FOR IMMEDIATE RELEASE:
Tuesday, March 18, 2003

Contact: Laurie Covens, PAL, 617-275-2805/
Roberta Heine or Tiffany Ricci,
AFSCME, 202-429-1145/ or
Mark Firmani, Firmani Associates, 206-443-9357

Pharmacy Benefit Managers Charged with Inflating Prescription Drug Prices

Lawsuit Alleges Secret Deals between PBMs & Pharmaceutical Companies

Los Angeles – The Prescription Access Litigation (PAL) project and the American Federation of State County and Municipal Employees (AFSCME), AFL-CIO, today announced that they have filed suit against the nation's four largest pharmacy benefit managers (PBMs) for inflating prescription drug prices. The four companies, Advance PCS, Express Scripts, MedCo Health Solutions, and Caremark Rx., control more than 80 percent of the PBM market.

PBMs manage prescription drug benefit programs for employers, unions, health plans and other payers. PBMs were created to act as a broker between these payers and the drug companies to help control the cost of drug coverage. The lawsuit filed in California charges that through a pattern of illegal, secret dealings with drug companies the PBMs have forced health plans and health care consumers to pay inflated prescription drug prices.

"The organizations that were created to make prescription drugs more affordable are cutting inside deals with drug companies and driving up costs. It's corporate greed like this that is chipping away at the paychecks of hard working men and women across the country," AFSCME President Gerald W. McEntee said. "Forty-one million Americans are still without health insurance. The PBMs need to give up this racket and get down to the business they were created to do. We need someone looking out for working families instead of their own corporate interests."

The lawsuit alleges that the four drug benefit managers have reaped billions of dollars in illegal profits by steering health insurers and health care consumers into reliance on more costly drugs. The complaint also charges that the four PBMs have negotiated rebates from drug manufacturers and discounts from retail pharmacies – but haven't passed those savings on to health plans and consumers. Instead they've used those savings to secure exploitative profits. In addition, the complaint charges the PBMs developed a pricing system based on the Average Wholesale Price (AWP), widely considered an inflated "sticker" price set by the drug manufacturer.

"In the early 1990s, they told us PBMs were the key to controlling drug costs," noted PAL Director Ahaviah Glaser. "But now it's clear that PBMs have not only have failed to deliver any savings, but they have built all kinds of new profit-shaving into the system. Let's face it. PBMs have become another big prescription drug rip-off."

PBMs process hundreds of millions of pharmaceutical claims per year and manage drug benefit programs for more than 200 million Americans.

"The irresponsible behavior by the PBMs is helping to gut the health care system. In California we're seeing devastating health care plans being written – higher co-pays and

(More)

deductibles, and plan descriptions that eliminate most of the health care we now have covered," AFSCME District Council 57 Director George Popyack said. Council 57 represents 23,000 public service employees in California.

AFSCME negotiates dozens of contracts in California annually. Steve Kreisberg, the union's senior negotiator, says that health care issues are the most difficult to resolve at the bargaining table because of skyrocketing costs. According to Kreisberg, "Prescription drug costs in particular have been rising at an excessive rate – close to 20 percent annually over the past few years. It now appears that the biggest players in the PBM industry, whom we once thought of as allies in our fight to control drug costs, have been working both sides of the street. This lawsuit will hopefully bring more transparency to their business dealings"

"The suit alleges that PBMs are forcing consumers to play a high-stakes game of three-card monty," said attorney Steve Berman, the attorney bringing the suit on behalf of AFSCME. "We intend to prove that PBMs are hiding the real cost of prescription medication using misdirection and deception while raking in huge profits at the expense of consumers."

AFSCME and PAL seek to put an end to these illegal pricing practices and get immediate restitution from the named PBMs.

In conjunction with PAL, Seattle-based law firm Hagens-Berman filed the lawsuit on behalf of AFSCME, the nation's largest public service employees union. PAL was created by Boston-based Community Catalyst and is a nationwide coalition of consumer groups fighting for fair drug prices.

For a fact sheet and copy of the complaint in this case, go to **www.hagens-berman.com**.

American Federation of State, County and Municipal Employees (AFSCME), AFL-CIO, is the nation's largest and fastest growing public service employees union with more than 1.3 million members. AFSCME is committed to organizing workers for justice in the workplace, and promoting social and economic justice through political action and legislative advocacy. www.afscme.org

Prescription Access Litigation (PAL) project (www.prescriptionaccesslitigation.org) has filed 15 sets of lawsuits targeting drug industry practices that illegally push the price of prescription drugs beyond the reach of the American consumer since its launch nearly two years ago. A project of Boston-based Community Catalyst, PAL is on the ground in 34 states and the District of Columbia; the coalition is comprised of 89 state, local, and national senior and consumer health advocacy groups fighting to make prescription drugs affordable

Community Catalyst (www.communitycatalyst.org) is a national health care advocacy organization dedicated to building consumer and community participation in the decisions that shape our health system. Working in partnership with state, local, and grassroots consumer groups in over 30 states, Community Catalyst has helped preserve over $16 billion in community health assets as hospitals and health plans around the country have become for-profit corporations. It works on a range of health care access issues, including today's struggle to preserve Medicaid services and other health programs amid plunging state revenues nationwide.

Tom Sobol is the managing partner of the Boston office of Hagens-Berman LLP where his areas of practice includes pharmaceuticals, financial fraud, antitrust, medical malpractice, intellectual property, tobacco and toxic torts. Sobol served as a special assistant attorney general for the Commonwealth of Massachusetts and the states of New Hampshire, Maine and Rhode Island in the groundbreaking litigation against the tobacco industry, and was lead private counsel for Massachusetts and New Hampshire bringing injunctive relief and to monetary recovery in excess of $10 billion. *The National Law Journal* names Sobol as one of Massachusetts' ten most leading litigators in 2000.

###