

118TH CONGRESS
1ST SESSION

S. 3509

To amend title XXVII of the Public Health Service Act to provide for a special enrollment period for pregnant persons, and for other purposes.

IN THE SENATE OF THE UNITED STATES

DECEMBER 13, 2023

Mr. BROWN (for himself, Mr. KING, Ms. BALDWIN, Mr. CASEY, Ms. SMITH, Mr. BLUMENTHAL, Mr. VAN HOLLEN, Mr. MERKLEY, Mr. WHITEHOUSE, Ms. CORTEZ MASTO, Mr. KAINE, Ms. KLOBUCHAR, and Mr. BOOKER) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XXVII of the Public Health Service Act to provide for a special enrollment period for pregnant persons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Healthy Maternity and
5 Obstetric Medicine Act” or the “Healthy MOM Act”.

6 **SEC. 2. PROVIDING FOR A SPECIAL ENROLLMENT PERIOD** 7 **FOR PREGNANT INDIVIDUALS.**

8 (a) SPECIAL ENROLLMENT PERIODS.—

1 (1) PUBLIC HEALTH SERVICE ACT.—Section
 2 2702(b)(2) of the Public Health Service Act (42
 3 U.S.C. 300gg–1(b)(2)) is amended by inserting “in-
 4 cluding a special enrollment period for pregnant in-
 5 dividuals, beginning on the date on which the preg-
 6 nancy is reported to the health insurance issuer” be-
 7 fore the period at the end.

8 (2) PATIENT PROTECTION AND AFFORDABLE
 9 CARE ACT.—Section 1311(c)(6) of the Patient Pro-
 10 tection and Affordable Care Act (42 U.S.C.
 11 18031(c)(6)) is amended—

12 (A) in subparagraph (C), by striking
 13 “and” at the end;

14 (B) by redesignating subparagraph (D) as
 15 subparagraph (E); and

16 (C) by inserting after subparagraph (C)
 17 the following new subparagraph:

18 “(D) a special enrollment period for preg-
 19 nant individuals, beginning on the date on
 20 which the pregnancy is reported to the Ex-
 21 change; and”.

22 (3) INTERNAL REVENUE CODE.—Section
 23 9801(f) of the Internal Revenue Code of 1986 (26
 24 U.S.C. 9801(f)) is amended by adding at the end
 25 the following new paragraph:

1 “(4) FOR PREGNANT INDIVIDUALS.—

2 “(A) IN GENERAL.—A group health plan
3 shall permit an employee who is eligible, but
4 not enrolled, for coverage under the terms of
5 the plan (or a dependent of such an employee
6 if the dependent is eligible, but not enrolled, for
7 coverage under such terms) to enroll for cov-
8 erage under the terms of the plan upon preg-
9 nancy, with the special enrollment period begin-
10 ning on the date on which the pregnancy is re-
11 ported to the group health plan or the preg-
12 nancy is confirmed by a health care provider.

13 “(B) REGULATIONS.—The Secretary shall
14 promulgate regulations with respect to the spe-
15 cial enrollment period under subparagraph (A),
16 including establishing a time period for preg-
17 nant individuals to enroll in coverage and effec-
18 tive date of such coverage.”.

19 (4) ERISA.—Section 701(f) of the Employee
20 Retirement Income Security Act of 1974 (29 U.S.C.
21 1181(f)) is amended by adding at the end the fol-
22 lowing:

23 “(4) FOR PREGNANT INDIVIDUALS.—

24 “(A) IN GENERAL.—A group health plan
25 or health insurance issuer in connection with a

1 group health plan shall permit an employee who
 2 is eligible, but not enrolled, for coverage under
 3 the terms of the plan (or a dependent of such
 4 an employee if the dependent is eligible, but not
 5 enrolled, for coverage under such terms) to en-
 6 roll for coverage under the terms of the plan
 7 upon pregnancy, with the special enrollment pe-
 8 riod beginning on the date on which the preg-
 9 nancy is reported to the group health plan or
 10 health insurance issuer or the pregnancy is con-
 11 firmed by a health care provider.

12 “(B) REGULATIONS.—The Secretary shall
 13 promulgate regulations with respect to the spe-
 14 cial enrollment period under subparagraph (A),
 15 including establishing a time period for preg-
 16 nant individuals to enroll in coverage and effec-
 17 tive date of such coverage.”.

18 (b) EFFECTIVE DATE.—The amendments made by
 19 this section shall apply with respect to plan years begin-
 20 ning after December 31, 2024.

21 **SEC. 3. COVERAGE OF MATERNITY CARE FOR DEPENDENT**
 22 **CHILDREN.**

23 Section 2719A of the Public Health Service Act (42
 24 U.S.C. 300gg–19a) is amended—

1 (1) in subsection (e), by inserting “(other than
2 subsection (f))” after “this section”; and

3 (2) by adding at the end the following:

4 “(f) COVERAGE OF MATERNITY CARE.—A group
5 health plan, or health insurance issuer offering group or
6 individual health insurance coverage, that provides cov-
7 erage for dependants shall ensure that such plan or cov-
8 erage includes coverage for maternity care associated with
9 pregnancy, childbirth, and postpartum care for all partici-
10 pants, beneficiaries, or enrollees, including dependants, in-
11 cluding coverage of labor and delivery. Such coverage shall
12 be provided to all pregnant dependents regardless of age.”.

13 **SEC. 4. FEDERAL EMPLOYEE HEALTH BENEFIT PLANS.**

14 (a) COVERAGE OF PREGNANCY.—The Director of the
15 Office of Personnel Management shall issue such regula-
16 tions as are necessary to ensure that pregnancy is consid-
17 ered a change in family status and a qualifying life event
18 for an individual who is eligible to enroll, but is not en-
19 rolled, in a health benefit plan under chapter 89 of title
20 5, United States Code.

21 (b) EFFECTIVE DATE.—The requirement in sub-
22 section (a) shall apply with respect to any contract entered
23 into under section 8902 of such title beginning 12 months
24 after the date of enactment of this Act.

1 **SEC. 5. CONTINUATION OF MEDICAID INCOME ELIGIBILITY**
 2 **STANDARD FOR PREGNANT INDIVIDUALS**
 3 **AND INFANTS.**

4 Section 1902(l)(2)(A) of the Social Security Act (42
 5 U.S.C. 1396a(l)(2)(A)) is amended—

6 (1) in clause (i), by striking “and not more
 7 than 185 percent”;

8 (2) in clause (ii)—

9 (A) in subclause (I), by striking “and”
 10 after the comma;

11 (B) in subclause (II), by striking the pe-
 12 riod at the end and inserting “, and”; and

13 (C) by adding at the end the following:

14 “(III) January 1, 2025, is the percentage pro-
 15 vided under clause (v).”; and

16 (3) by adding at the end the following new
 17 clause:

18 “(v) The percentage provided under clause (ii) for
 19 medical assistance provided on or after January 1, 2025,
 20 with respect to individuals described in subparagraph (A)
 21 or (B) of paragraph (1) shall not be less than—

22 “(I) the percentage specified for such individ-
 23 uals by the State in an amendment to its State plan
 24 (whether approved or not) as of January 1, 2014; or

25 “(II) if no such percentage is specified as of
 26 January 1, 2014, the percentage established for

1 such individuals under the State’s authorizing legis-
 2 lation or provided for under the State’s appropria-
 3 tions as of that date.”.

4 **SEC. 6. REQUIRING 12-MONTH CONTINUOUS COVERAGE**
 5 **FOR PREGNANT AND POSTPARTUM INDIVID-**
 6 **UALS UNDER MEDICAID AND CHIP.**

7 (a) MEDICAID.—Section 1902 of the Social Security
 8 Act (42 U.S.C. 1396a) is amended—

9 (1) in subsection (a)—

10 (A) in paragraph (86), by striking “and”
 11 at the end;

12 (B) in paragraph (87), by striking the pe-
 13 riod at the end and inserting “; and”; and

14 (C) by inserting after paragraph (87) the
 15 following new paragraph:

16 “(88) provide that the State plan is in compli-
 17 ance with subsection (e)(16).”; and

18 (2) in subsection (e)(16)—

19 (A) in subparagraph (A), by striking “At
 20 the option of the State, the State plan (or waiv-
 21 er of such State plan) may provide” and insert-
 22 ing “A State plan (or waiver of such State
 23 plan) shall provide”;

24 (B) in subparagraph (B), in the matter
 25 preceding clause (i), by striking “by a State

1 making an election under this paragraph” and
 2 inserting “under a State plan (or a waiver of
 3 such State plan)”;

4 (C) by striking subparagraph (C).

5 (b) CHIP.—

6 (1) IN GENERAL.—Section 2107(e)(1)(J) of the
 7 Social Security Act (42 U.S.C. 1397gg(e)(1)(J)) is
 8 amended to read as follows:

9 “(J) Paragraphs (5) and (16) of section
 10 1902(e) (relating to the requirement to provide
 11 medical assistance under the State plan or
 12 waiver consisting of full benefits during preg-
 13 nancy and throughout the 12-month
 14 postpartum period under title XIX).”.

15 (2) CONFORMING.—Section 2112(d)(2)(A) of
 16 the Social Security Act (42 U.S.C. 1397ll(d)(2)(A))
 17 is amended by striking “the month in which the 60-
 18 day period” and all that follows through the period
 19 and inserting “the 12-month period beginning on the
 20 last day of the pregnancy.”.

21 (c) EFFECTIVE DATE.—

22 (1) IN GENERAL.—Subject to paragraph (2),
 23 the amendments made by this section shall take ef-
 24 fect on the first day of the first calendar quarter

1 that begins on or after the date that is 1 year after
2 the date of enactment of this Act.

3 (2) EXCEPTION FOR STATE LEGISLATION.—In
4 the case of a State plan under title XIX or XXI of
5 the Social Security Act that the Secretary of Health
6 and Human Services determines requires State legis-
7 lation in order for the respective plan to meet any
8 requirement imposed by amendments made by this
9 section, the plan shall not be regarded as failing to
10 comply with the requirements of such title solely on
11 the basis of its failure to meet such an additional re-
12 quirement before the first day of the first calendar
13 quarter beginning after the close of the first regular
14 session of the State legislature that begins after the
15 date of enactment of this Act. For purposes of the
16 previous sentence, in the case of a State that has a
17 2-year legislative session, each year of the session
18 shall be considered to be a separate regular session
19 of the State legislature.

20 **SEC. 7. RELATIONSHIP TO OTHER LAWS.**

21 Nothing in this Act (or an amendment made by this
22 Act) shall be construed to invalidate or limit the remedies,
23 rights, and procedures of any Federal law or the law of
24 any State or political subdivision of any State or jurisdic-
25 tion that provides greater or equal protection for enrollees

- 1 in a group health plan or group or individual health insur-
- 2 ance offered by a health insurance issuer.

