

JAN 23 2025

A BILL FOR AN ACT

RELATING TO PRESCRIPTION DRUGS.

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

SECTION 1. Chapter 431, Hawaii Revised Statutes, is amended by adding a new part to article 10A to be appropriately designated and to read as follows:

"PART . HEALTH CARE INSURER SHARE THE SAVINGS ACT

§431:10A- Short title. This part shall be known and may be cited as the Health Care Insurer Share the Savings Act.

§431:10A- Definitions. As used in this part:

"Commissioner" means the insurance commissioner of the State.

"Defined cost sharing" means a deductible payment or coinsurance amount imposed on an enrollee for a covered prescription drug under the enrollee's health benefit plan.

"Enrollee" means an individual entitled to coverage of health care services from a health care insurer.

"Health benefit plan" means any individual, blanket, or group plan, policy, or contract for health care services issued



1 or delivered by a health care insurer in the State. "Health
2 benefit plan" does not include:

- 3 (1) Accident-only plans;
- 4 (2) Specified disease plans;
- 5 (3) Disability income plans;
- 6 (4) Plans that provide only for indemnity for hospital
7 confinement;
- 8 (5) Long-term-care-only plans that do not include pharmacy
9 benefits;
- 10 (6) Other limited-benefit health insurance policies or
11 plans;
- 12 (7) Health benefit plans provided under chapter 386; or
- 13 (8) Any state or local governmental employee plan.

14 "Health care insurer" means a:

- 15 (1) Health insurance issuer that:
 - 16 (A) Is subject to state law regulating insurance; and
 - 17 (B) Offers health insurance coverage as defined in
18 title 42 United States Code section 300gg-91, as
19 it existed on January 1, 2025;
- 20 (2) Health maintenance organization; or
- 21 (3) Hospital and medical service corporation.



1 "Health care insurer" does not include an entity that provides
2 only dental benefits or eye and vision care benefits.

3 "Price protection rebate" means a negotiated price
4 concession that accrues directly or indirectly to a health care
5 insurer, or other party on behalf of the health care insurer, if
6 there is an increase in the wholesale acquisition cost of a
7 prescription drug above a specified threshold.

8 "Rebate" means:

- 9 (1) A negotiated price concession, including without
10 limitation base price concessions, whether described
11 as a rebate or not, reasonable estimates of any price
12 protection rebates, and performance-based price
13 concessions that may accrue, directly or indirectly,
14 to the health care insurer during the coverage year
15 from a manufacturer or other party in connection with
16 the dispensing or administration of a prescription
17 drug; and
- 18 (2) Any reasonable estimate of a negotiated price
19 concession, fee, and other administrative cost that is
20 passed through, or is reasonably anticipated to be
21 passed through, to the health care insurer and serves



1 to reduce the health care insurer's liabilities for a
2 prescription drug.

3 **§431:10A- Health care insurer requirements; cost**
4 **sharing; confidentiality; rebate.** (a) Any health care insurer
5 that receives a rebate in connection with the dispensing or
6 administration of a prescription drug shall share the benefit of
7 the rebate with enrollees in the State.

8 (b) An enrollee's defined cost sharing for a prescription
9 drug shall be calculated at the point-of-sale based on a price
10 that is reduced by an amount equal to at least one hundred per
11 cent of all rebates received, or to be received, in connection
12 with the dispensing or administration of the prescription drug.

13 (c) This section shall not prohibit a health care insurer
14 from decreasing an enrollee's defined cost sharing by an amount
15 greater than that required under subsection (b).

16 (d) In implementing the requirements of this section, the
17 State shall only regulate a health care insurer to the extent
18 permissible under applicable law.

19 (e) Nothing in this section shall be construed to require
20 a health care insurer or its agents to publish or otherwise
21 reveal information regarding the actual amount of rebates a



1 health care insurer receives on a product or therapeutic class
2 of products, manufacturer, or pharmacy-specific basis; provided
3 that the information is:

4 (1) Protected as a trade secret;

5 (2) Considered proprietary and confidential under section
6 431:3-304, 431:3D-108, or 431:3G-106;

7 (3) Not subject to disclosure pursuant to chapter 92F; or

8 (4) Not to be disclosed, directly or indirectly, in a
9 manner that would:

10 (A) Allow for the identification of an individual
11 product, therapeutic class of products, or
12 manufacturer; or

13 (B) Have the potential to compromise the financial,
14 competitive, or proprietary nature of the
15 information.

16 A health care insurer shall impose the confidentiality
17 protections of this subsection on any vendor or downstream third
18 party that performs health care or administrative services on
19 behalf of the health care insurer that may receive or have
20 access to rebate information."



SECTION 2. Chapter 431S, Hawaii Revised Statutes, is amended by designating sections 431S-1 to 431S-6 as part I, entitled "General Provisions".

SECTION 3. Chapter 431S, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

"PART . PHARMACY BENEFIT MANAGER SHARE THE SAVINGS ACT

§431S- Short title. This part shall be known and may be cited as the Pharmacy Benefits Manager Share the Savings Act.

§431S- Definitions. As used in this part:

"Defined cost sharing" means a deductible payment or coinsurance amount imposed on an enrollee for a covered prescription drug under the enrollee's health benefit plan.

"Enrollee" means an individual entitled to coverage of health care services from a health care insurer.

"Health benefit plan" means any individual, blanket, or group plan, policy, or contract for health care services issued or delivered by a health care insurer in the State. "Health benefit plan" does not include:

- (1) Accident-only plans;
- (2) Specified disease plans;



(3) Disability income plans;

(4) Plans that provide only for indemnity for hospital
confinement;

(5) Long-term-care-only plans that do not include pharmacy
benefits;

(6) Other limited-benefit health insurance policies or
plans;

(7) Health benefit plans provided under chapter 386; or

(8) Any state or local governmental employee plan.

"Health care insurer" means an insurance company that is
subject to state law regulating insurance including without
limitation a health maintenance organization or a hospital and
medica service corporation.

"Price protection rebate" means a negotiated price
concession that accrues directly or indirectly to a health care
insurer, or other party on behalf of the health care insurer, if
there is an increase in the wholesale acquisition cost of a
prescription drug above a specified threshold.

"Rebate" means:

(1) A negotiated price concession, including without
limitation base price concessions, whether described



1 as a rebate or not, reasonable estimates of any price
2 protection rebates, and performance-based price
3 concessions that may accrue, directly or indirectly,
4 to the health care insurer during the coverage year
5 from a manufacturer or other party in connection with
6 the dispensing or administration of a prescription
7 drug; and

8 (2) Any reasonable estimate of a negotiated price
9 concession, fee, and other administrative cost that is
10 passed through, or is reasonably anticipated to be
11 passed through, to the health care insurer and serves
12 to reduce the health care insurer's liabilities for a
13 prescription drug.

14 **§431S- Pharmacy benefit manager requirements; cost**
15 **sharing; confidentiality; rebate.** (a) All pharmacy benefit
16 managers shall share the benefit of rebates with enrollees in
17 the State.

18 (b) An enrollee's defined cost sharing for a prescription
19 drug shall be calculated at the point-of-sale based on a price
20 that is reduced by an amount equal to at least one hundred per



1 cent of all rebates received, or to be received, in connection
2 with the dispensing or administration of the prescription drug.

3 (c) This section shall not prohibit a pharmacy benefit
4 manager from decreasing an enrollee's defined cost sharing by an
5 amount greater than that required under subsection (b).

6 (d) A pharmacy benefit manager shall submit a
7 certification to the commissioner by January 1 of each calendar
8 year certifying that the pharmacy benefit manager has complied
9 with the requirements of this section during the previous
10 calendar year; provided that the certification shall be signed
11 by the chief executive officer or chief financial officer of the
12 pharmacy benefit manager; provided further that the form of the
13 certification shall:

14 (1) Be in a format approved or established by the
15 commissioner; and

16 (2) Include the pharmacy benefit manager's best estimate
17 of the aggregate amount of rebates used to reduce
18 enrollee-defined cost sharing for prescription drugs
19 in the previous calendar year based on information
20 known to the pharmacy benefit manager as of the date
21 of the certification.



1 (e) Nothing in this section shall be construed to require
2 a pharmacy benefit manager or its agents to publish or otherwise
3 reveal information regarding the actual amount of rebates a
4 pharmacy benefit manager receives on a product or therapeutic
5 class of products, manufacturer, or pharmacy-specific basis;
6 provided that the information is:

7 (1) Protected as a trade secret;

8 (2) Considered proprietary and confidential under section
9 431:3-304, 431:3D-108, or 431:3G-106;

10 (3) Not subject to disclosure pursuant to chapter 92F; or

11 (4) Not to be disclosed, directly or indirectly, in a
12 manner that would:

13 (A) Allow for the identification of an individual
14 product, therapeutic class of products, or
15 manufacturer; or

16 (B) Have the potential to compromise the financial,
17 competitive, or proprietary nature of the
18 information.

19 A pharmacy benefit manager shall impose the confidentiality
20 protections of this subsection on any vendor or downstream third
21 party that performs health care or administrative services on



1 behalf of the pharmacy benefit manager that may receive or have
2 access to rebate information."

3 SECTION 4. If any provision of this Act, or the
4 application thereof to any person or circumstance, is held
5 invalid, the invalidity does not affect other provisions or
6 applications of the Act that can be given effect without the
7 invalid provision or application, and to this end the provisions
8 of this Act are severable.

9 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY: _____

Wm H. H.

By Request



S.B. NO. 1509

Report Title:

Prescription Drugs; Health Care Insurer Share the Savings Act; Pharmacy Benefit Manager Share the Savings Act; Rebate; Annual Certification

Description:

Requires health insurers and pharmacy benefit managers to reduce an enrollee's defined cost sharing for a prescription drug by a price amount equal to at least 100 per cent of all rebates received, or to be received, in connection with the dispensing or administration of the prescription drug. Requires a pharmacy benefit manager to submit a certification to the Insurance Commissioner by January 1 of each calendar year certifying compliance with the cost sharing requirements. Establishes protections for the publishing of certain confidential or proprietary information by health insurers or pharmacy benefit managers.

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

