
HOUSE CONCURRENT RESOLUTION

REQUESTING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO
ADOPT CHANGES TO THE MEDICARE PART D PROGRAM.

1 WHEREAS, over 40 million Americans, including approximately
2 186,000 Hawaii residents, receive health coverage through
3 Medicare and are currently eligible to purchase prescription
4 drug coverage through the Medicare Part D Program, which began
5 on January 1, 2006; and
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7 WHEREAS, over 6.4 million Americans, including 26,000
8 Hawaii residents, are eligible for both Medicare and Medicaid
9 and are referred to as "dual eligibles"; and
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11 WHEREAS, the dual eligible group, 60 percent of whom live
12 below the poverty line, has more individuals who rely on
13 healthcare than other Medicare beneficiaries, with more than 50
14 percent requiring assistance with activities of daily living or
15 suffering from multiple chronic conditions, such as Alzheimer's
16 disease, diabetes, pulmonary disease, or stroke; and
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18 WHEREAS, the number of elderly residents in the state is
19 expected to rise rapidly over the next two decades with one in
20 four residents over the age of 60; and
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22 WHEREAS, Medicare-eligible individuals enrolling in the
23 Medicare Part D Program after May 15, 2006, face a cumulative
24 one percent late-enrollment penalty for each month between the
25 date they were eligible and the date they enrolled; and
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27 WHEREAS, the enrollment penalty for Medicare Part B is ten
28 percent per year on the standard premium amount, which is more
29 predictable and less severe than the enrollment penalty for
30 Medicare Part D; and
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1 WHEREAS, Medicare beneficiaries must now navigate a new,
2 complex system of multiple health plans to purchase coverage and
3 receive prescription drug benefits; and
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5 WHEREAS, each prescription drug plan has a different
6 formulary, different co-payments, and varied cost-sharing that
7 Medicare beneficiaries must understand to determine which plan
8 has a formulary that not only includes most, or all, of the
9 beneficiaries' drugs, but also offers the best value; and
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11 WHEREAS, beneficiaries face a great deal of uncertainty as
12 each plan is allowed to modify its formulary, including dropping
13 coverage of medications, on a monthly basis, while most Medicare
14 beneficiaries may only change plans once a year during the open
15 enrollment period; and
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17 WHEREAS, a beneficiary who needs a drug that is suddenly
18 dropped by the chosen plan must change to another drug or pay
19 out-of-pocket for the drug; and
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21 WHEREAS, drugs not listed on the formulary that are
22 purchased out-of-pocket by a beneficiary or paid for with a
23 discount card or through a state pharmacy program do not count
24 toward the beneficiaries' cost-sharing under the Medicare Part D
25 plan; and
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27 WHEREAS, plans are not required to disclose complete
28 information about the actual price of the drugs on their
29 formularies nor the cost of these drugs as negotiated by the
30 plan with drug manufacturers, resulting in the opportunity for
31 plans to inflate prices charged to Medicare beneficiaries who
32 will then have a higher total cost-sharing amount; and
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34 WHEREAS, many states will have additional costs associated
35 with the "clawback" provision of the Medicare law, which
36 requires states to reimburse the federal government for the
37 costs of dual eligibles based on a formula that may not
38 accurately reflect actual costs and numbers of these enrollees;
39 and
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1 WHEREAS, states will also incur significant costs if they
2 participate in educational and other efforts necessary to ensure
3 that dual eligibles and other Medicare enrollees do not have a
4 gap in coverage and have adequate information with which to make
5 informed choices between plan options; and

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7 WHEREAS, the State initiated a fail-safe program that
8 covered dual eligibles' prescriptions if their claims were not
9 processed through the drug plans offered by the new Medicare
10 Part D Program, and paid 480 claims in a four-day period from
11 January 1, 2006 to January 4, 2006, to ensure that patients
12 received their medications; and

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14 WHEREAS, the Medicare law explicitly prohibits negotiations
15 over the price paid by the federal government for prescription
16 drugs; and

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18 WHEREAS, these same medications currently provided to dual
19 eligibles under Medicaid are subject to price negotiation by the
20 federal government, and the costs of these medications, which
21 will be reimbursed by the states to the federal government, are
22 likely to increase in the absence of price negotiation; and

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24 WHEREAS, according to the Congressional Budget Office, the
25 new Medicare Part D Program is expected to increase spending by
26 \$47 billion in 2006, the first year of implementation, and reach
27 \$174 billion per year in 2015, when it will make up 23 percent
28 of the \$766 billion in total Medicare spending; now, therefore,

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30 BE IT RESOLVED by the House of Representatives of the
31 Twenty-third Legislature of the State of Hawaii, Regular Session
32 of 2006, the Senate concurring, that the President and Congress
33 of the United States are requested to adopt the following
34 changes to the Medicare Part D Program:

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36 (1) Eliminate the penalty for all Medicare-eligible
37 individuals enrolling after May 15, 2006;

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- (2) Permit, once a year, prescription drug plans to drop coverage of drugs on their formularies only after advance notice to coincide with the annual open enrollment period, except that drugs that have been determined to be dangerous or have been removed from the market may be dropped from formularies as deemed necessary for safety;
- (3) Standardize the formulary design so that each plan has the same number of tiers and requirements for coverage;
- (4) Modify the requirements for what can be counted toward the Medicare beneficiaries' "true out-of-pocket cost," or "TROOP," to include all prescription drugs purchased on behalf of the beneficiary regardless of where the drugs are purchased, whether purchased through a state pharmacy program or with a discount card, or whether the drug is on the formulary of the enrollee's plan;
- (5) Ensure transparency so that states know the cost negotiated by the prescription drug plan to ensure that all negotiated rebates are passed on to the beneficiaries; and
- (6) Institute price negotiations for the purchase of prescription drugs for the Medicare program, similar to the provisions already in place under Medicaid and the Veterans Administration;

and

BE IT FURTHER RESOLVED that certified copies of this Concurrent Resolution be transmitted to the President of the United States, the Speaker of the United States House of Representatives, the President of the United States Senate, and the members of Hawaii's Congressional delegation.

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