

116TH CONGRESS
2D SESSION

S. 3443

To amend title XIX of the Social Security Act to provide Medicaid coverage for all pregnant and postpartum women, to provide coverage under the Medicaid program for services provided by doulas, midwives, and lactation consultants, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 11, 2020

Mr. CASEY introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend title XIX of the Social Security Act to provide Medicaid coverage for all pregnant and postpartum women, to provide coverage under the Medicaid program for services provided by doulas, midwives, and lactation consultants, 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 “Improving Coverage
5 and Care for Mothers Act”.

1 **SEC. 2. EXTENDING MEDICAID ELIGIBILITY TO ALL PREG-**
 2 **NANT WOMEN.**

3 (a) IN GENERAL.—Section 1905(n)(1) of the Social
 4 Security Act (42 U.S.C. 1396d(n)(1)) is amended to read
 5 as follows:

6 “(1) a woman who is pregnant and through the
 7 end of the month in which the 365-day period (be-
 8 ginning on the last day of her pregnancy) ends;
 9 and”.

10 (b) CONFORMING AMENDMENTS.—Title XIX of the
 11 Social Security Act (42 U.S.C. 1396 et seq.) is amended—
 12 (1) in section 1902—

13 (A) in subsection (a)(10)(C)—

14 (i) in clause (ii), by striking “must
 15 make available medical assistance—” and
 16 all that follows through “individual de-
 17 scribed in subparagraph (A)” and inserting
 18 “must make available medical assistance to
 19 individuals under the age of 18 who (but
 20 for income and resources) would be eligible
 21 for medical assistance as an individual de-
 22 scribed in subparagraph (A)(i)”;

23 (ii) in clause (iii)—

24 (I) by striking “must include (I)
 25 with respect to” and inserting “must
 26 include, with respect to”; and

1 (II) by striking “; and (II)” and
2 all that follows through “delivery serv-
3 ices”;

4 (B) in subsection (e), by striking para-
5 graph (6);

6 (C) in subsection (l)(1)(A), by inserting
7 “before January 1, 2020,” before “women dur-
8 ing pregnancy”; and

9 (D) in subsection (ii)(1)(A), by inserting
10 “that was in effect as of January 1, 2020”
11 after “pregnant women”;

12 (2) in section 1920(b)(1)(A), by striking “that
13 the family income” and all that follows through “in-
14 come level of eligibility” and inserting “that the
15 woman is eligible for medical assistance”; and

16 (3) in section 1937(a)(2)(B), by amending
17 clause (i) to read as follows:

18 “(i) QUALIFIED PREGNANT WOMEN.—

19 The individual is a qualified pregnant
20 woman (as defined in section
21 1905(n)(1)).”.

1 **SEC. 3. EXTENDING CONTINUOUS MEDICAID AND CHIP**
 2 **COVERAGE FOR PREGNANT AND POSTPAR-**
 3 **TUM WOMEN.**

4 (a) EXTENDING CONTINUOUS MEDICAID AND CHIP
 5 COVERAGE FOR PREGNANT AND POSTPARTUM WOMEN.—

6 (1) MEDICAID.—Title XIX of the Social Secu-
 7 rity Act (42 U.S.C. 1396 et seq.) is amended—

8 (A) in section 1902(e)(5), by striking “60-
 9 day period” and inserting “365-day period”;

10 (B) in section 1902(l)(1)(A), by striking
 11 “60-day period” and inserting “365-day pe-
 12 riod”;

13 (C) in section 1903(v)(4)(A)(i), by striking
 14 “60-day period” and inserting “365-day pe-
 15 riod”; and

16 (D) in section 1905(a), in the 4th sentence
 17 in the matter following paragraph (30), by
 18 striking “60-day period” and inserting “365-
 19 day period”.

20 (2) CHIP.—Section 2112 of the Social Security
 21 Act (42 U.S.C. 1397ll) is amended by striking “60-
 22 day period” each place it appears and inserting
 23 “365-day period”.

24 (3) CONFORMING AMENDMENT.—Section
 25 1938(b)(2)(C) of the Social Security Act (42 U.S.C.

1 1396u–8(b)(2)(C)) is amended by striking “previous
2 60 days” and inserting “previous 365 days”.

3 (b) REQUIRING FULL BENEFITS FOR PREGNANT
4 AND POSTPARTUM WOMEN.—

5 (1) MEDICAID.—

6 (A) IN GENERAL.—Paragraph (5) of sec-
7 tion 1902(e) of the Social Security Act (24
8 U.S.C. 1396a(e)) is amended to read as follows:

9 “(5) Any woman who is eligible for medical as-
10 sistance under the State plan or a waiver of such
11 plan and who is, or who while so eligible becomes,
12 pregnant, shall continue to be eligible under the plan
13 or waiver for medical assistance through the end of
14 the month in which the 365-day period (beginning
15 on the last day of her pregnancy) ends, regardless
16 of the basis for the woman’s eligibility for medical
17 assistance, including if the woman’s eligibility for
18 medical assistance is on the basis of being preg-
19 nant.”.

20 (B) CONFORMING AMENDMENT.—Section
21 1902(a)(10) of the Social Security Act (42
22 U.S.C. 1396a(a)(10)) is amended in the matter
23 following subparagraph (G) by striking “(VII)
24 the medical assistance” and all that follows
25 through “complicate pregnancy,”.

1 (2) CHIP.—

2 (A) Section 2107(e)(1) of the Social Secu-
3 rity Act (42 U.S.C. 1397gg(e)(1)) is amend-
4 ed—

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

8 (ii) by inserting after subparagraph
9 (G), the following:

10 “(H) Section 1902(e)(5) (requiring 365-
11 day continuous coverage for pregnant and
12 postpartum women).”.

13 (B) Section 2112 of the Social Security
14 Act (42 U.S.C. 1397ll) is amended, in sub-
15 sections (d)(2) and (f)(2), by striking “60-day
16 period” each place it appears and inserting
17 “365-day period”.

18 **SEC. 4. MEDICAID COVERAGE OF SERVICES PROVIDED BY**
19 **DOULAS, MIDWIVES, AND LACTATION CON-**
20 **SULTANTS.**

21 (a) IN GENERAL.—Section 1905 of the Social Secu-
22 rity Act (42 U.S.C. 1396d) is amended—

23 (1) in subsection (a)—

24 (A) in paragraph (29), by striking “and”
25 at the end;

1 (B) by redesignating paragraph (30) as
 2 paragraph (31); and

3 (C) by inserting after paragraph (29) the
 4 following new paragraph:

5 “(30) services, including—

6 “(A) prenatal, delivery, postpartum, and
 7 lactation consulting services, provided by
 8 doulas, midwives, and lactation consultants (as
 9 those terms are defined in subsection (gg)) to
 10 the extent authorized under State law; and

11 “(B) services included in the components
 12 of postpartum care identified by the American
 13 College of Obstetricians and Gynecologists in
 14 Committee Opinion Number 736 published in
 15 May of 2018 (or any successor opinion or publi-
 16 cation); and”; and

17 (2) by adding at the end the following new sub-
 18 section:

19 “(gg) DOULAS AND MIDWIVES DEFINED.—For pur-
 20 poses of subsection (a)(30):

21 “(1) DOULAS DEFINED.—The term ‘doula’
 22 means an individual who—

23 “(A) is certified by an organization, which
 24 has been established for not less than 5 years
 25 and which requires the completion of continuing

education to maintain such certification, to provide non-medical advice, information, emotional support, and physical comfort to an individual during such individual's pregnancy, childbirth, and postpartum period; and

“(B) maintains such certification by completing such required continuing education.

“(2) MIDWIVES DEFINED.—

“(A) IN GENERAL.—The term ‘midwife’ means a certified midwife, certified professional midwife, and Tribal-recognized midwife.

“(B) CERTIFIED MIDWIFE.—For purposes of subparagraph (A), the term ‘certified midwife’ means an individual who is certified by the American Midwifery Certification Board to practice midwifery.

“(C) CERTIFIED PROFESSIONAL MIDWIFE.—For purposes of subparagraph (A), the term ‘certified professional midwife’ means an individual who—

“(i) is certified by the North American Registry of Midwives to practice midwifery for normal, low-risk pregnancies and childbirths;

“(ii) completes—

1 “(I) a midwifery education pro-
 2 gram accredited by the Midwifery
 3 Education and Accreditation Council
 4 or any other entity recognized by the
 5 Department of Education; or

6 “(II) the requirements to obtain
 7 a Midwifery Bridge Certificate from
 8 the North American Registry of Mid-
 9 wives; and

10 “(iii) maintains the certification de-
 11 scribed in clause (i) by completing any re-
 12 quired continuing education for such cer-
 13 tification.

14 “(D) TRIBAL-RECOGNIZED MIDWIFE.—For
 15 purposes of subparagraph (A), the term ‘Tribal-
 16 recognized midwife’ means an individual who is
 17 recognized by an Indian tribe (as defined in
 18 section 4 of the Indian Health Care Improve-
 19 ment Act) to practice midwifery for such tribe.

20 “(3) LACTATION CONSULTANT DEFINED.—The
 21 term ‘lactation consultant’ means an individual who
 22 is a specialist who—

23 “(A) is trained to—

24 “(i) focus on the needs and concerns
 25 of a breastfeeding mother and baby; and

1 “(ii) prevent, recognize, and solve
2 breastfeeding difficulties;

3 “(B) is certified by an organization, which
4 has been established for not less than 5 years
5 and which requires the completion of continuing
6 education to maintain such certification, to pro-
7 vide lactation consulting services; and

8 “(C) maintains such certification by com-
9 pleting such required continuing education.”.

10 (b) REQUIRING MANDATORY COVERAGE UNDER
11 STATE PLAN.—Section 1902(a)(10)(A) of the Social Se-
12 curity Act (42 U.S.C. 1396a(a)(10)(A)) is amended, in the
13 matter preceding clause (i), by striking “and (29)” and
14 inserting “(29), and (30)”.

15 **SEC. 5. INCREASED FMAP FOR ADDITIONAL EXPENDI-**
16 **TURES.**

17 Section 1905 of the Social Security Act (42 U.S.C.
18 1396d), as amended by section 4, is further amended—

19 (1) in subsection (b), by striking “and (ff)” and
20 inserting “(ff), and (hh)”;

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

22 “(hh) INCREASED FMAP FOR ADDITIONAL EXPEND-
23 ITURES FOR MEDICAL ASSISTANCE TO PREGNANT AND
24 POSTPARTUM WOMEN.—For calendar quarters beginning
25 on or after January 1, 2021, notwithstanding subsection

1 (b), the Federal medical assistance percentage for a State,
 2 with respect to the additional amounts expended by such
 3 State for medical assistance under the State plan under
 4 this title or a waiver of such plan that are attributable
 5 to requirements imposed by the amendments made by the
 6 Improving Coverage and Care for Mothers Act (as deter-
 7 mined by the Secretary), shall be equal to 100 percent.”.

8 **SEC. 6. EFFECTIVE DATE.**

9 (a) IN GENERAL.—Subject to subsection (b), the
 10 amendments made by this Act shall apply with respect to
 11 medical assistance furnished on or after January 1, 2021.

12 (b) EXCEPTION FOR STATE LEGISLATION.—In the
 13 case of a State plan under title XIX of the Social Security
 14 Act (42 U.S.C. 1396 et seq.) that the Secretary of Health
 15 and Human Services determines requires State legislation
 16 in order for the respective plan to meet any requirement
 17 imposed by amendments made by this section, the respec-
 18 tive plan shall not be regarded as failing to comply with
 19 the requirements of such title solely on the basis of its
 20 failure to meet such an additional requirement before the
 21 first day of the first calendar quarter beginning after the
 22 close of the first regular session of the State legislature
 23 that begins after the date of the enactment of this Act.
 24 For purposes of the previous sentence, in the case of a
 25 State that has a 2-year legislative session, each year of

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

