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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 that a health care insurer or its agents publish or otherwise  
21 reveal information regarding the actual amount of rebates a



1 health care insurer receives on a product or receives on a  
2 product or therapeutic class of products, manufacturer, or  
3 pharmacy-specific basis; provided 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; provided that a vendor's or  
21 downstream third party's designation of information as



1 proprietary or a trade secret shall not relieve the health care  
2 insurer or the plan sponsor of any obligation to provide that  
3 information to the insurance commissioner."

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

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

10 "PART . PHARMACY BENEFIT MANAGER SHARE THE SAVINGS ACT

11 §431S- Short title. This part shall be known and may be  
12 cited as the Pharmacy Benefit Manager Share the Savings Act.

13 §431S- Definitions. As used in this part:

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

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

19 "Health benefit plan" means any individual, blanket, or  
20 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 an insurance company that is  
15 subject to state law regulating insurance including without  
16 limitation a health maintenance organization or a hospital and  
17 medical service corporation.

18 "Pharmacy Benefit Manager" means a person, business, or  
19 other entity that directly or indirectly performs a pharmacy  
20 benefit management service for, or on behalf of, a health care



1 insurer in the administration of the prescription drug benefit  
2 of a health benefit plan.

3 "Pharmacy benefit management service" means:

4 (1) The negotiation of the price of prescription drugs,  
5 including the negotiation and contracting of direct or  
6 indirect rebates, payment differentials, or other  
7 price concessions;

8 (2) The management of any aspect of a prescription drug  
9 benefit of a health care insurer, including but not  
10 limited to the:

11 (A) Development or management of a drug formulary,  
12 including utilization of management or quality  
13 assurance programs;

14 (B) Processing and payment of claims for prescription  
15 drugs;

16 (C) Performance of drug utilization review;

17 (D) Processing of drug prior authorization requests;

18 (E) Adjudication of appeals or grievances related to  
19 the prescription drug benefit;

20 (F) Contracting with pharmacies;



1 (G) Management of retail, mail order, or specialty  
2 pharmacies;

3 (H) Controlling the cost of covered prescription  
4 drugs; or

5 (I) Managing or providing data to the prescription  
6 drug benefit, or the provision of services  
7 related thereto; and

8 (3) The performance of any administrative, managerial,  
9 clinical, pricing, financial, reimbursement, data  
10 administration or reporting, or billing service  
11 related to a prescription drug benefit of a health  
12 care insurer.

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

18 "Rebate" means:

19 (1) A negotiated price concession, including without  
20 limitation base price concessions, whether described  
21 as a rebate or not, reasonable estimates of any price



1 protection rebates, and performance-based price  
 2 concessions that may accrue, directly or indirectly,  
 3 to the health care insurer during the coverage year  
 4 from a manufacturer or other party in connection with  
 5 the dispensing or administration of a prescription  
 6 drug; and

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

13 **§431S- Pharmacy benefit manager requirements; cost**  
 14 **sharing; confidentiality; rebate.** (a) All pharmacy benefit  
 15 managers shall share the benefit of rebates with enrollees in  
 16 the State.

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



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

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

- 12 (1) Be in a format approved or established by the  
13 commissioner; and
- 14 (2) Include the pharmacy benefit manager's best estimate  
15 of the aggregate amount of rebates used to reduce  
16 enrollee-defined cost sharing for prescription drugs  
17 in the previous calendar year based on information  
18 known to the pharmacy benefit manager as of the date  
19 of the certification.

20 (e) Nothing in this section shall be construed to require  
21 that a pharmacy benefit manager or its agents publish or



1 otherwise reveal information regarding the actual amount of  
2 rebates a pharmacy benefit manager receives on a product or  
3 therapeutic class of products, manufacturer, or pharmacy-  
4 specific basis; provided that the information is:

- 5 (1) Protected as a trade secret;
- 6 (2) Considered proprietary and confidential under section  
7 431:3-304, 431:3D-108, or 431:3G-106;
- 8 (3) Not subject to disclosure pursuant to chapter 92F; or
- 9 (4) Not to be disclosed, directly or indirectly, in a  
10 manner that would:
- 11 (A) Allow for the identification of an individual  
12 product, therapeutic class of products, or  
13 manufacturer; or
- 14 (B) Have the potential to compromise the financial,  
15 competitive, or proprietary nature of the  
16 information.

17 A pharmacy benefit manager shall impose the confidentiality  
18 protections of this subsection on any vendor or downstream third  
19 party that performs health care or administrative services on  
20 behalf of the pharmacy benefit manager that may receive or have  
21 access to rebate information; provided that a vendor's or



1 downstream third party's designation of information as  
2 proprietary or a trade secret shall not relieve the pharmacy  
3 benefit manager or the plan sponsor of any obligation to provide  
4 that information to the insurance commissioner.

5       **§431S- Prescription drug benefits; pharmacy benefit**  
6 **manager requirements; final reimbursement to pharmacies.** (a) A  
7 pharmacy benefit manager shall ensure that the final  
8 reimbursement to a pharmacy, following any reconciliation, for a  
9 prescription drug is in an amount not less than the national  
10 average drug acquisition cost for the prescription drug at the  
11 time the drug is dispensed, plus a professional dispensing fee  
12 in an amount not less than the most recent dispensing fee as  
13 provided in the most recent Hawaii medicaid state plan as  
14 approved by the Centers for Medicare and Medicaid Services;  
15 provided that if the national average drug acquisition cost is  
16 not available at the time a drug is administered or dispensed, a  
17 pharmacy benefit manager shall not reimburse a pharmacy in an  
18 amount that is less than the wholesale acquisition cost of the  
19 drug, plus a professional dispensing fee in an amount not less  
20 than the dispensing fee as provided in the most recent Hawaii



1 medicaid state plan as approved by the Centers for Medicare and  
2 Medicaid Services.

3 (b) A pharmacy benefit manager shall not offer  
4 reimbursement rates or incentives to a non-affiliated pharmacy  
5 in an amount less than those offered to an affiliated pharmacy  
6 for providing the same prescription drug unless, and only to the  
7 extent, otherwise required by law."

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

14 SECTION 5. This Act shall take effect on December 31,  
15 2050.



**Report Title:**

Prescription Drugs; Health Care Insurer Share the Savings Act;  
Pharmacy Benefit Manager Share the Savings Act; Rebate;  
Reimbursement; 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 one hundred 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, pharmacy benefit managers, or plan sponsors that perform health care or administrative services on behalf of a health insurer or pharmacy benefit manager. Requires that the final reimbursement paid to a pharmacy by a pharmacy benefit manager shall be in an amount not less than the national average drug acquisition cost for the prescription drug at the time the drug is dispensed, plus a professional dispensing fee in an amount not less than the most recent Hawaii Medicaid dispensing fee as approved by the Centers for Medicare and Medicaid Services. Prohibits a pharmacy benefit manager from offering reimbursement rates or incentives to a non-affiliated pharmacy in an amount less than those offered to an affiliated pharmacy for providing the same prescription drug. Effective 12/31/2050. (SD1)

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