

118TH CONGRESS
2D SESSION

S. 4331

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group health plans and health insurance issuers offering group or individual health insurance that provide coverage for mental health services and substance use disorder services provide such services without the imposition of cost-sharing from the diagnosis of pregnancy through the 1-year period following such pregnancy, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 14, 2024

Mrs. SHAHEEN (for herself and Ms. BALDWIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group health plans and health insurance issuers offering group or individual health insurance that provide coverage for mental health services and substance use disorder services provide such services without the imposition of cost-sharing from the diagnosis of pregnancy through the 1-year period following such pregnancy, 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 “Mental Health and
3 Making Access More Affordable Act of 2024” or the
4 “Mental Health and MAMA Act of 2024”.

5 **SEC. 2. COST-SHARING WITH RESPECT TO MENTAL HEALTH**
6 **SERVICES AND SUBSTANCE USE DISORDER**
7 **SERVICES FOR PREGNANT AND POSTPARTUM**
8 **INDIVIDUALS.**

9 (a) PHSA.—

10 (1) IN GENERAL.—Part D of title XXVII of the
11 Public Health Service Act (42 U.S.C. 300gg–111 et
12 seq.) is amended by adding at the end the following
13 new section:

14 **“SEC. 2799A–11. COST-SHARING REQUIREMENTS WITH RE-**
15 **SPECT TO MENTAL HEALTH SERVICES AND**
16 **SUBSTANCE USE DISORDER SERVICES FOR**
17 **PREGNANT AND POSTPARTUM INDIVIDUALS.**

18 “(a) IN GENERAL.—In the case of a group health
19 plan or a health insurance issuer offering group or indi-
20 vidual health insurance coverage that provides a benefit
21 for mental health services or substance use disorder serv-
22 ices (including such services which are telehealth services
23 and are provided under such plan or coverage) with re-
24 spect to plan years beginning on or after the date that
25 is 2 years after the date of enactment of this section, the
26 plan or coverage shall not impose any cost-sharing require-

1 ment for such services that are furnished by an in-network
 2 provider to a participant, beneficiary, or enrollee under the
 3 plan or coverage from the diagnosis of pregnancy (as de-
 4 fined by the Secretary) through the 1-year period begin-
 5 ning on the day after the last day of such pregnancy of
 6 such participant, beneficiary, or enrollee (or, in the case
 7 of an individual enrolled in such plan or coverage for a
 8 portion of such period, during such portion).

9 “(b) DEFINITIONS.—In this section:

10 “(1) The terms ‘mental health services’ and
 11 ‘substance use disorder services’ have the meaning
 12 given such terms for purposes of section 2726.

13 “(2) The term ‘telehealth service’ means a serv-
 14 ice that is furnished through telehealth technologies
 15 (as defined in section 330I(a)).”.

16 (2) CONTINUITY OF CARE.—Section 2799A–3
 17 of the Public Health Service Act (42 U.S.C. 300gg–
 18 113) is amended—

19 (A) in subsection (a)(2)(C), by inserting “,
 20 in the case of a continuing care patient de-
 21 scribed in subsection (b)(1)(D)(ii), the date on
 22 which such individual is no longer such a con-
 23 tinuing care patient with respect to such pro-
 24 vider or facility, or in the case of a continuing
 25 care patient described in subsection (b)(1) other

1 than in subparagraph (D)(ii) of such sub-
 2 section,” after “is provided and ending on”;
 3 and

4 (B) by amending subsection (b)(1)(D) to
 5 read as follows:

6 “(D)(i) is pregnant and undergoing a
 7 course of treatment for the pregnancy from the
 8 provider or facility; or

9 “(ii)(I) requires mental health services or
 10 substance use disorder services from a provider
 11 or facility following a pregnancy;

12 “(II) received a course of mental health or
 13 substance use disorder treatment from such
 14 provider or facility while pregnant; and

15 “(III) the last day of such pregnancy oc-
 16 curred during the previous 1-year period; or”.

17 (b) ERISA.—

18 (1) IN GENERAL.—Subpart B of part 7 of sub-
 19 title B of title I of the Employee Retirement Income
 20 Security Act of 1974 is amended by adding at the
 21 end the following new section:

1 **“SEC. 726. COST-SHARING REQUIREMENTS WITH RESPECT**
2 **TO MENTAL HEALTH SERVICES AND SUB-**
3 **STANCE USE DISORDER SERVICES FOR PREG-**
4 **NANT AND POSTPARTUM INDIVIDUALS.**

5 “(a) IN GENERAL.—In the case of a group health
6 plan or a health insurance issuer offering group health in-
7 surance coverage that provides a benefit for mental health
8 services or substance use disorder services (including such
9 services which are telehealth services and are provided
10 under such plan or coverage) with respect to plan years
11 beginning on or after the date that is 2 years after the
12 date of enactment of this section, the plan or coverage
13 shall not impose any cost-sharing requirement for such
14 services that are furnished by an in-network provider to
15 a participant or beneficiary under the plan or coverage
16 from the diagnosis of pregnancy (as defined by the Sec-
17 retary) through the 1-year period beginning on the day
18 after the last day of such pregnancy of such participant
19 or beneficiary (or, in the case of an individual enrolled in
20 such plan or coverage for a portion of such period, during
21 such portion).

22 “(b) DEFINITIONS.—In this section:

23 “(1) The terms ‘mental health services’ and
24 ‘substance use disorder services’ have the meaning
25 given such terms for purposes of section 712.

1 “(2) The term ‘telehealth service’ means a serv-
 2 ice that is furnished through telehealth technologies
 3 (as defined in section 330I(a) of the Public Health
 4 Service Act).”.

5 (2) CONTINUITY OF CARE.—Section 718 of the
 6 Employee Retirement Income Security Act of 1974
 7 (29 U.S.C. 1185g) is amended—

8 (A) in subsection (a)(2)(C), by inserting “,
 9 in the case of a continuing care patient de-
 10 scribed in subsection (b)(1)(D)(ii), the date on
 11 which such individual is no longer such a con-
 12 tinuing care patient with respect to such pro-
 13 vider or facility, or in the case of a continuing
 14 care patient described in subsection (b)(1) other
 15 than in subparagraph (D)(ii) of such sub-
 16 section,” after “is provided and ending on”;
 17 and

18 (B) by amending subsection (b)(1)(D) to
 19 read as follows:

20 “(D)(i) is pregnant and undergoing a
 21 course of treatment for the pregnancy from the
 22 provider or facility; or

23 “(ii)(I) requires mental health services or
 24 substance use disorder services from a provider
 25 or facility following a pregnancy;

1 “(II) received a course of mental health or
 2 substance use disorder treatment from such
 3 provider or facility while pregnant; and

4 “(III) the last day of such pregnancy oc-
 5 curred during the previous 1-year period; or”.

6 (3) CLERICAL AMENDMENT.—The table of con-
 7 tents in section 1 of the Employee Retirement In-
 8 come Security Act of 1974 (29 U.S.C. 1001 et seq.)
 9 is amended by inserting after the item relating to
 10 section 725 the following new item:

“Sec. 726. Cost-sharing requirements with respect to mental health services
 and substance use disorder services for pregnant and
 postpartum individuals.”.

11 (c) IRC.—

12 (1) IN GENERAL.—Subchapter B of chapter
 13 100 of the Internal Revenue Code of 1986 is amend-
 14 ed by adding at the end the following new section:

15 **“SEC. 9826. COST-SHARING REQUIREMENTS WITH RESPECT**
 16 **TO MENTAL HEALTH SERVICES AND SUB-**
 17 **STANCE USE DISORDER SERVICES FOR PREG-**
 18 **NANT AND POSTPARTUM INDIVIDUALS.**

19 “(a) IN GENERAL.—In the case of a group health
 20 plan that provides a benefit for mental health services or
 21 substance use disorder services (including such services
 22 which are telehealth services and are provided under such
 23 plan) with respect to plan years beginning on or after the
 24 date that is 2 years after the date of enactment of this

1 section, the plan shall not impose any cost-sharing require-
 2 ment for such services that are furnished by an in-network
 3 provider to a participant or beneficiary under the plan
 4 from the diagnosis of pregnancy (as defined by the Sec-
 5 retary) through the 1-year period beginning on the day
 6 after the last day of such pregnancy of such participant
 7 or beneficiary (or, in the case of an individual enrolled in
 8 such plan for a portion of such period, during such por-
 9 tion).

10 “(b) DEFINITIONS.—In this section:

11 “(1) The terms ‘mental health services’ and
 12 ‘substance use disorder services’ have the meaning
 13 given such terms for purposes of section 9812.

14 “(2) The term ‘telehealth service’ means a serv-
 15 ice that is furnished through telehealth technologies
 16 (as defined in section 330I(a) of the Public Health
 17 Service Act).”.

18 (2) CONTINUITY OF CARE.—Section 9818 of
 19 the Internal Revenue Code of 1986 is amended—

20 (A) in subsection (a)(2)(C), by inserting “,
 21 in the case of a continuing care patient de-
 22 scribed in subsection (b)(1)(D)(ii), the date on
 23 which such individual is no longer such a con-
 24 tinuing care patient with respect to such pro-
 25 vider or facility, or in the case of a continuing

1 care patient described in subsection (b)(1) other
 2 than in subparagraph (D)(ii) of such sub-
 3 section,” after “is provided and ending on”;
 4 and

5 (B) by amending subsection (b)(1)(D) to
 6 read as follows:

7 “(D)(i) is pregnant and undergoing a
 8 course of treatment for the pregnancy from the
 9 provider or facility; or

10 “(ii)(I) requires mental health services or
 11 substance use disorder services from a provider
 12 or facility following a pregnancy;

13 “(II) received a course of mental health or
 14 substance use disorder treatment from such
 15 provider or facility while pregnant; and

16 “(III) the last day of such pregnancy oc-
 17 curred during the previous 1-year period; or”.

18 (3) CLERICAL AMENDMENT.—The table of sec-
 19 tions for subchapter B of chapter 100 of the Inter-
 20 nal Revenue Code of 1986 is amended by adding at
 21 the end the following new item:

“Sec. 9826. Cost-sharing requirements with respect to mental health services
 and substance use disorder services for pregnant and
 postpartum individuals.”.

22 (d) EFFECTIVE DATE.—The amendments made by
 23 subsections (a), (b), and (c) shall apply with respect to

1 plan years beginning on or after the date that is 2 years
2 after the date of enactment of this Act.

3 (e) FEHBP.—

4 (1) IN GENERAL.—Section 8902(p) of title 5,
5 United States Code, is amended—

6 (A) by striking “and 2799A–7” and insert-
7 ing “2799A–7, and 2799A–11”;

8 (B) by striking “and 722” and inserting
9 “722, and 726”; and

10 (C) by striking “and 9822” and inserting
11 “9822, and 9826”.

12 (2) EFFECTIVE DATE.—The amendments made
13 by paragraph (1) shall apply with respect to con-
14 tracts entered into or renewed for contract years be-
15 ginning on or after the date that is 2 years after the
16 date of enactment of this Act.

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