT PHARMACIES' MEDICAID PAYMENTS**

CORPUS CHRISTI — Texas-based American Pharmacies (APRx) Tuesday filed suit against the commissioner of the Texas Health and Human Services Commission (HHSC) in an effort to prevent catastrophic cuts in Medicaid pharmacy reimbursements that are scheduled to take effect March 1 – cuts that threaten to put pharmacies out of business and seriously erode patient access to pharmacy care.

**This lawsuit is brought by APRx on behalf of all community retail pharmacies in Texas to require HHSC Commissioner Tom Suehs to abide by existing federal regulations governing pharmacy payments in the Texas Medicaid program. The suit, filed late Tuesday afternoon (2/14) in U.S. District Court (Western District of Texas, Austin Division) asks the federal judge to order Suehs to require managed care companies to reimburse Texas pharmacies at the rate currently established in the Texas Medicaid Vendor Drug Program and previously approved by federal regulators.** The suit also asks the judge to find that any variance from this reimbursement methodology is a violation of federal law that is preempted by the Supremacy Clause of the U.S. Constitution.

**In two weeks, thousands of pharmacies in Texas will have their compensation for dispensing Medicaid prescriptions slashed far below the level authorized by the federal government – and up to 88% below average pharmacy dispensing costs as determined by HHSC's own cost study in 2010.** This change is a direct result of HHSC regulations governing the managed-care transition that takes effect March 1, and reflects the decision of the HHSC commissioner to allow managed care organizations (MCOs) and their subcontracted prescription benefit managers (PBMs) to arbitrarily set their own drastically low reimbursement rates without any public notice, transparency or approval by federal regulators.

**Federal law requires that the Texas Health and Human Services Commission set the methodology to compensate pharmacies for providing medications to Medicaid patients and abide by that methodology once it is federally approved.** A transparent reimbursement methodology is currently in place, and HHSC's decision to effectively exempt pharmacy claims made through PBMs from this methodology is contrary to federal law.

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**“If these devastating reimbursement cuts are allowed to take effect, the Texas Medicaid pharmacy network will be seriously damaged,” said APRx General Counsel Amanda Gohlke Fields. “Getting paid below the cost of doing business will force many independent and small-chain pharmacies to either close or withdraw from the Vendor Drug Program. If that happens, thousands of Medicaid patients statewide will lose any realistic access to the medications and pharmacist care they need.”**

Noted Texas economist Ray Perryman has testified before the Texas Legislature that managed pharmacy care administered by MCOs or PBMs would cost the Texas economy \$3.1 billion, eliminate 42,923 permanent jobs and shut down 770 Texas pharmacies, most of them independent or small-chain stores.

**“Many of these pharmacies are in small towns or rural areas with limited pharmacy service,” Fields said. “Whatever savings HHSC might have in Medicaid drug costs will be far offset by the resulting economic harm to the state and patients’ reduced access to care.”**

American Pharmacies is a multi-state member-owned buying cooperative for independent pharmacies that is based in Corpus Christi. Founded in 2002, APRx is a leading political and legal advocate for members in Texas, Arkansas, Louisiana, New Mexico, Oklahoma, Missouri, Mississippi and Tennessee. The cooperative has assertively defended fair pharmacy competition and patient rights in a 2010 RICO lawsuit against CVS Caremark and in a July 2011 lawsuit against the U.S. Department of Health & Human Services over anti-competitive pharmacy provider networks.

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**FOR INFORMATION, COMMENTS OR INTERVIEWS, PLEASE CONTACT APRx GENERAL COUNSEL AMANDA GOHLKE FIELDS AT [361-887-4882](tel:361-887-4882) or [afields@aprx.org](mailto:afields@aprx.org).**