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Appeals court upholds Arkansas RX law

*8th Circuit affirms decision protecting delivery of discounted pharmaceuticals
for Community Health Center and other patients across Arkansas*

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In a major ruling for patients across Arkansas, a federal appeals court Tuesday upheld a first-of-its-kind state law that protects distribution of discounted drugs to pharmacies contracted with safety net healthcare providers.

The 8th Circuit Court of Appeals in St. Louis [affirmed](#) a lower court order in favor of Arkansas [Act 1103](#) of 2021, which the Legislature passed overwhelmingly. The Community Health Centers of Arkansas (CHCA) and other healthcare groups strongly advocated for its passage.

Act 1103 safeguards access to affordable drugs, especially in rural areas, and helps preserve critical funding for Community Health Centers (CHCs) and

hospitals under the federal 340B program.

Big drug companies since 2020 had been taking advantage of a lack of full federal enforcement of 340B and ceased or impeded access to those drug discounts at locations where many underserved patients need them.

"Today's decision from the 8th Circuit is huge, no doubt with national impact," said Dr. Lanita S. White, chief executive officer of CHCA.

"It's fantastic news for Community Health Centers and our patients throughout Arkansas. Our CHCs have been struggling under the weight of restrictions on 340B. The 8th Circuit wisely saw through the schemes of manufacturers to focus on profits, instead of their duty under the 340B law," White said.

Many CHCs in Arkansas have sustained losses in excess of \$1 million a year each due to the manufacturers refusing to permit delivery of discounted medications to contract pharmacies.

"Community Health Centers of Arkansas and our member CHCs are proud to have taken the lead nationally on this tough and multi-faceted legal fight. From the start, more than three years ago, we refused to give in to the restrictions forced upon us by the industry. We helped pass the first state law to protect 340B. We expect this ruling will benefit CHCs across the country, including many advocating for similar legislation in their states," White said.

White said CHCA appreciates the efforts of our attorneys, Powers Pyles Sutter & Verville PC, who are national experts in 340B; the Arkansas Insurance Department, which administers the law; the Arkansas Hospital Association and the Arkansas Pharmacists Association for their support; and Arkansas legislators who helped pass Act 1103 in 2021.

The Insurance Department was the defendant in the case. CHCA intervened in the case to share our insight and the first-hand effects of the law.

Specifically, Act 1103 requires manufacturers to ship 340B drugs to community pharmacies that have been contracted by hospitals and CHCs to dispense the low-cost drugs on their behalf. These pharmacies help reach more Arkansans in need.

Judge Billy Roy Wilson of the U.S. District Court in Little Rock in 2022 [upheld](#) Act 1103.

The Pharmaceutical Research and Manufacturers of America (PhRMA) appealed to the 8th Circuit. [Oral arguments](#) were held Sept. 20, 2023, in St. Louis.

PhRMA maintained that states are "preempted" from passing such laws as Act 1103 because the 340B program was established by federal law.

The 8th Circuit rejected that argument.

"Arkansas is simply deterring pharmaceutical manufacturers from interfering with [Community Health Centers' and other safety net providers'] contract pharmacy arrangements," according to the 8th Circuit's opinion. "There is no obstacle for pharmaceutical manufacturers to comply with both Act 1103 and Section 340B."

CHCs in Arkansas serve more than **300,000 people** each year at more than **230 locations**.

For more information about CHCA, please visit: <http://www.chc-ar.org>



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