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# 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 346-341, Hawaii Revised Statutes, is  
2 amended by repealing the definition of "asset test."

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 SECTION 2. Section 346-341, Hawaii Revised Statutes, is  
7 amended by repealing the definition of "full coverage  
8 prescription drug benefit."

9 [~~"Full coverage prescription drug benefit" means a  
10 federally approved prescription drug plan that offers a zero  
11 co-payment benefit for medicaid dual eligibles under the  
12 medicare part D drug benefit.~~"]

13 SECTION 3. Section 346-341, Hawaii Revised Statutes, is  
14 amended by repealing the definition of "liquid assets."

15 [~~"Liquid assets" means assets used in the eligibility  
16 determination process as defined by the Medicare Modernization  
17 Act.~~"]



1 SECTION 4. Section 346-342, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~§~~§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 plans that best meet the needs of  
18 the enrollee at the lowest cost, based on the enrollee's  
19 medication, pharmacy, and overall costs to the enrollee, and to  
20 assist the enrollee in joining or changing plans.

21 (c) The department shall allow any willing prescription  
22 drug plan approved by the federal Centers for Medicare and

1 Medicaid Services to provide the coordination of benefits  
2 between the State's medicare prescription drug program and the  
3 medicare part D drug benefit.

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

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

18 (f) Any contract with third parties to administer any  
19 component of the state pharmacy assistance program shall  
20 prohibit the contractor from receiving any compensation or other  
21 benefits from any pharmaceutical manufacturer participating in  
22 the state pharmacy assistance program.



1       ~~[(g) A prescription drug manufacturer or labeler that~~  
2 ~~sells prescription drugs in the State may enter into a rebate~~  
3 ~~agreement with the department. The rebate agreement may be~~  
4 ~~agreed upon by the manufacturer or the labeler to make rebate~~  
5 ~~payments to the department each calendar quarter or according to~~  
6 ~~a schedule established by the department.~~

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

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

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

18       ~~(k)]~~ (g) The department may prescribe the application and  
19 enrollment procedures for prospective enrollees.

20       ~~(l)]~~ (h) The department shall conduct ongoing quality  
21 assurance activities similar to those used in the State's  
22 medicaid program."



1 SECTION 5. Section 346-343, Hawaii Revised Statutes, is  
2 amended to read as follows:

3 "[~~f~~]**§346-343**[~~f~~] **Eligibility.** (a) All residents of the  
4 State shall be eligible to participate in the state pharmacy  
5 assistance program; provided that the applicant:

6 (1) Is a resident of Hawaii;

7 (2) Is sixty-five years or older, or is disabled and  
8 receiving a social security benefit;

9 (3) Has a household income at or below [~~one~~] two hundred  
10 per cent of the federal poverty level; and

11 [~~(4)~~] ~~Meets the asset test; and~~

12 ~~(5)~~] (4) Is not a member of a retirement plan who is  
13 receiving a benefit from the Medicare Modernization  
14 Act.

15 (b) State pharmacy assistance program applicants who are  
16 enrolled in any other public assistance program providing  
17 pharmaceutical benefits, other than the Medicare Modernization  
18 [~~Act,~~] Act and Medicaid, shall be ineligible for the state  
19 pharmacy assistance program as long as they receive  
20 pharmaceutical benefits from that other public assistance  
21 program, unless the applicant is eligible for medicare.

22 Residents who qualify for, or are enrolled in, the [Rx plus



1 program] shall be eligible for the state pharmacy assistance  
2 program; provided that they meet all other state pharmacy  
3 assistance program requirements.

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

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

17 SECTION 6. Section 346-344, Hawaii Revised Statutes, is  
18 amended to read as follows:

19 "[~~+~~]**§346-344**[+] **Benefits.** (a) For persons meeting the  
20 eligibility requirements in section [~~346-343,~~] 346-343 with  
21 household incomes of not more than one hundred fifty per cent of  
22 the federal poverty level, the state pharmacy assistance program



1 ~~[may pay all or some of the co-payments required under the~~  
2 ~~federal medicare part D pharmacy benefit program, subject to~~  
3 ~~receipt of sufficient rebates pursuant to section 346-342(g), as~~  
4 ~~determined by the department.] shall pay:~~

5 (1) The Medicare prescription drug premium or a portion  
6 thereof, up to one hundred twenty-five per cent of the  
7 average premium charged by the Part D plans available  
8 in the State;

9 (2) As to prescriptions covered by the Medicare  
10 prescription drug benefit, all enrollee costs,  
11 including deductibles and copayments;

12 (3) As to classes of medication excluded from coverage by  
13 the Medicare prescription drug benefit, all enrollee  
14 costs; and

15 (4) As to a prescription that has been denied for coverage  
16 by the Medicare prescription drug plan because the  
17 pharmaceutical is not on the plan's formulary, all  
18 enrollee costs, if the department determines that  
19 alternative medications available from the Medicare  
20 prescription drug plan would be less effective than  
21 the prescribed medication or unsafe. The department  
22 is authorized to seek reimbursement from the Medicare



1           prescription drug plan and to request and appeal a  
2           part D formulary exception on behalf of the department  
3           and the beneficiary.

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

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

15           ~~[(e)]~~ (d) The state pharmacy assistance program shall be  
16 funded with state appropriations ~~[derived from revenues to the~~  
17 ~~State from rebates paid by pharmaceutical manufacturers pursuant~~  
18 ~~to section 346-342(g), which may affect the level of benefits to~~  
19 ~~program enrollees pursuant to subsection (a) depending on the~~  
20 ~~amount of the rebates received by the State to cover all program~~  
21 ~~benefits and costs of administering the program.]~~ and with





1 savings resulting from Medicare prescription drug coverage for  
2 the medicaid dual eligible population."

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

5 "~~§~~**346-345** **Special fund.** (a) There is established  
6 within the state treasury to be administered by the department,  
7 the state pharmacy assistance program special fund, into which  
8 shall be deposited:

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

11 ~~[-(2)]~~ (1) Appropriations made by the legislature to the  
12 fund; and

13 ~~[-(3)]~~ (2) Any other revenues designated for the fund.

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

16 ~~[-(1) Reimbursement payments to participating pharmacies for~~  
17 ~~co-payments required under the federal medicare part D~~  
18 ~~pharmacy benefit program as provided to state pharmacy~~  
19 ~~assistance program participants;]~~

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

21 (2) The costs of administering the state pharmacy  
22 assistance program, including salary and benefits of



1 employees, computer costs, and contracted services as  
2 provided in section 346-342(d); and

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

6 All interest on special fund balances shall accrue to the  
7 special fund. Upon dissolution of the state pharmacy assistance  
8 program special fund, any unencumbered moneys in the fund shall  
9 lapse to the general fund.

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

16 SECTION 8. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 9. This Act shall take effect upon its approval.

19

INTRODUCED BY:

*Alvin G. Criswell*

*John D. ...*  
*Pelcyi P. Abinsay, Jr.*

*[Signature]*

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JAN 25 2006

HB 3144

**Report Title:**

State Pharmacy Assistance Program

**Description:**

Extends income eligibility requirement to two hundred per cent of the federal poverty level. Requires the department to provide enrollees with counseling about prescription drug plans. Repeals prescription drug rebate funding limitations.

