Comments of the

AMERICAN PHARMACEUTICAL ASSOCIATION

on

PROPOSED RULEMAKINGS:

- ► Maximum Allowable Cost for Drugs (39 F.R. 40302)
- ► Reimbursement of Drug Costs—Medical Assistance Program (39 F.R. 41480)
- ► Public Health Service Health Services Delivery Programs (40 F.R. 3218)
- ► Federal Health Insurance for the Aged and Disabled (40 F.R. 3219)

February 15, 1975

Pursuant to notice of proposed rulemakings "Maximum Allowable Cost for Drugs" published on November 15, 1974 (39 F.R. 40302); "Reimbursement of Drug Costs—Medical Assistance Program" published on November 27, 1974 (39 F.R. 41480); "Public Health Service Health Services Delivery Programs" published on January 20, 1975 (40 F.R. 3218); and "Federal Health Insurance For the Aged and Disabled" published on January 20, 1975 (40 F.R. 3219); the following comments are offered by the American Pharmaceutical Association.

INTRODUCTION

The American Pharmaceutical Association is the national professional society of pharmacists. Its 52,000 members include practicing pharmacists, pharmaceutical scientists, pharmaceutical educators and pharmacy students. APhA and its membership, which represent every aspect of the pharmacy profession have a vital and continuing interest in the professional, scientific and economic issues raised in these rulemaking proceedings.

On February 1, 1974, testifying before the Health Subcommittee of the Senate Labor and Public Welfare Committee, APhA announced its support for what has become known as the "MAC" policy unveiled before that subcommittee on December 19, 1973 by Secretary Weinberger. This policy has resulted in the promulgation of the referenced proposed regulations. In stating its support for the concepts embodied in the MAC policy, however, APhA has explicitly reserved the right to criticize specific regulations which might be promulgated by HEW to implement the Secretary's announced policy.

Having now reviewed the specific regulatory proposals published, and having sought the viewpoint of its membership, state pharmaceutical associations, and other pharmacy organizations regarding these proposals, APhA is now prepared to comment on them in detail. These comments are intended to be a constructive effort to assist HEW in accomplishing the policy objectives announced in late 1973 by Secretary Weinberger. When they were first announced, APhA said these policy objectives were sound and should be implemented. APhA has not changed its views.

In the view of the Association, however, the proposed regulations as presently drafted are not adequate to assure accomplishment of HEW objectives—economies in the cost of pharmaceutical service in federally supported health care programs commensurate with continued viability of those programs through adequate availability of pharmaceutical service.

Although Secretary Weinberger originally focused on cost savings which might be achieved through more prudent purchase of and reimbursement for the drug product component of pharmaceutical service, the referenced proposed regulations address not only that factor but also the other cost component of pharmaceutical service—the pharmacist's professional fee.

As an initial comment, APhA wishes to commend the Department's recognition that pharmaceutical service includes both the providing of a drug product and the professional services of a pharmacist. It is unfortunate, while the language of two of the instant proposed regulations makes specific reference to "professional services," that other specific language (i.e. "retail place of business") fails to be consistent. It would be most helpful, in terms of the Department's self-concept of pharmaceutical service, if its regulations were couched in terms which recognize that the practice of pharmacy is a professional practice no matter in what environment that practice is conducted.

Generally, APhA is satisfied with the initial approach taken by the proposed regulations with regard to the drug product cost component. Acceptance of "actual acquisition cost" reimbursement for drug product cost, however, is dependent on the recognition by HEW that equitable adjustments in pharmacists' professional fees under federally supported health care programs are not only now called for, but are, in fact, long overdue. Thus, APhA support for the "total package" of regulations addressed in these comments can continue only if that total package in final form represents not only prudent "buying" policies on the part of the government, but also "fair treatment" of pharmacists by the government.

DRUG PRODUCT MAC PROCEDURES

Turning specifically first to the proposed Departmental regulations (39 F.R. 40302), APhA believes that the Pharmaceutical Reimbursement Board and Pharmaceutical Reimbursement Advisory Committee structures and procedures set forth in Sections 19.4 and 19.5 are generally appropriate. Under Section 19.4(b) (2), however, the Association would suggest that the Pharmaceutical Reimbursement Advisory Committee should be free to raise with the Board and the Secretary questions concerning Departmental policies and to provide advice of its own volition, rather than merely "upon request."

It would seem clear that if the Committee is competent to provide advice at the Department's request, it should not be precluded from assisting by a technical formality. Permitting the Committee to come forward to the