

117TH CONGRESS  
1ST SESSION

# H. R. 3126

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 11, 2021

Mrs. WATSON COLEMAN (for herself, Ms. ADAMS, Ms. BASS, Mrs. BEATTY, Mr. BISHOP of Georgia, Mr. BLUMENAUER, Ms. BONAMICI, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. CARSON, Ms. CHU, Mr. COHEN, Mr. CONNOLLY, Mr. COOPER, Mr. ESPAILLAT, Mr. EVANS, Mr. FOSTER, Ms. LOIS FRANKEL of Florida, Mrs. HAYES, Mr. JOHNSON of Georgia, Mr. JONES, Mr. KILMER, Mr. LANGEVIN, Mr. LARSON of Connecticut, Ms. LEE of California, Mr. LEVIN of California, Mrs. CAROLYN B. MALONEY of New York, Mr. MEEKS, Ms. MENG, Mr. MOULTON, Ms. NORTON, Mr. PAYNE, Mr. POCAN, Ms. ROSS, Ms. ROYBAL-ALLARD, Ms. SEWELL, Ms. SHERRILL, Mr. SMITH of Washington, Ms. STEVENS, Ms. STRICKLAND, Mr. SWALWELL, Ms. TLAIB, Mr. TORRES of New York, Ms. WASSERMAN SCHULTZ, Ms. WILSON of Florida, Mr. GARCÍA of Illinois, and Ms. CASTOR of Florida) 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 Labor, and Oversight and Reform, 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,*

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 AND 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-

11 SEC. 3. PROVIDING FOR A SPECIAL ENROLLMENT PERIOD  
12 FOR PREGNANT INDIVIDUALS.

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

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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 the 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 after the 2021 plan year.

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.—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, 2022, 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, 2022,

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. REQUIRING AND MAKING PERMANENT 12-MONTH**  
 12 **CONTINUOUS COVERAGE FOR PREGNANT**  
 13 **AND POSTPARTUM INDIVIDUALS UNDER**  
 14 **MEDICAID AND CHIP.**

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

17 (1) in subsection (a)—

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

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

22 (C) by inserting after paragraph (87) the  
 23 following new paragraph:

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

1 (2) in subsection (e)(16), as added by section  
2 9812 of the American Rescue Plan Act of 2021  
3 (Public Law 117–2)—

4 (A) in subparagraph (A), by striking “At  
5 the option of the State, the State plan (or waiv-  
6 er of such State plan) may provide” and insert-  
7 ing “A State plan (or waiver of such State  
8 plan) shall provide”;

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

14 (C) by striking subparagraph (C).

15 (b) CHIP.—

16 (1) IN GENERAL.—Section 2107(e)(1)(J) of the  
17 Social Security Act (42 U.S.C. 1397gg(e)(1)(J)), as  
18 inserted by section 9822 of the American Rescue  
19 Plan Act of 2021 (Public Law 117–2), is amended  
20 to read as follows:

21 “(J) Paragraphs (5) and (16) of section  
22 1902(e) (relating to the requirement to provide  
23 medical assistance under the State plan or  
24 waiver consisting of full benefits during preg-  
25 nancy and throughout the 12-month

1 postpartum period under title XIX) such that  
2 the provision of assistance under the State child  
3 health plan or waiver for targeted low-income  
4 children or targeted low-income pregnant  
5 women during pregnancy and the 12-month  
6 postpartum period shall be required and shall  
7 include coverage of all items or services pro-  
8 vided to a targeted low-income child or targeted  
9 low-income pregnant woman (as applicable)  
10 under the State child health plan or waiver).”.

11 (2) CONFORMING.—Section 2112(d)(2)(A) of  
12 the Social Security Act (42 U.S.C. 1397ll(d)(2)(A)),  
13 as inserted by section 9822 of the American Rescue  
14 Plan Act of 2021 (Public Law 117–2), is amended  
15 by striking “the month in which the 60-day period”  
16 and all that follows through “pursuant to section  
17 2107(e)(1),”.

18 (c) CONFORMING AMENDMENTS.—

19 (1) Section 9812(b) of the American Rescue  
20 Plan Act of 2021 (Public Law 117–2) is amended  
21 to read as follows:

22 “(b) EFFECTIVE DATE.—

23 “(1) IN GENERAL.—Subject to paragraph (2),  
24 the amendment made by subsection (a) shall apply  
25 with respect to services furnished on or after the 1st

1 day of the 1st fiscal year quarter that begins one  
2 year after the date of the enactment of this Act.

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

20 (2) Section 9822(b) of the American Rescue  
21 Plan Act of 2021 (Public Law 117–2) is amended  
22 to read as follows:

23 “(b) EFFECTIVE DATE.—

24 “(1) IN GENERAL.—Subject to paragraph (2),  
25 the amendments made by subsection (a), shall apply

1 with respect to services furnished on or after the 1st  
2 day of the 1st fiscal year quarter that begins one  
3 year after the date of the enactment of this Act.

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

21 (d) EFFECTIVE DATE.—The amendments made by  
22 subsections (a) and (c)(1) shall take effect as if included  
23 in the enactment of section 9812 of the American Rescue  
24 Plan Act of 2021 (Public Law 117–2). The amendments



1 made by subsections (b) and (c)(2) shall take effect as  
2 if included in the enactment of section 9822 of such Act.

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

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

○