

116TH CONGRESS  
1ST SESSION

# S. 1481

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 SENATE OF THE UNITED STATES

MAY 15, 2019

Mr. BROWN (for himself, Ms. SMITH, Mrs. GILLIBRAND, Mr. MARKEY, Ms. KLOBUCHAR, Mr. TESTER, Ms. HASSAN, Mr. BLUMENTHAL, Ms. HARRIS, Mr. CASEY, Mr. WHITEHOUSE, Mr. BOOKER, Mr. MERKLEY, Mr. PETERS, Mr. KING, Ms. ROSEN, Mr. LEAHY, Ms. CORTEZ MASTO, Ms. BALDWIN, Mr. JONES, and Mr. KAINE) introduced the following bill; which was read twice and referred to the Committee on Finance

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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:

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

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

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

16                             (4) Congress has also recognized the significant  
17 challenge of maternal mortality and the need to  
18 eliminate disparities in maternal health outcomes for  
19 pregnancy-related and pregnancy-associated deaths,  
20 and to improve health outcomes for both mothers  
21 and babies through passage of the Preventing Ma-  
22 ternal Deaths Act of 2018 (Public Law 115–344).

23                             (5) Access to comprehensive maternity coverage  
24 allows women to access important pregnancy-related  
25 care, which is demonstrated to improve health out-

1       comes for women and newborns and reduce financial  
2       costs for both consumers and insurers.

3                 (6) Uninsured women, women with grand-  
4       fathered and transitional health plans, self-funded  
5       student health plans, and catastrophic and high-de-  
6       ductible health plans may lack access to comprehen-  
7       sive and affordable maternity coverage.

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

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

20                 (9) This coverage would be an equalizer for  
21       communities of color. The maternal mortality rate  
22       varies drastically by race and ethnicity, and where a  
23       woman lives. The rising maternal mortality rate in  
24       the United States is driven predominantly by the  
25       disproportionately high African-American maternal

1 mortality rate, which is four times more than the  
2 rate for White women.

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

9 (11) Data demonstrates that 3 in 5 pregnancy-  
10 related deaths could be prevented. Improving access  
11 to care is one way to help prevent deaths, regardless  
12 of race or ethnicity.

13 (12) Timely maternity care improves the health  
14 of pregnant women, as well as birth outcomes and  
15 the health of babies throughout their lifetimes. Preg-  
16 nancy-related maternal mortality is three to four  
17 times higher among women who receive no maternity  
18 care compared to women who do. Regular maternity  
19 care can detect or mitigate serious pregnancy-related  
20 health complications, including preeclampsia, pla-  
21 ental abruption, complications from diabetes, com-  
22 plications from heart disease, and Graves' disease,  
23 all of which can result in morbidity or mortality for  
24 the mother or newborn.

(13) The Centers for Disease Control and Prevention reports that more than half of all maternal deaths occur at delivery or in the first postpartum year, whereas just more than one-third of pregnancy-related or pregnancy-associated deaths occur while a person is still pregnant. Yet, for women eligible for the Medicaid program on the basis of pregnancy, such Medicaid coverage lapses at the end of the month on which the 60th postpartum day lands.

(14) Timely maternity care and adequate postpartum care can reduce short- and long-term health care costs. If a woman does not have access to affordable maternity care during her pregnancy, and she or her newborn experiences pregnancy complications that result in health problems after birth, their insurer may end up paying much higher costs than if the insurer had covered the woman's maternity care during her pregnancy. Intensive maternity care can reduce hospital and neonatal intensive care unit admissions among infants, resulting in cost savings of \$1,768 to \$5,560 per birth. For women with high-risk pregnancies, intensive maternity care saves \$1.37 for every \$1 invested in maternity care.

(b) PURPOSE.—The purpose of this Act is to protect the health of women and newborns by ensuring that all

1 women eligible for coverage through the Exchanges estab-  
2 lished under title I of the Patient Protection and Afford-  
3 able Care Act (Public Law 111–148) and women eligible  
4 for other individual or group health plan coverage can ac-  
5 cess affordable health coverage during their pregnancy.

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

7 **FOR PREGNANT INDIVIDUALS.**

8 (a) PUBLIC HEALTH SERVICE ACT.—Section  
9 2702(b)(2) of the Public Health Service Act (42 U.S.C.  
10 300gg–1(b)(2)) is amended by inserting “including a spe-  
11 cial enrollment period for pregnant individuals, beginning  
12 on the date on which the pregnancy is reported to the  
13 health insurance issuer” before the period at the end.

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

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

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

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

24 “(D) a special enrollment period for preg-  
25 nant individuals, beginning on the date on

1           which the pregnancy is reported to the Ex-  
2           change; and”.

3           (c) SPECIAL ENROLLMENT PERIODS.—

4           (1) INTERNAL REVENUE CODE.—Section  
5           9801(f) of the Internal Revenue Code of 1986 (26  
6           U.S.C. 9801(f)) is amended by adding at the end  
7           the following new paragraph:

8           “(4) FOR PREGNANT INDIVIDUALS.—

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

20                 “(B) The Secretary shall promulgate regu-  
21          lations with respect to the special enrollment  
22          period under subparagraph (A), including es-  
23          tablishing a time period for pregnant individ-  
24          uals to enroll in coverage and effective date of  
25          such coverage.”.

**5                   “(4) FOR PREGNANT INDIVIDUALS.—**

“(A) A group health plan or health insurance issuer in connection with a group health plan shall permit an employee who is eligible, but not enrolled, for coverage under the terms of the plan (or a dependent of such an employee if the dependent is eligible, but not enrolled, for coverage under such terms) to enroll for coverage under the terms of the plan upon pregnancy, with the special enrollment period beginning on the date on which the pregnancy is reported to the group health plan or health insurance issuer or the pregnancy is confirmed by a health care provider.

19                 “(B) The Secretary shall promulgate regu-  
20                 lations with respect to the special enrollment  
21                 period under subparagraph (A), including es-  
22                 tablishing a time period for pregnant individ-  
23                 uals to enroll in coverage and effective date of  
24                 such coverage.”.

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

4 **SEC. 4. COVERAGE OF MATERNITY CARE FOR DEPENDENT**  
5                   **CHILDREN.**

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

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

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

19       (a) COVERAGE OF PREGNANCY.—

20           (1) IN GENERAL.—The Director of the Office of  
21 Personnel Management shall issue such regulations  
22 as are necessary to ensure that pregnancy is consid-  
23 ered a change in family status and a qualifying life  
24 event for an individual who is eligible to enroll, but

1       is not enrolled, in a health benefit plan under chapter  
2       89 title 5, United States Code.

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

8                 (b) DESIGNATING CERTAIN FEHBP-RELATED  
9       SERVICES AS EXCEPTED SERVICES UNDER THE ANTI-  
10 DEFICIENCY ACT.—

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

14                 “(i) Any services by an officer or employee under this  
15       chapter relating to enrolling individuals in a health bene-  
16       fits plan under this chapter, or changing the enrollment  
17       of an individual already so enrolled due to an event de-  
18       scribed in section 5(a)(1) of the Healthy MOM Act, shall  
19       be deemed, for purposes of section 1342 of title 31, serv-  
20       ices for emergencies involving the safety of human life or  
21       the protection of property.”.

22                 (2) APPLICATION.—The amendment made by  
23       paragraph (1) shall apply to any lapse in appropria-  
24       tions beginning on or after the date of enactment of  
25       this Act.

## 1 SEC. 6. 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, 2020, is the percentage pro-  
15 vided under clause (v).”; and16 (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, 2020,  
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; or25 “(II) if no such percentage is specified as of  
26 January 1, 2014, the percentage established for

such individuals under the State's authorizing legislation or provided for under the State's appropriations as of that date.”.

**4 SEC. 7. 12-MONTH CONTINUOUS COVERAGE FOR PREG-**

**5 NANT AND POSTPARTUM INDIVIDUALS**

**6 UNDER MEDICAID AND CHIP.**

7 (a) MEDICAID.—

12       “(5) Any individual who is eligible for medical assist-  
13 ance under the State plan or a waiver of such plan and  
14 who is, or who while so eligible becomes, pregnant, shall  
15 continue to be eligible under the plan or waiver for medical  
16 assistance that provides at least essential health benefits  
17 as described in section 1302(b) of the Patient Protection  
18 and Affordable Care Act, through the end of the month  
19 in which the 1-year period (beginning on the last day of  
20 her pregnancy) ends, regardless of the basis for the indi-  
21 vidual’s eligibility for medical assistance, including if the  
22 individual’s eligibility for medical assistance is on the basis  
23 of being pregnant.”.

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

4                             (A) in section 1902—

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

9                                 (ii) in subsection (e)(6), by striking  
10 “60-day” and inserting “1-year”; and

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

13                             (B) in section 1903(v)(4)(A)(i), by striking  
14 “60-day” and inserting “1-year”; and

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

18                             (b) CHIP.—

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

22                                 (A) by redesignating subparagraphs (H)  
23 through (S) as subparagraphs (I) through (T),  
24 respectively; and

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

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

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

10 (c) EFFECTIVE DATE.—

1 ditional requirement before the first day of the first  
2 calendar quarter beginning after the close of the  
3 first regular session of the State legislature that be-  
4 gins after the date of enactment of this Act. For  
5 purposes of the previous sentence, in the case of a  
6 State that has a 2-year legislative session, each year  
7 of the session shall be considered to be a separate  
8 regular session of the State legislature.

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

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

