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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 definitions of "asset test", "full  
3 coverage prescription drug benefit", and "liquid assets".

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

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

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

14 SECTION 2. Section 346-342, Hawaii Revised Statutes, is  
15 amended by amending subsection (b) to read as follows:

16 "(b) The department [~~may~~] shall provide enrollment  
17 assistance to eligible individuals [~~into the state pharmacy~~]



1 ~~assistance program. Enrollment for medicaid dual eligible~~  
2 ~~persons shall begin no later than October 1, 2005.]~~ by:

3 (1) Identifying the medicare prescription drug plans that  
4 best meet the needs of the enrollee at the lowest  
5 cost, based on the enrollee's medication, pharmacy,  
6 and overall costs; and

7 (2) Assisting the enrollee in joining or changing plans."

8 SECTION 3. Section 346-343, Hawaii Revised Statutes, is  
9 amended to read as follows:

10 "**§346-343 Eligibility.** (a) All residents of the state  
11 shall be eligible to participate in the state pharmacy  
12 assistance program; provided that the applicant:

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

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

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



1 (b) State pharmacy assistance program applicants who are  
 2 enrolled in any other public assistance program providing  
 3 pharmaceutical benefits, other than the Medicare Modernization  
 4 Act and medicaid, shall be ineligible for the state pharmacy  
 5 assistance program as long as they receive pharmaceutical  
 6 benefits from that other public assistance program, unless the  
 7 applicant is eligible for medicare. Residents who qualify for,  
 8 or are enrolled in, the Rx plus program shall be eligible for  
 9 the state pharmacy assistance program; provided that they meet  
 10 all other state pharmacy assistance program requirements.

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

15 (d) State pharmacy assistance program applicants must:

16 (1) Apply for the federal medicare part D pharmacy benefit  
 17 program;

18 (2) Apply for and accept all subsidies available under the  
 19 medicare part D pharmacy drug benefit; and

20 (3) Authorize the department on behalf of the applicant,  
 21 to:



- 1           (A) Request eligibility, coverage, and formulary  
2           exceptions; and
- 3           (B) Appeal adverse determinations relating to  
4           medicare prescription drug plan enrollment,  
5           eligibility, subsidy eligibility, subsidy benefit  
6           levels, coverage, and formulary exceptions."

7           SECTION 4. Section 346-344, Hawaii Revised Statutes, is  
8 amended to read as follows:

9           "**§346-344 Benefits.** (a) For persons ~~[meeting]~~ with  
10 household incomes of not more than two hundred fifty per cent of  
11 the federal poverty level, who meet the eligibility requirements  
12 in section 346-343, the state pharmacy assistance program [may]  
13 shall pay: ~~[all or some of the co-payments required under the~~  
14 ~~federal medicare part D pharmacy benefit program, subject to the~~  
15 ~~sufficiency of funds in the state pharmacy assistance program~~  
16 ~~special fund, as determined by the department.]~~

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



- 1        (2) As to prescriptions covered by the medicare  
2        prescription drug benefit, all enrollee costs,  
3        including deductibles and copayments;
- 4        (3) As to classes of medication excluded from coverage by  
5        the medicare prescription drug benefit, all enrollee  
6        costs; and
- 7        (4) As to a prescription that has been denied for coverage  
8        by the medicare prescription drug plan because the  
9        pharmaceutical is not on the plan's formulary, all  
10       enrollee costs if the department determines that  
11       alternative medications available from the medicare  
12       prescription drug plan would be less effective than  
13       the prescribed medication or unsafe. The department  
14       may seek reimbursement from the medicare prescription  
15       drug plan and request and appeal a part D formulary  
16       exception on behalf of the department and the  
17       beneficiary.
- 18       (b) For persons meeting the eligibility requirements in  
19       section 346-343 with household incomes between one hundred fifty  
20       and two hundred fifty per cent of the federal poverty level, the  
21       state pharmacy assistance program shall pay a portion of the



1 payment of medicare part D on a sliding scale of between twenty-  
2 five per cent and one hundred per cent of the average premium  
3 charged by the medicare prescription drug plans available in the  
4 state.

5 ~~[(b)]~~ (c) The state pharmacy assistance program is the  
6 payor of last resort ~~[subject to the sufficiency of funds in the~~  
7 ~~state pharmacy assistance program special fund, as determined by~~  
8 ~~the department].~~

9 ~~[(e)]~~ (d) The state pharmacy assistance program shall be  
10 funded with state appropriations ~~[, including funds derived from~~  
11 ~~revenues to the State from rebates paid by pharmaceutical~~  
12 ~~manufacturers pursuant to section 346-342(g),],~~ and with savings  
13 resulting from medicare prescription drug coverage for the  
14 medicaid dual eligible population."

15 SECTION 5. Section 346-345, Hawaii Revised Statutes, is  
16 amended by amending subsection (b) to read as follows:

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

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



- 1        (1) Payment of benefits under section 346-344;
- 2        (2) The costs of administering the state pharmacy
- 3                assistance program, including salary and benefits of
- 4                employees, computer costs, and contracted services as
- 5                provided in section 346-342(d); and
- 6        (3) Any other purpose deemed necessary by the department
- 7                for the purpose of operating and administering the
- 8                state pharmacy assistance program.

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

13        SECTION 6. Act 264, Session Laws of Hawaii 2006, is  
14 amended by amending section 6 to read as follows:

15        "SECTION 6. This Act shall take effect on July 1, 2006;  
16 provided that section 3 shall take effect on [~~July 1,~~] June 30,  
17 2007."

18        SECTION 7. Statutory material to be repealed is bracketed  
19 and stricken. New statutory material is underscored.

20        SECTION 8. This Act shall take effect on July 1, 2007.



**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. (HB1456 HD1)

