

118TH CONGRESS
1ST SESSION

H. R. 6716

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 11, 2023

Mrs. WATSON COLEMAN (for herself, Mr. BOYLE of Pennsylvania, Ms. WILSON of Florida, Mr. PAYNE, Mr. GRIJALVA, Mr. JOHNSON of Georgia, Mr. EVANS, Mr. CONNOLLY, Ms. CHU, Mr. TORRES of New York, Mr. POCAN, Ms. LEE of California, Mr. COHEN, Ms. NORTON, Mr. CARSON, Mrs. HAYES, Ms. CROCKETT, Mr. MEEKS, Mr. CARTER of Louisiana, Mr. JACKSON of Illinois, Ms. STEVENS, Ms. BONAMICI, Mr. SWALWELL, Ms. MENG, Ms. LOIS FRANKEL of Florida, and Ms. SHERRILL) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Education and the Workforce, and Oversight and Accountability, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title XXVII of the Public Health Service Act to provide for a special enrollment period for pregnant women, 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,*

1 **SECTION 1. SHORT TITLE.**

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

4 **SEC. 2. FINDINGS; PURPOSE.**

5 (a) FINDINGS.—Congress finds the following:

6 (1) Pregnancy is a significant life event for mil-
7 lions of women in the United States each year.

8 (2) For more than 30 years, our Nation,
9 through the Medicaid program, has recognized that
10 pregnant women need immediate access to afford-
11 able care, and has allowed women who meet income-
12 eligibility requirements to enroll in Medicaid cov-
13 erage when they become pregnant.

14 (3) Congress recognized the central importance
15 of maternity coverage by classifying maternity and
16 newborn care as one of the ten essential health bene-
17 fits that must now be covered on most individual
18 and small group health insurance plans under sec-
19 tion 1302(b)(1) of the Patient Protection and Af-
20 fordable Care Act (42 U.S.C. 18022(b)(1)).

21 (4) Congress has also recognized the significant
22 challenge of maternal mortality and the need to
23 eliminate disparities in maternal health outcomes for
24 pregnancy-related and pregnancy-associated deaths,
25 and to improve health outcomes for both mothers

1 and babies through passage of the Preventing Ma-
2 ternal Deaths Act of 2018 (Public Law 115–344).

3 (5) Access to comprehensive maternity coverage
4 allows women to access important pregnancy-related
5 care, which is demonstrated to improve health out-
6 comes for women and newborns and reduce financial
7 costs for both consumers and insurers.

8 (6) Uninsured women, women with grand-
9 fathered and transitional health plans, self-funded
10 student health plans, and catastrophic and high-de-
11 ductible health plans may lack access to comprehen-
12 sive and affordable maternity coverage.

13 (7) Employer health plans that exclude depend-
14 ent daughters from maternity coverage leave young
15 women without coverage for their pregnancy, even
16 though Federal law has long held that treating preg-
17 nancy differently than other conditions is sex-based
18 discrimination.

19 (8) A special enrollment period is especially im-
20 portant for young adults, who are at high risk for
21 unintended pregnancies, yet young adults are fre-
22 quently enrolled in catastrophic coverage, which
23 often has fewer benefits, more restrictions, and high-
24 er deductibles.

1 (9) This coverage would be an equalizer for
2 communities of color. The maternal mortality rate
3 varies drastically by race and ethnicity, and where a
4 woman lives. The rising maternal mortality rate in
5 the United States is driven predominantly by the
6 disproportionately high African-American maternal
7 mortality rate, which is four times more than the
8 rate for White women.

9 (10) According to the Centers for Disease Con-
10 trol and Prevention, about 700 women die each year
11 in the United States from pregnancy-related com-
12 plications. Black and American Indian/Alaska Native
13 women are about three times more likely to die from
14 a pregnancy-related cause than White women.

15 (11) Data demonstrates that 3 in 5 pregnancy
16 related deaths could be prevented. Improving access
17 to care is one way to help prevent deaths, regardless
18 of race or ethnicity.

19 (12) Timely maternity care improves the health
20 of pregnant women, as well as birth outcomes and
21 the health of babies throughout their lifetimes. Preg-
22 nancy-related maternal mortality is three to four
23 times higher among women who receive no maternity
24 care compared to women who do. Regular maternity
25 care can detect or mitigate serious pregnancy-related

1 health complications, including preeclampsia, pla-
2 cental abruption, complications from diabetes, com-
3 plications from heart disease, and Graves' disease,
4 all of which can result in morbidity or mortality for
5 the mother or newborn.

6 (13) The Centers for Disease Control and Pre-
7 vention reports that more than half of all maternal
8 deaths occur at delivery or in the first postpartum
9 year, whereas just more than one-third of preg-
10 nancy-related or pregnancy-associated deaths occur
11 while a person is still pregnant. Yet, for women eligi-
12 ble for the Medicaid program on the basis of preg-
13 nancy, such Medicaid coverage lapses at the end of
14 the month on which the 60th postpartum day lands.

15 (14) Timely maternity care and adequate
16 postpartum care can reduce short- and long-term
17 health care costs. If a woman does not have access
18 to affordable maternity care during her pregnancy,
19 and she or her newborn experiences pregnancy com-
20 plications that result in health problems after birth,
21 their insurer may end up paying much higher costs
22 than if the insurer had covered the woman's mater-
23 nity care during her pregnancy. Intensive maternity
24 care can reduce hospital and neonatal intensive care
25 unit admissions among infants, resulting in cost sav-

1 ings of \$1,768 to \$5,560 per birth. For women with
2 high-risk pregnancies, intensive maternity care saves
3 \$1.37 for every \$1 invested in maternity care.

4 (b) PURPOSE.—The purpose of this Act is to protect
5 the health of women and newborns by ensuring that all
6 women eligible for coverage through the Exchanges estab-
7 lished under title I of the Patient Protection and Afford-
8 able Care Act (Public Law 111–148) and women eligible
9 for other individual or group health plan coverage can ac-
10 cess affordable health coverage during their pregnancy.

11 **SEC. 3. PROVIDING FOR A SPECIAL ENROLLMENT PERIOD**

12 **FOR PREGNANT INDIVIDUALS.**

13 (a) PUBLIC HEALTH SERVICE ACT.—Section
14 2702(b)(2) of the Public Health Service Act (42 U.S.C.
15 300gg–1(b)(2)) is amended by inserting “, including a
16 special enrollment period for pregnant individuals, begin-
17 ning on the date on which the pregnancy is reported to
18 the health insurance issuer” before the period at the end.

19 (b) PATIENT PROTECTION AND AFFORDABLE CARE
20 ACT.—Section 1311(c)(6) of the Patient Protection and
21 Affordable Care Act (42 U.S.C. 18031(c)(6)) is amend-
22 ed—

23 (1) in subparagraph (C), by striking “and” at
24 the end;

1 (2) by redesignating subparagraph (D) as sub-
2 paragraph (E); and

3 (3) by inserting after subparagraph (C) the fol-
4 lowing new subparagraph:

5 “(D) a special enrollment period for preg-
6 nant individuals, beginning on the date on
7 which such pregnancy is reported to the Ex-
8 change; and”.

9 (c) SPECIAL ENROLLMENT PERIODS.—

10 (1) INTERNAL REVENUE CODE.—Section
11 9801(f) of the Internal Revenue Code of 1986 (26
12 U.S.C. 9801(f)) is amended by adding at the end
13 the following new paragraph:

14 “(4) FOR PREGNANT INDIVIDUALS.—

15 “(A) A group health plan shall permit an
16 employee who is eligible, but not enrolled, for
17 coverage under the terms of the plan (or a de-
18 pendent of such an employee if the dependent
19 is eligible, but not enrolled, for coverage under
20 such terms) to enroll for coverage under the
21 terms of the plan upon pregnancy, with the spe-
22 cial enrollment period beginning on the date on
23 which the pregnancy is reported to the group
24 health plan or the pregnancy is confirmed by a
25 health care provider.

1 “(B) The Secretary shall promulgate regu-
2 lations with respect to the special enrollment
3 period under subparagraph (A), including es-
4 tablishing a time period for pregnant individ-
5 uals to enroll in coverage and effective date of
6 such coverage.”.

7 (2) ERISA.—Section 701(f) of the Employee
8 Retirement Income Security Act of 1974 (29 U.S.C.
9 1181(f)) is amended by adding at the end the fol-
10 lowing:

11 “(4) FOR PREGNANT INDIVIDUALS.—

12 “(A) A group health plan or health insur-
13 ance issuer in connection with a group health
14 plan shall permit an employee who is eligible,
15 but not enrolled, for coverage under the terms
16 of the plan (or a dependent of such an employee
17 if the dependent is eligible, but not enrolled, for
18 coverage under such terms) to enroll for cov-
19 erage under the terms of the plan upon preg-
20 nancy, with the special enrollment period begin-
21 ning on the date on which the pregnancy is re-
22 ported to the group health plan or health insur-
23 ance issuer or the pregnancy is confirmed by a
24 health care provider.

1 “(B) The Secretary shall promulgate regu-
2 lations with respect to the special enrollment
3 period under subparagraph (A), including es-
4 tablishing a time period for pregnant individ-
5 uals to enroll in coverage and effective date of
6 such coverage.”.

7 (d) EFFECTIVE DATE.—The amendments made by
8 this section shall apply with respect to plan years begin-
9 ning on or after January 1, 2025.

10 **SEC. 4. COVERAGE OF MATERNITY CARE FOR DEPENDENT**
11 **CHILDREN.**

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

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

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

17 “(f) COVERAGE OF MATERNITY CARE.—Not later
18 than January 1, 2025, a group health plan, or health in-
19 surance issuer offering group or individual health insur-
20 ance coverage, that provides coverage for dependents shall
21 ensure that such plan or coverage includes coverage for
22 maternity care associated with pregnancy, childbirth, and
23 postpartum care for all participants, beneficiaries, or en-
24 rollees, including dependents, including coverage of labor

1 and delivery. Such coverage shall be provided to all preg-
2 nant dependents regardless of age.”.

3 **SEC. 5. FEDERAL EMPLOYEE HEALTH BENEFIT PLANS.**

4 (a) COVERAGE OF PREGNANCY.—

5 (1) IN GENERAL.—The Director of the Office of
6 Personnel Management shall issue such regulations
7 as are necessary to ensure that pregnancy is consid-
8 ered a change in family status and a qualifying life
9 event for an individual who is eligible to enroll, but
10 is not enrolled, in a health benefit plan under chap-
11 ter 89 title 5, United States Code.

12 (2) EFFECTIVE DATE.—The requirement in
13 paragraph (1) shall apply with respect to any con-
14 tract entered into under section 8902 of such title
15 beginning 12 months after the date of enactment of
16 this Act.

17 (b) DESIGNATING CERTAIN FEHBP-RELATED
18 SERVICES AS EXCEPTED SERVICES UNDER THE ANTI-
19 DEFICIENCY ACT.—

20 (1) IN GENERAL.—Section 8905 of title 5,
21 United States Code, is amended by adding at the
22 end the following:

23 “(j) Any services by an officer or employee under this
24 chapter relating to enrolling individuals in a health bene-
25 fits plan under this chapter, or changing the enrollment

1 of an individual already so enrolled due to an event de-
2 scribed in section 5(a)(1) of the Healthy MOM Act, shall
3 be deemed, for purposes of section 1342 of title 31, serv-
4 ices for emergencies involving the safety of human life or
5 the protection of property.”.

6 (2) APPLICATION.—The amendment made by
7 paragraph (1) shall apply to any lapse in appropria-
8 tions beginning on or after the date of enactment of
9 this Act.

10 **SEC. 6. CONTINUATION OF MEDICAID INCOME ELIGIBILITY**

11 **STANDARD FOR PREGNANT INDIVIDUALS**

12 **AND INFANTS.**

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

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

17 (2) in clause (ii)—

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

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

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

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

1 (3) by adding at the end the following new
2 clause:

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

7 “(I) the percentage specified for such individ-
8 uals by the State in an amendment to its State plan
9 (whether approved or not) as of January 1, 2025; or

10 “(II) if no such percentage is specified as of
11 January 1, 2025, the percentage established for
12 such individuals under the State’s authorizing legis-
13 lation or provided for under the State’s appropria-
14 tions as of that date.”.

15 **SEC. 7. REQUIRING AND MAKING PERMANENT 12-MONTH**
16 **CONTINUOUS COVERAGE FOR PREGNANT**
17 **AND POSTPARTUM INDIVIDUALS UNDER**
18 **MEDICAID AND CHIP.**

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

21 (1) in subsection (a)—

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

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

1 (C) by inserting after paragraph (87) the
2 following new paragraph:

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

5 (2) in subsection (e)(16), as added by section
6 9812 of the American Rescue Plan Act of 2021
7 (P.L. 117–2)—

8 (A) in subparagraph (A), by striking “At
9 the option of the State, the State plan (or waiv-
10 er of such State plan) may provide” and insert-
11 ing “A State plan (or waiver of such State
12 plan) shall provide”;

13 (B) in subparagraph (B), in the matter
14 preceding clause (i), by striking “by a State
15 making an election under this paragraph” and
16 inserting “under a State plan (or a waiver of
17 such State plan)”; and

18 (C) by striking subparagraph (C).

19 (b) CHIP.—

20 (1) IN GENERAL.—Section 2107(e)(1)(J) of the
21 Social Security Act (42 U.S.C. 1397gg(e)(1)(J)), as
22 inserted by section 9822 of the American Rescue
23 Plan Act of 2021 (P.L. 117–2), is amended to read
24 as follows:

1 “(J) Paragraphs (5) and (16) of section
2 1902(e) (relating to the requirement to provide
3 medical assistance under the State plan or
4 waiver consisting of full benefits during preg-
5 nancy and throughout the 12-month
6 postpartum period under title XIX) such that
7 the provision of assistance under the State child
8 health plan or waiver for targeted low-income
9 children or targeted low-income pregnant
10 women during pregnancy and the 12-month
11 postpartum period shall be required and shall
12 include coverage of all items or services pro-
13 vided to a targeted low-income child or targeted
14 low-income pregnant woman (as applicable)
15 under the State child health plan or waiver).”.

16 (2) CONFORMING.—Section 2112(d)(2)(A) of
17 the Social Security Act (42 U.S.C. 1397ll(d)(2)(A)),
18 as inserted by section 9822 of the American Rescue
19 Plan Act of 2021 (P.L. 117–2), is amended by strik-
20 ing “the month in which the 60-day period” and all
21 that follows through “pursuant to section
22 2107(e)(1),”.

23 (c) CONFORMING AMENDMENTS.—

1 (1) Section 9812(b) of the American Rescue
2 Plan Act of 2021 (P.L. 117–2) is amended to read
3 as follows:

4 “(b) EFFECTIVE DATE.—

5 “(1) IN GENERAL.—Subject to paragraph (2),
6 the amendment made by subsection (a) shall apply
7 with respect to services furnished on or after the 1st
8 day of the 1st fiscal year quarter that begins one
9 year after the date of the enactment of this Act.

10 “(2) EXCEPTION FOR STATE LEGISLATION.—In
11 the case of a State plan under title XIX of the So-
12 cial Security Act that the Secretary of Health and
13 Human Services determines requires State legisla-
14 tion in order for the respective plan to meet any re-
15 quirement imposed by amendments made by this
16 section, the plan shall not be regarded as failing to
17 comply with the requirements of such title solely on
18 the basis of its failure to meet such an additional re-
19 quirement before the first day of the first fiscal year
20 quarter beginning after the close of the first regular
21 session of the State legislature that begins after the
22 date of enactment of this Act. For purposes of the
23 previous sentence, in the case of a State that has a
24 2-year legislative session, each year of the session

1 shall be considered to be a separate regular session
2 of the State legislature.”.

3 (2) Section 9822(b) of the American Rescue
4 Plan Act of 2021 (P.L. 117–2) is amended to read
5 as follows:

6 “(b) EFFECTIVE DATE.—

7 “(1) IN GENERAL.—Subject to paragraph (2),
8 the amendments made by subsection (a), shall apply
9 with respect to services furnished on or after the 1st
10 day of the 1st fiscal year quarter that begins one
11 year after the date of the enactment of this Act.

12 “(2) EXCEPTION FOR STATE LEGISLATION.—In
13 the case of a State child health plan under title XXI
14 of the Social Security Act that the Secretary of
15 Health and Human Services determines requires
16 State legislation in order for the plan to meet any
17 requirement imposed by amendments made by this
18 section, the respective plan shall not be regarded as
19 failing to comply with the requirements of such title
20 solely on the basis of its failure to meet such an ad-
21 ditional requirement before the first day of the first
22 fiscal year quarter beginning after the close of the
23 first regular session of the State legislature that be-
24 gins after the date of enactment of this Act. For
25 purposes of the previous sentence, in the case of a

1 State that has a 2-year legislative session, each year
2 of the session shall be considered to be a separate
3 regular session of the State legislature.”.

4 (d) **EFFECTIVE DATE.**—The amendments made by
5 subsections (a) and (c)(1) shall take effect as if included
6 in the enactment of section 9812 of the American Rescue
7 Plan Act of 2021 (P.L. 117–2). The amendments made
8 by subsections (b) and (c)(2) shall take effect as if in-
9 cluded in the enactment of section 9822 of such Act.

10 **SEC. 8. RELATIONSHIP TO OTHER LAWS.**

11 Nothing in this Act (or an amendment made by this
12 Act) shall be construed to invalidate or limit the remedies,
13 rights, and procedures of any Federal law or the law of
14 any State or political subdivision of any State or jurisdic-
15 tion that provides greater or equal protection for enrollees
16 in a group health plan or group or individual health insur-
17 ance offered by a health insurance issuer.

○