
A BILL FOR AN ACT

RELATING TO THE STATE PHARMACY ASSISTANCE PROGRAM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 346-342, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "[~~f~~]**\$346-342**[~~}]~~ **State pharmacy assistance program.** (a)

4 There is established within the department the state pharmacy
5 assistance program. Provided that there are no federally
6 approved prescription drug plans available in the State that
7 provide a full coverage prescription drug benefit, the state
8 pharmacy assistance program may coordinate the prescription drug
9 coverage with the federal medicare part D prescription drug
10 benefit, including related supplies, as determined by the
11 department, to each resident who meets the eligibility
12 requirements as outlined in section 346-343.

13 (b) The department [~~may~~] shall provide enrollment
14 assistance to eligible individuals [~~into the state pharmacy~~
15 ~~assistance program. Enrollment for medicaid dual eligible~~
16 ~~persons shall begin no later than October 1, 2005.~~] to identify
17 the medicare prescription drug plan that best meets the needs of
18 the enrollee at the lowest cost, based upon the enrollee's



1 medication, pharmacy, and overall costs to the enrollee, and to
2 assist the enrollee in joining or changing plans.

3 (c) The department shall allow any willing prescription
4 drug plan approved by the federal Centers for Medicare and
5 Medicaid Services to provide the coordination of benefits
6 between the State's medicare prescription drug program and the
7 medicare part D drug benefit.

8 (d) The department may administer the state pharmacy
9 assistance program or contract with a third party or parties in
10 accordance with chapter 103F to administer any single component
11 or combination of components of the state pharmacy assistance
12 program, including outreach, eligibility, enrollment, claims,
13 administration, rebate negotiations and recovery, and
14 redistribution, in order to coordinate the prescription drug
15 benefits of the state pharmacy assistance program and the
16 federal medicare part D drug benefit.

17 (e) Any contract with third parties to administer any
18 component of the state pharmacy assistance program shall be
19 established either at no cost to the State[7] or on a
20 contingency-fee basis and with no up-front costs to the State,
21 as may be negotiated by the department.



1 (f) Any contract with third parties to administer any
2 component of the state pharmacy assistance program shall
3 prohibit the contractor from receiving any compensation or other
4 benefits from any pharmaceutical manufacturer participating in
5 the state pharmacy assistance program.

6 ~~[(g) A prescription drug manufacturer or labeler that
7 sells prescription drugs in the State may enter into a rebate
8 agreement with the department. The rebate agreement may be
9 agreed upon by the manufacturer or the labeler to make rebate
10 payments to the department each calendar quarter or according to
11 a schedule established by the department.]~~

12 ~~(h) The department or contractor may negotiate the amount
13 of the rebate required from a manufacturer or labeler in
14 accordance with this part.~~

15 ~~(i) The department or contractor may take into
16 consideration the rebate calculated under the medicaid rebate
17 program pursuant to Title 42 United States Code Section 1396r-8,
18 the average wholesale price of prescription drugs, and any other
19 cost data related to prescription drug prices and price
20 discounts.~~

21 ~~(j) The department or contractor shall use their best
22 efforts to obtain the best possible rebate amount.~~



1 ~~(k)~~ (g) The department may prescribe the application and
2 enrollment procedures for prospective enrollees.

3 ~~(l)~~ (h) The department shall conduct ongoing quality
4 assurance activities similar to those used in the State's
5 medicaid program."

6 SECTION 2. Section 346-343, Hawaii Revised Statutes, is
7 amended to read as follows:

8 "~~[f]~~ **S346-343** ~~[j]~~ **Eligibility.** (a) All residents of the
9 State shall be eligible to participate in the state pharmacy
10 assistance program; provided that the applicant:

- 11 (1) Is a resident of Hawaii;
- 12 (2) Is sixty-five years or older, or is disabled and
13 receiving a social security benefit;
- 14 (3) Has a household income at or below ~~[one]~~ two hundred
15 per cent of the federal poverty level; and

16 ~~[(4) Meets the asset test; and~~

17 ~~(5)]~~ (4) Is not a member of a retirement plan who is
18 receiving a benefit from the Medicare Modernization
19 Act.

20 (b) State pharmacy assistance program applicants who are
21 enrolled in any other public assistance program providing
22 pharmaceutical benefits, other than the Medicare Modernization



1 Act[7] and medicaid, shall be ineligible for the state pharmacy
2 assistance program as long as they receive pharmaceutical
3 benefits from that other public assistance program, unless the
4 applicant is eligible for medicare. Residents who qualify for,
5 or are enrolled in, the [7]Rx plus program[7] shall be eligible
6 for the state pharmacy assistance program; provided that they
7 meet all other state pharmacy assistance program requirements.

8 (c) State pharmacy assistance program applicants who are
9 enrolled in a private sector plan or insurance providing
10 payments for prescription drugs shall be ineligible to receive
11 benefits from the state pharmacy assistance program.

12 (d) State pharmacy assistance program applicants shall
13 apply for the federal medicare part D pharmacy benefit program,
14 apply for and accept all subsidies available under the medicare
15 part D pharmacy drug benefit, and authorize the department to
16 request eligibility, coverage, and formulary exceptions on the
17 beneficiary's behalf and to appeal adverse determinations
18 relating to medicare prescription drug plan enrollment,
19 eligibility, subsidy eligibility and benefit levels, coverage,
20 and formulary exceptions."

21 SECTION 3. Section 346-344, Hawaii Revised Statutes, is
22 amended to read as follows:



1 "~~[+]§346-344[+]~~ **Benefits.** (a) For persons meeting the
2 eligibility requirements in section 346-343~~[7]~~ with household
3 incomes of not more than one hundred fifty per cent of the
4 federal poverty level, the state pharmacy assistance program
5 ~~[may pay all or some of the co-payments required under the~~
6 ~~federal medicare part D pharmacy benefit program, subject to~~
7 ~~receipt of sufficient rebates pursuant to section 346-342(g), as~~
8 ~~determined by the department.] shall pay:~~

9 (1) The medicare prescription drug premium or a portion
10 thereof, up to one hundred twenty-five per cent of the
11 average premium charged by the medicare part D plans
12 available in the state;

13 (2) As to prescriptions covered by the medicare
14 prescription drug benefit, all enrollee costs,
15 including deductibles and copayments;

16 (3) As to classes of medication excluded from coverage by
17 the medicare prescription drug benefit, all enrollee
18 costs; and

19 (4) As to a prescription that has been denied for coverage
20 by the medicare prescription drug plan because the
21 pharmaceutical is not on the plan's formulary, all
22 enrollee costs, if the department determines that



1 alternative medications available from the medicare
2 prescription drug plan would be less effective than
3 the prescribed medication or unsafe. The department
4 is authorized to seek reimbursement from the medicare
5 prescription drug plan and to request a medicare
6 part D formulary exception, and appeal any adverse
7 determination, on behalf of the department and the
8 beneficiary.

9 (b) For persons meeting the eligibility requirements in
10 section 346-343 with household incomes between one hundred fifty
11 and two hundred per cent of the federal poverty level, the state
12 pharmacy assistance program shall pay a portion of the payment
13 of medicare part D on a sliding scale of between twenty-five per
14 cent and one hundred per cent of the average premium charged by
15 the medicare prescription drug plans available in the state.

16 ~~[(b)]~~ (c) The state pharmacy assistance program is the
17 payor of last resort ~~[, subject to receipt of sufficient rebates~~
18 ~~pursuant to section 346-342(g), as determined by the~~
19 ~~department].~~

20 ~~[(e)]~~ (d) The state pharmacy assistance program shall be
21 funded with state appropriations ~~[derived from revenues to the~~
22 ~~State from rebates paid by pharmaceutical manufacturers pursuant~~



1 ~~to section 346-342(g), which may affect the level of benefits to~~
2 ~~program enrollees pursuant to subsection (a) depending on the~~
3 ~~amount of the rebates received by the State to cover all program~~
4 ~~benefits and costs of administering the program.] and with~~
5 ~~savings resulting from medicare prescription drug coverage for~~
6 ~~the medicaid dual eligible population."~~

7 SECTION 4. Section 346-345, Hawaii Revised Statutes, is
8 amended to read as follows:

9 "[~~f~~]**\$346-345**[~~}]~~ **Special fund.** (a) There is established
10 within the state treasury, to be administered by the department,
11 the state pharmacy assistance program special fund, into which
12 shall be deposited:

13 [~~(1)~~] ~~All moneys received from manufacturers that pay~~
14 ~~rebates as provided in section 346-342(g);~~

15 ~~(2)]~~ (1) Appropriations made by the legislature to the
16 fund; and

17 [~~(3)]~~ (2) Any other revenues designated for the fund.

18 (b) Moneys in the state pharmacy assistance program
19 special fund may be used for:

20 [~~(1)~~] ~~Reimbursement payments to participating pharmacies for~~
21 ~~co-payments required under the federal medicare part D~~



1 ~~pharmacy benefit program as provided to state pharmacy~~
2 ~~assistance program participants;]~~

3 (1) Payment of benefits under section 346-344;

4 (2) The costs of administering the state pharmacy
5 assistance program, including salary and benefits of
6 employees, computer costs, and contracted services as
7 provided in section 346-342(d); and

8 (3) Any other purpose deemed necessary by the department
9 for the purpose of operating and administering the
10 state pharmacy [+assistance+] program.

11 All interest on special fund balances shall accrue to the
12 special fund. Upon dissolution of the state pharmacy assistance
13 program special fund, any unencumbered moneys in the fund shall
14 lapse to the general fund.

15 ~~[(c) The department shall expend all revenues received~~
16 ~~from rebates paid by pharmaceutical manufacturers pursuant to~~
17 ~~section 346-342(g) to pay for the benefits to enrollees in the~~
18 ~~state pharmacy assistance program, the costs of administering~~
19 ~~the program, and reimbursement of medicaid pharmaceutical~~
20 ~~costs.]"~~

21 SECTION 5. Section 346-341, Hawaii Revised Statutes, is
22 amended by deleting the definitions of "asset test", "full



1 coverage prescription drug benefit", and "liquid assets" to
2 read:

3 ~~["Asset test" means the asset limits for eligibility in
4 the state pharmacy assistance program as defined by the Medicare
5 Modernization Act and any amendments thereto.~~

6 ~~"Full coverage prescription drug benefit" means a federally
7 approved prescription drug plan that offers a zero co-payment
8 benefit for medicaid dual eligibles under the medicare part D
9 drug benefit.~~

10 ~~"Liquid assets" means assets used in the eligibility
11 determination process as defined by the Medicare Modernization
12 Act."]~~

13 SECTION 6. Statutory material to be repealed is bracketed
14 and stricken. New statutory material is underscored.

15 SECTION 7. This Act shall take effect upon its approval.



HB. 3144 HD.2

Report Title:

State Pharmacy Assistance Program

Description:

Extends income eligibility requirement to 200% of the federal poverty level. Requires the department of human services to provide enrollees with enrollment assistance about prescription drug plans and pay part or all of enrollee Medicare part D costs. Repeals prescription drug rebate program and asset test (HB3144 HD2).

