

116TH CONGRESS  
1ST SESSION

# H. R. 2778

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

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## IN THE HOUSE OF REPRESENTATIVES

MAY 15, 2019

Mrs. WATSON COLEMAN (for herself, Ms. ADAMS, Ms. BARRAGÁN, Ms. BONAMICI, Ms. CLARK of Massachusetts, Ms. CLARKE of New York, Mr. COHEN, Mr. CONNOLLY, Ms. DELBENE, Mrs. DINGELL, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. ENGEL, Mr. ESPAILLAT, Mr. FOSTER, Ms. FRANKEL, Mr. GALLEGO, Mr. GRIJALVA, Ms. HAALAND, Mr. HASTINGS, Ms. JACKSON LEE, Ms. KELLY of Illinois, Mr. KHANNA, Mrs. KIRKPATRICK, Mr. LANGEVIN, Mrs. LAWRENCE, Ms. LEE of California, Mr. LEWIS, Ms. MCCOLLUM, Ms. MENG, Mr. SEAN PATRICK MALONEY of New York, Ms. MOORE, Mr. MOULTON, Mr. NADLER, Ms. NORTON, Mr. PASCRELL, Mr. RASKIN, Ms. ROYBAL-ALLARD, Mr. RYAN, Mr. SCHIFF, Mr. TONKO, Mr. TRONE, Ms. WILSON of Florida, Ms. WASSERMAN SCHULTZ, Ms. VELÁZQUEZ, Mrs. BEATTY, Mr. VEASEY, Mr. VARGAS, Mr. BROWN of Maryland, Ms. BASS, Mr. THOMPSON of Mississippi, and Mr. RICHMOND) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, Oversight and Reform, and Education and Labor, 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

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## 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,*

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. FINDINGS AND PURPOSE.**

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

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

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

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

23              (4) Congress has also recognized the significant  
24       challenge of maternal mortality and the need to  
25       eliminate disparities in maternal health outcomes for

1 pregnancy-related and pregnancy-associated deaths,  
2 and to improve health outcomes for both mothers  
3 and babies through passage of the Preventing Ma-  
4 ternal Deaths Act of 2018 (Public Law 115–344).

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

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

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

21 (8) A special enrollment period is especially im-  
22 portant for young adults, who are at high risk for  
23 unintended pregnancies, yet young adults are fre-  
24 quently enrolled in catastrophic coverage, which

1 often has fewer benefits, more restrictions, and high-  
2 er deductibles.

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

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

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

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

1 care compared to women who do. Regular maternity  
2 care can detect or mitigate serious pregnancy-related  
3 health complications, including preeclampsia, pla-  
4 cental abruption, complications from diabetes, com-  
5 plications from heart disease, and Graves' disease,  
6 all of which can result in morbidity or mortality for  
7 the mother or newborn.

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

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

1 care can reduce hospital and neonatal intensive care  
2 unit admissions among infants, resulting in cost sav-  
3 ings of \$1,768 to \$5,560 per birth. For women with  
4 high-risk pregnancies, intensive maternity care saves  
5 \$1.37 for every \$1 invested in maternity care.

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

13 **SEC. 3. PROVIDING FOR A SPECIAL ENROLLMENT PERIOD**  
14 **FOR PREGNANT INDIVIDUALS.**

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

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

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

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

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

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

11 (c) SPECIAL ENROLLMENT PERIODS.—

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

16 “(4) FOR PREGNANT INDIVIDUALS.—

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

1 health plan or the pregnancy is confirmed by a  
2 health care provider.

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

9 (2) ERISA.—Section 701(f) of the Employee  
10 Retirement Income Security Act of 1974 (29 U.S.C.  
11 1181(f)) is amended by adding at the end the fol-  
12 lowing:

13 “(4) FOR PREGNANT INDIVIDUALS.—

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



1           ance issuer or the pregnancy is confirmed by a  
2           health care provider.

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

9           (d) EFFECTIVE DATE.—The amendments made by  
10          this section shall apply with respect to plan years begin-  
11          ning after the 2019 plan year.

12       **SEC. 4. COVERAGE OF MATERNITY CARE FOR DEPENDENT**  
13                               **CHILDREN.**

14          Section 2719A of the Public Health Service Act (42  
15       U.S.C. 300gg–19a) is amended by adding at the end the  
16       following:

17          “(e) COVERAGE OF MATERNITY CARE.—A group  
18       health plan, or health insurance issuer offering group or  
19       individual health insurance coverage, that provides cov-  
20       erage for dependants shall ensure that such plan or cov-  
21       erage includes coverage for maternity care associated with  
22       pregnancy, childbirth, and postpartum care for all partici-  
23       pants, beneficiaries, or enrollees, including dependants, in-  
24       cluding coverage of labor and delivery. Such coverage shall  
25       be provided to all pregnant dependents regardless of age.”.

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

2 (a) COVERAGE OF PREGNANCY.—

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

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

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

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

21 “(i) Any services by an officer or employee under this  
22 chapter relating to enrolling individuals in a health bene-  
23 fits plan under this chapter, or changing the enrollment  
24 of an individual already so enrolled due to an event de-  
25 scribed in section 5(a)(1) of the Healthy MOM Act, shall  
26 be deemed, for purposes of section 1342 of title 31, serv-

1 ices for emergencies involving the safety of human life or  
 2 the protection of property.”.

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

7 **SEC. 6. CONTINUATION OF MEDICAID INCOME ELIGIBILITY**  
 8 **STANDARD FOR PREGNANT INDIVIDUALS**  
 9 **AND INFANTS.**

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

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

14 (2) in clause (ii)—

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

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

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

20 “(III) January 1, 2020, is the percentage pro-  
 21 vided under clause (v).”; and

22 (3) by adding at the end the following new  
 23 clause:

24 “(v) The percentage provided under clause (ii) for  
 25 medical assistance provided on or after January 1, 2020,

1 with respect to individuals described in subparagraph (A)  
 2 or (B) of paragraph (1) shall not be less than—

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

6 “(II) if no such percentage is specified as of  
 7 January 1, 2014, the percentage established for  
 8 such individuals under the State’s authorizing legis-  
 9 lation or provided for under the State’s appropria-  
 10 tions as of that date.”.

11 **SEC. 7. 12-MONTH CONTINUOUS COVERAGE FOR PREG-**  
 12 **NANT AND POSTPARTUM INDIVIDUALS**  
 13 **UNDER MEDICAID AND CHIP.**

14 (a) MEDICAID.—

15 (1) REQUIRED FOR ALL ELIGIBILITY PATH-  
 16 WAYS.—Paragraph (5) of section 1902(e) of the So-  
 17 cial Security Act (42 U.S.C. 1396a(e)) is amended  
 18 to read as follows:

19 “(5) Any individual who is eligible for medical assist-  
 20 ance under the State plan or a waiver of such plan and  
 21 who is, or who while so eligible becomes, pregnant shall  
 22 continue to be eligible under the plan or waiver for medical  
 23 assistance that provides at least essential health benefits  
 24 as described in section 1302(b) of the Patient Protection  
 25 and Affordable Care Act, through the end of the month

1 in which the 1-year period (beginning on the last day of  
 2 her pregnancy) ends, regardless of the basis for the indi-  
 3 vidual’s eligibility for medical assistance, including if the  
 4 individual’s eligibility for medical assistance is on the basis  
 5 of being pregnant.”.

6 (2) CONFORMING AMENDMENTS.—Title XIX of  
 7 the Social Security Act (42 U.S.C. 1396 et seq.) is  
 8 amended—

9 (A) in section 1902—

10 (i) in subsection (a)(10), in the mat-  
 11 ter following subparagraph (G) by striking  
 12 “(VII) the medical assistance” and all that  
 13 follows through “complicate pregnancy,”;

14 (ii) in subsection (e)(6), by striking  
 15 “60-day” and inserting “1-year”; and

16 (iii) in subsection (l)(1)(A), by strik-  
 17 ing “60-day” and inserting “1-year”;

18 (B) in section 1903(v)(4)(A)(i), by striking  
 19 “60-day” and inserting “1-year”; and

20 (C) in section 1905(a), in the 4th sentence  
 21 in the matter following paragraph (30), by  
 22 striking “60-day” and inserting “1-year”.

23 (b) CHIP.—

1           (1) IN GENERAL.—Section 2107(e)(1) of the  
2       Social Security Act (42 U.S.C. 1397gg(e)(1)) is  
3       amended—

4           (A) by redesignating subparagraphs (H)  
5       through (S) as subparagraphs (I) through (T),  
6       respectively; and

7           (B) by inserting after subparagraph (G),  
8       the following:

9           “(H) Section 1902(e)(5) (requiring 12-  
10       month continuous coverage for pregnant indi-  
11       viduals).”.

12          (2) CONFORMING AMENDMENTS.—Subsections  
13       (d)(2)(A) and (f)(2) of section 2112 of the Social  
14       Security Act (42 U.S.C. 1397ll) are each amended  
15       by striking “60-day” and inserting “1-year”.

16       (c) EFFECTIVE DATE.—

17          (1) IN GENERAL.—Subject to paragraph (2),  
18       the amendments made by this section shall take ef-  
19       fect on the 1st day of the 1st calendar quarter that  
20       begins on or after the date that is 1 year after the  
21       date of enactment of this Act.

22          (2) EXCEPTION FOR STATE LEGISLATION.—In  
23       the case of a State plan under title XIX of the So-  
24       cial Security Act or a State child health plan under  
25       title XXI of such Act that the Secretary of Health

1 and Human Services determines requires State legis-  
2 lation in order for the respective plan to meet any  
3 requirement imposed by amendments made by this  
4 section, the respective plan shall not be regarded as  
5 failing to comply with the requirements of such title  
6 solely on the basis of its failure to meet such an ad-  
7 ditional requirement before the first day of the first  
8 calendar quarter beginning after the close of the  
9 first regular session of the State legislature that be-  
10 gins after the date of enactment of this Act. For  
11 purposes of the previous sentence, in the case of a  
12 State that has a 2-year legislative session, each year  
13 of the session shall be considered to be a separate  
14 regular session of the State legislature.

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

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

○