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Arkansas RX lawsuit heard by appeals court

Drug industry has a 'heavy burden' to prove after blocking Arkansans access to affordable pharmaceuticals, CHCA attorney tells judges

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Protecting patient access to prescription drug discounts is the state's constitutional right, federal appeals court judges were told recently.

Pharmaceutical manufacturers are wrong to block that access, said attorneys for the Community Health Centers of Arkansas (CHCA) and the Arkansas Insurance Department (AID).

Judge Billy Roy Wilson of the U.S. District Court in Little Rock in 2022 [upheld](#) Act 1103, passed by the Arkansas General Assembly in 2021. Act 1103 safeguards access to affordable drugs, especially in rural areas, and helps preserve critical funding for Community Health Centers (CHCs) and hospitals.

After being rejected by the District Court, the Pharmaceutical Research and Manufacturers of America (PhRMA) appealed to the Eighth Circuit Court of Appeals. [Oral arguments](#) were held Sept. 20 in St. Louis.

"Indeed, PhRMA bears a heavy burden here," Ron Connolly, attorney for CHCA, told the Eighth Circuit. "[Act 1103 includes] traditional areas within the state's police powers to regulate health and safety [for] their citizens."

[Act 1103](#) was passed to shield Arkansas CHCs and other safety net health care providers from drug manufacturers' harmful and restrictive policies. Across the country, the pharmaceutical industry has been blocking access to low-cost drugs that the providers would otherwise be entitled to purchase and dispense under a federal drug discount program known as 340B.

Arkansas was the first state to pass a state law to defend against the industry's actions.

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

Booth Rand, general counsel for AID, emphasized that nothing in the federal 340B law conflicts with Act 1103. "If Congress believes states should perform no function they should put it in legislation," Rand told the judges.

Specifically, the law 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.

AID, as the state agency legally required to enforce Act 1103, is the defendant in PhRMA's lawsuit. CHCA and Piggott Community Hospital are intervenors in the case. They are represented by the Powers Pyles Sutter & Verville PC firm in Washington.

CHCs in Arkansas serve more than **285,000 people** each year at more than **200 locations**.

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