

117TH CONGRESS
1ST SESSION

H. R. 4636

To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to allow parental choice in the selection of primary health insurance coverage or primary coverage under a group health plan for certain dependent children.

IN THE HOUSE OF REPRESENTATIVES

JULY 22, 2021

Ms. DAVIDS of Kansas introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, 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

A BILL

To amend title XXVII of the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to allow parental choice in the selection of primary health insurance coverage or primary coverage under a group health plan for certain dependent children.

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 “Empowering Parents’
3 Healthcare Choices Act of 2021”.

4 **SEC. 2. ALLOWING PARENTAL CHOICE IN THE SELECTION**
5 **OF PRIMARY HEALTH INSURANCE COVERAGE**
6 **OR PRIMARY COVERAGE UNDER A GROUP**
7 **HEALTH PLAN FOR CERTAIN DEPENDENT**
8 **CHILDREN.**

9 (a) PUBLIC HEALTH SERVICE ACT.—Part D of title
10 XXVII of the Public Health Service Act (42 U.S.C.
11 300gg–111 et seq.) is amended by adding at the end the
12 following new section:

13 **“SEC. 2799A–11. PARENTAL CHOICE OF PRIMARY HEALTH**
14 **INSURANCE COVERAGE OR PRIMARY COV-**
15 **ERAGE UNDER A GROUP HEALTH PLAN FOR**
16 **CERTAIN DEPENDENT CHILDREN.**

17 “(a) IN GENERAL.—In the case of a dependent child
18 of two individuals where both such individuals, at the time
19 of birth of such child, are covered under separate policies
20 of health insurance coverage offered by a health insurance
21 issuer or separate group health plans, if both such policies
22 of health insurance coverage or plans (as applicable) would
23 provide coverage of such child, such health insurance cov-
24 erage or plan (as applicable) shall provide primary cov-
25 erage of such child if both such individuals submit to the
26 issuer of such coverage or to such plan (as applicable),

1 within 60 days of the birth of such child and in a manner
 2 specified by the Secretary, a notification electing primary
 3 coverage of such child under such health insurance cov-
 4 erage or plan. Such primary coverage of such child under
 5 such health insurance coverage or group health plan shall
 6 continue until the earlier of the following:

7 “(1) A submission of a notification, in a man-
 8 ner specified by the Secretary, by both such individ-
 9 uals to the issuer of such health insurance coverage
 10 or plan electing to discontinue such primary cov-
 11 erage for such child.

12 “(2) The loss of coverage under such health in-
 13 surance coverage or plan of such individual who is
 14 enrolled under such health insurance coverage or
 15 plan.

16 “(b) ELECTION OF PRIMARY COVERAGE WITH RE-
 17 SPECT TO SINGLE COVERAGE OR PLAN.—The provisions
 18 of subsection (a) shall not apply if both individuals de-
 19 scribed in such paragraph submit notifications for a child
 20 with respect to multiple policies of health insurance cov-
 21 erage or group health plans.”.

22 (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT
 23 OF 1974.—

24 (1) IN GENERAL.—Subpart B of part 7 of sub-
 25 title B of title I of the Employee Retirement Income

1 Security Act of 1974 is amended by adding at the
2 end the following new section:

3 **“SEC. 726. PARENTAL CHOICE OF PRIMARY HEALTH INSUR-**
4 **ANCE COVERAGE OR PRIMARY COVERAGE**
5 **UNDER A GROUP HEALTH PLAN FOR CER-**
6 **TAIN DEPENDENT CHILDREN.**

7 “(a) IN GENERAL.—In the case of a dependent child
8 of two individuals where both such individuals, at the time
9 of birth of such child, are covered under separate policies
10 of health insurance coverage offered by a health insurance
11 issuer or separate group health plans, if both such policies
12 of health insurance coverage or plans (as applicable) would
13 provide coverage of such child, such group health insur-
14 ance coverage or plan (as applicable) shall provide primary
15 coverage of such child if both such individuals submit to
16 the issuer of such coverage or to such plan (as applicable),
17 within 60 days of the birth of such child and in a manner
18 specified by the Secretary, a notification electing primary
19 coverage of such child under such group health insurance
20 coverage or plan. Such primary coverage of such child
21 under such group health insurance coverage or group
22 health plan shall continue until the earlier of the following:

23 “(1) A submission of a notification, in a man-
24 ner specified by the Secretary, by both such individ-
25 uals to the issuer of such group health insurance

1 coverage or plan electing to discontinue such pri-
 2 mary coverage for such child.

3 “(2) The loss of coverage under such group
 4 health insurance coverage or plan of such individual
 5 who is enrolled under such health insurance coverage
 6 or plan.

7 “(b) ELECTION OF PRIMARY COVERAGE WITH RE-
 8 SPECT TO SINGLE COVERAGE OR PLAN.—The provisions
 9 of subsection (a) shall not apply if both individuals de-
 10 scribed in such paragraph submit notifications for a child
 11 with respect to multiple policies of health insurance cov-
 12 erage or group health plans.”.

13 (2) TECHNICAL AMENDMENT.—The table of
 14 contents in section 1 of such Act is amended by in-
 15 serting after the item relating to section 725 the fol-
 16 lowing new item:

“Sec. 726. Parental choice of primary health insurance coverage or primary
 coverage under a group health plan for certain dependent chil-
 dren.”.

17 (c) INTERNAL REVENUE CODE OF 1986.—

18 (1) IN GENERAL.—Subchapter B of chapter
 19 100 of the Internal Revenue Code of 1986 is amend-
 20 ed by adding at the end the following new section:

1 **“SEC. 9826. PARENTAL CHOICE OF PRIMARY HEALTH IN-**
2 **SURANCE COVERAGE OR PRIMARY COV-**
3 **ERAGE UNDER A GROUP HEALTH PLAN FOR**
4 **CERTAIN DEPENDENT CHILDREN.**

5 “(a) IN GENERAL.—In the case of a dependent child
6 of two individuals where both such individuals, at the time
7 of birth of such child, are covered under separate policies
8 of health insurance coverage offered by a health insurance
9 issuer or separate group health plans, if both such policies
10 of health insurance coverage or plans (as applicable) would
11 provide coverage of such child, such group health plan
12 shall provide primary coverage of such child if both such
13 individuals submit to such plan, within 60 days of the
14 birth of such child and in a manner specified by the Sec-
15 retary, a notification electing primary coverage of such
16 child under such plan. Such primary coverage of such
17 child under such group health plan shall continue until
18 the earlier of the following:

19 “(1) A submission of a notification, in a man-
20 ner specified by the Secretary, by both such individ-
21 uals to such plan electing to discontinue such pri-
22 mary coverage for such child.

23 “(2) The loss of coverage under such plan of
24 such individual who is enrolled under such plan.

25 “(b) ELECTION OF PRIMARY COVERAGE WITH RE-
26 SPECT TO SINGLE COVERAGE OR PLAN.—The provisions

1 of subsection (a) shall not apply if both individuals de-
2 scribed in such paragraph submit notifications for a child
3 with respect to multiple policies of health insurance cov-
4 erage or group health plans.”.

5 (2) TECHNICAL AMENDMENT.—The table of
6 sections for such subchapter is amended by adding
7 at the end the following new item:

“Sec. 9826. Parental choice of primary health insurance coverage or primary
coverage under a group health plan for certain dependent chil-
dren.”.

8 (d) EFFECTIVE DATE.—The amendments made by
9 this section shall apply with respect to children born on
10 or after January 1, 2022.

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