

JAN 23 2025

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# A BILL FOR AN ACT

RELATING TO PRESCRIPTION DRUGS.

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

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

4           **"PART . HEALTH CARE INSURER SHARE THE SAVINGS ACT**

5           **§431:10A- Short title.** This part shall be known and may  
6 be cited as the Health Care Insurer Share the Savings Act.

7           **§431:10A- Definitions.** As used in this part:

8           "Commissioner" means the insurance commissioner of the  
9 State.

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

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

15           "Health benefit plan" means any individual, blanket, or  
16 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."



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

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

7 **"PART . PHARMACY BENEFIT MANAGER SHARE THE SAVINGS ACT**

8 **§431S- Short title.** This part shall be known and may be  
9 cited as the Pharmacy Benefits Manager Share the Savings Act.

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

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

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

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

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



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

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

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

19           "Rebate" means:

- 20           (1) A negotiated price concession, including without
- 21                 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



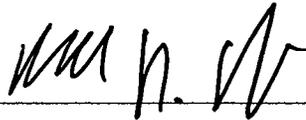
1 behalf of the pharmacy benefit manager that may receive or have  
2 access to rebate information."

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.

10

INTRODUCED BY: \_\_\_\_\_

A handwritten signature in black ink, appearing to be 'M. H. V.', is written over a horizontal line.

**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.*

