HOUSE OF REPRESENTATIVES
TWENTY-EIGHTH LEGISLATURE, 2016
STATE OF HAWAII

H.B. NO. 1682

A BILL FOR AN ACT

RELATING TO PRESCRIPTION DRUGS.

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

SECTION 1. Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follow:

"**PART . RX PLUS PROGRAM**

§346-A Program goals. The legislature finds that affordability is critical in providing Hawaii residents with access to prescription drugs. This part is enacted by the legislature to enable the State to make prescription drugs more affordable for qualified Hawaii residents and thereby increase the overall health of Hawaii residents, promote healthy communities, and protect the public health and welfare. The legislature also intends that the program be integrated as much as possible with other state health programs. It is not the intention of the legislature that this law discourage employers from offering to pay, or from paying for prescription drug benefits for their employees, or that the law supplant employer-sponsored prescription drug benefits plans.

§346-B **Definitions.** As used in this part:

"Administrator" means the director of human services.

"Department" means the department of human services.

"Discount" means the amount by which the price of a drug sold by a pharmacy is reduced as determined by the department of human services.

"Initial discounted price" as it pertains to a drug means the price that the department pays medicaid participating pharmacies to purchase the drug for its medicaid members.

"Manufacturer" means anyone who is engaged in manufacturing, preparing, propagating, compounding, processing, packaging, repackaging, or labeling a prescription drug.

"Participating pharmacy" or "retail pharmacy" means a retail pharmacy located in this State, or another business licensed to dispense prescription drugs in this State, that elects to participate in the program.

"Pharmacy and therapeutic committee" means the committee established by the department that advises the state medicaid director on the Rx plus preferred drug list and may be the same entity as the committee established in the medicaid program pursuant to section 346-14.

"Preferred drug" includes but is not limited to:

(1) A drug listed on the State's medicaid preferred drug list;

(2) An antipsychotic drug;

(3) An antidepressant drug;

(4) A chemotherapy drug;

(5) An antiretroviral drug;

(6) An immunosuppressive drug; and

(7) Any other drug listed on the Rx plus preferred drug list pursuant to this part.

"Program" means the Rx plus program except as otherwise provided.

"Qualified resident" means a resident of the State who:

(1) Has a family income equal to or less than three hundred fifty per cent of the federal poverty level;

(2) Lacks prescription drug coverage or has exceeded the extent of the resident's prescription drug benefits; and

(3) Is enrolled in the program.

"Secondary discounted price" as it pertains to a drug means the initial discounted price less any further discounts paid out of the Rx plus special fund.

§346-C Rx plus program. (a) There is established within the department, the Rx plus program. The program will combine the purchasing power of all qualified residents to enable the State to reduce prescription drug costs and improve the quality of health care for qualified Hawaii residents in the program, thereby increasing the overall health of Hawaii residents, promoting healthy communities, and protecting the public health and welfare. The program shall be integrated into, and part of any statewide program for the uninsured.

(b) The program shall use manufacturer rebates and pharmacy discounts to reduce prescription drug prices.

(c) The department may administer the program or contract with a third party or third parties to administer any single component, or combination of components of the program, including outreach, eligibility, claims, administration, rebate negotiations and recovery, and redistribution to achieve the maximum possible discount for Hawaii residents. Any contract to administer any program component shall prohibit the contractor

from receiving any compensation or other benefits from any manufacturer participating in the program.

(d) The department shall conduct ongoing quality assurance activities similar to those used in the medicaid program.

§346-D Program eligibility. (a) All qualified residents of the State shall be eligible to participate in the Rx plus program.

(b) The department:

(1) Shall establish procedures to determine eligibility and shall issue program enrollment cards to eligible qualified residents;

(2) Shall undertake outreach efforts to build public awareness of the program and maximize the enrollment of eligible qualified residents; and

(3) May adjust the requirements and terms of the program by rule to accommodate any federally funded or authorized prescription drug program.

§346-E Rebate agreement. (a) A drug manufacturer or labeler that sells prescription drugs in the State may enter into a rebate agreement with the department for this purpose. The rebate agreement shall require the manufacturer or labeler

to make rebate payments to the department each calendar quarter or according to a schedule established by the department.

(b) The administrator shall negotiate the amount of the rebate required from a manufacturer or labeler in accordance with this part.

(c) The administrator shall take into consideration the rebate calculated under the medicaid rebate program pursuant to title 42 United States Code section 1396r-8, the average wholesale price of prescription drugs, and any other information on prescription drug prices and price discounts.

(d) The administrator shall use the administrator's best efforts to obtain an initial rebate amount equal to or greater than the rebate calculated under the medicaid program pursuant to title 42 United States Code section 1396r-8.

(e) With respect to rebates effective July 1, 2017, the administrator shall use the administrator's best efforts to obtain a rebate amount equal to or greater than the amount of any discount, rebate, or price reduction for prescription drugs provided to the federal government.

§346-F Participating and nonparticipating manufacturers and labelers. (a) The names of manufacturers that enter and do

not enter into rebate agreements pursuant to this part shall be deemed public information. The department shall release this information to health care providers and the public.

(b) The department or administrator may also provide to health care providers information about the relative cost of drugs produced by manufacturers that enter into rebate agreements compared to the cost of drugs produced by those that do not enter into rebate agreements. The department shall adopt rules pursuant to chapter 91 creating procedures for the implementation of this section.

§346-G Discounted retail prices for program participants. (a) Each retail pharmacy participating in the Rx plus program shall sell drugs to qualified residents at the lowered initial discounted price, in addition to the secondary discounted price as determined by the department pursuant to this part.

(b) The department shall establish secondary discounts for drugs covered by a rebate agreement and shall promote the use of safe, efficacious, and cost-effective drugs, taking into consideration:

(1) Reduced prices for state and federally capped drug programs;

(2) Differential dispensing fees;

(3) Administrative costs of the department; and

(4) The recommendation of the pharmacy and therapeutic committee.

(c) Beginning July 1, 2017, a participating pharmacy shall offer the initial discounted price.

(d) No later than July 1, 2018, a participating pharmacy shall offer the secondary discounted price, if available.

§346-H Rx plus preferred drug list. (a) The department shall establish an Rx plus preferred drug list that includes but is not limited to:

(1) Drugs listed on the State's medicaid preferred drug list;

(2) Antipsychotic drugs;

(3) Antidepressant drugs;

(4) Chemotherapy drugs;

(5) Antiretroviral drugs;

(6) Immunosuppressive drugs; and

(7) Any other drug listed on the Rx plus preferred drug list pursuant to this section.

(b) The pharmacy and therapeutic committee shall review and recommend drugs to be listed on the Rx plus preferred drug list, and shall strive to identify the safest and most efficacious drugs that are available at the lowest cost. The committee's recommendations may take into consideration any of the following factors:

(1) Therapeutic value for the disease or condition under treatment;

(2) Clinical efficacy;

(3) Safety;

(4) Cost; and

(5) Other relevant factors as determined by the committee.

(c) When considering categories of drugs designed to treat specialized chronic medical conditions and diseases, the committee shall consult with physicians and other health care professionals with specialized clinical knowledge and expertise in treating those medical conditions and diseases, either in their capacity as consultants serving on a subcommittee of the committee, or as physicians or pharmacists with a practice or specialty in chronic diseases.

(d) The determination of a drug's safety and efficacy shall be consistent with the standards set forth in the peer-reviewed literature and other available sources, including but not limited to:

(1) The American Hospital Formulary Service Drug Information;

(2) The United States Pharmacopoeia Drug Information;

(3) The DRUGDEX System; and

(4) The America Medical Association Drug Evaluations.

(e) The determination of a drug's net cost shall consider the pharmacy reimbursement amount authorized under section 346-I, as adjusted by manufacturer's rebates to be paid to the department. The committee shall determine that a drug has no significant clinical or safety advantages over one or more alternative drugs when used for a given purpose before it may consider the drug's net cost.

§346-I Pharmacy reimbursement. (a) A pharmacy shall submit claims to the department to verify the amount charged to program participants. On a schedule to be determined by the department, the department shall reimburse each pharmacy for the

discounts of prescription drugs provided to program participants.

(b) The department shall collect pharmacy use data necessary to calculate the amount of the manufacturer rebate under section 346-E. The department shall protect the confidentiality of information received as required under state or federal law, rule, or regulation.

(c) The department shall not impose transaction charges on participating pharmacies that submit claims or receive payments under the program.

§346-J Rx plus special fund. (a) There is established within the state treasury, to be administered by the department, the Rx plus special fund into which shall be deposited:

(1) All moneys received from manufacturers and labelers who pay rebates as provided in section 346-E;

(2) Appropriations made by the legislature to the fund; and

(3) Any other revenues designated for the fund.

(b) Moneys in the Rx plus special fund shall be used for the following purposes:

(1) Reimbursement payments to participating pharmacies for discounts provided to program participants;

(2) The cost of administering the Rx plus program, including salary and benefits of employees, computer costs, and contracted services as provided in section 346-C; and

(3) Any other purpose deemed necessary by the department for the purpose of operating and administering the Rx plus program.

All interest on special fund balances shall accrue to the special fund. Upon dissolution of the Rx plus special fund, any unencumbered moneys in the fund shall lapse to the credit of the general fund.

§346-K Annual report. The department shall report the enrollment and financial status of the Rx plus program to the legislature no later than twenty days prior to the convening of each regular session, beginning with the 2019 regular session."

SECTION 2. The administrator of the Rx plus program shall use the administrator's best efforts to obtain an initial rebate amount equal to or greater than the rebate calculated under the

medicaid program pursuant to title 42 United States Code section 1396r-8.

SECTION 3. In implementing this Act, the department of human services shall coordinate with other governmental programs and may take actions to enhance efficiency, reduce the cost of prescription drugs, and maximize the benefits of this and other governmental programs, including proposals to amend eligibility for the Rx plus program to provide program benefits to the beneficiaries of other programs.

The department may seek waivers of federal law, rule, or regulation necessary to implement the provisions of this Act.

SECTION 4. There is appropriated out of the general revenues of the State of Hawaii the sum of $ or so much thereof as may be necessary for fiscal year 2016-2017 to be paid into the Rx plus special fund created under this Act.

SECTION 5. There is appropriated out of the Rx special fund the sum of $ or so much thereof as may be necessary for fiscal year 2016-2017 to implement the Rx plus program established under this Act.

The sum appropriated by this Act shall be expended by the department of human services for the purposes of the special fund.

SECTION 6. If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 7. In codifying the new sections added by section 1 of this Act, the revisor of statutes shall substitute appropriate section numbers for the letters used in designating the new sections in this Act.

SECTION 8. This Act shall take effect on July 1, 2016.

INTRODUCED BY:

JAN 2 1 2016

H.B. NO. 1682

Report Title:
Prescription Drugs

Description:
Establishes the Rx Plus Program to make prescription drugs more affordable to all residents of the State.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.