

117TH CONGRESS
1ST SESSION

S. 1977

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

JUNE 8, 2021

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 insert-
 18 ing “must make available medical assist-
 19 ance to individuals under the age of 18
 20 who (but for income and resources) would
 21 be eligible for medical assistance as an in-
 22 dividual described in subparagraph
 23 (A)(i);”; and

24 (ii) in clause (iii)—

1 (I) by striking “must include (I)
 2 with respect to” and inserting “must
 3 include, with respect to”; and

4 (II) by striking “, and (II)” and
 5 all that follows through “delivery serv-
 6 ices”;

7 (B) in subsection (e), by striking para-
 8 graph (6);

9 (C) in subsection (l)(1)(A), by inserting
 10 “before January 1, 2022,” before “women dur-
 11 ing pregnancy”; and

12 (D) in subsection (ii)(1)(A), by inserting
 13 “that was in effect as of January 1, 2022”
 14 after “pregnant women”;

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

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

21 “(i) QUALIFIED PREGNANT WOMEN.—
 22 The individual is a qualified pregnant
 23 woman (as defined in section
 24 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)—

9 (i) in paragraph (5), by striking “60-
 10 day period” and inserting “365-day pe-
 11 riod”; and

12 (ii) in paragraph (16), by striking “At
 13 the option of the State” and inserting “Be-
 14 fore January 1, 2022, at the option of the
 15 State”;

16 (B) in section 1902(l)(1)(A), by striking
 17 “60-day period” and inserting “365-day pe-
 18 riod”;

19 (C) in section 1903(v)(4)(A)(i), by striking
 20 “60-day period” and inserting “365-day pe-
 21 riod”; and

22 (D) in section 1905(a), in the 4th sentence
 23 in the matter following paragraph (30)—

24 (i) by striking “60-day period” and
 25 inserting “365-day period”; and

1 (ii) by striking “subdivision (B) fol-
 2 lowing paragraph (30)” and inserting
 3 “subdivision (B) following paragraph
 4 (32)”.

5 (2) CHIP.—Section 2112 of the Social Security
 6 Act (42 U.S.C. 1397ll) is amended by striking “60-
 7 day period” each place it appears and inserting
 8 “365-day period”.

9 (3) CONFORMING AMENDMENT.—Section
 10 1938(b)(2)(C) of the Social Security Act (42 U.S.C.
 11 1396u–8(b)(2)(C)) is amended by striking “previous
 12 60 days” and inserting “previous 365 days”.

13 (b) REQUIRING FULL BENEFITS FOR PREGNANT
 14 AND POSTPARTUM WOMEN.—

15 (1) MEDICAID.—

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

19 “(5) Any woman who is eligible for medical as-
 20 sistance under the State plan or a waiver of such
 21 plan and who is, or who while so eligible becomes,
 22 pregnant, shall continue to be eligible under the plan
 23 or waiver for medical assistance through the end of
 24 the month in which the 365-day period (beginning
 25 on the last day of her pregnancy) ends, regardless

of the basis for the woman’s eligibility for medical assistance, including if the woman’s eligibility for medical assistance is on the basis of being pregnant.”.

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

(2) CHIP.—Section 2107(e)(1)(J) of the Social Security Act (42 U.S.C. 1397gg(e)(1)(J)) is amended—

(A) by inserting “, before January 1, 2022,” before “(16) of section 1902(e)”; and

(B) by striking “(relating to” and all that follows through the period and inserting “(relating to the provision of medical assistance to pregnant women during pregnancy and the 365-day postpartum period under title XIX).”

SEC. 4. MEDICAID COVERAGE OF SERVICES PROVIDED BY DOULAS, MIDWIVES, AND LACTATION CONSULTANTS.

(a) IN GENERAL.—Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended—

1 (1) in subsection (a)—

2 (A) in paragraph (30), by striking “and”
3 at the end;

4 (B) by redesignating paragraph (31) as
5 paragraph (32); and

6 (C) by inserting after paragraph (30) the
7 following new paragraph:

8 “(31) services, including—

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

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

20 (2) by adding at the end the following new sub-
21 section:

22 “(jj) DOULAS AND MIDWIVES DEFINED.—For pur-
23 poses of subsection (a)(31):

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

“(A) is certified by an organization, which has been established for not less than 5 years 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 mid-

wifery for normal, low-risk pregnancies and
 childbirths;

“(ii) completes—

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

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

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

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

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

1 “(A) is trained to—

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

4 “(ii) prevent, recognize, and solve
5 breastfeeding difficulties;

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

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

13 (b) **REQUIRING MANDATORY COVERAGE UNDER**
14 **STATE PLAN.**—Section 1902(a)(10)(A) of the Social Se-
15 curity Act (42 U.S.C. 1396a(a)(10)(A)) is amended, in the
16 matter preceding clause (i), by striking “and (30)” and
17 inserting “(30), and (31)”.

18 **SEC. 5. INCREASED FMAP FOR ADDITIONAL EXPENDI-**
19 **TURES.**

20 Section 1905 of the Social Security Act (42 U.S.C.
21 1396d), as amended by section 4, is further amended—

22 (1) in subsection (b), by striking “and (ii)” and
23 inserting “(ii), and (kk)”; and

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

1 “(kk) INCREASED FMAP FOR ADDITIONAL EXPEND-
 2 ITURES FOR MEDICAL ASSISTANCE TO PREGNANT AND
 3 POSTPARTUM WOMEN.—For calendar quarters beginning
 4 on or after January 1, 2022, notwithstanding subsection
 5 (b), the Federal medical assistance percentage for a State,
 6 with respect to the additional amounts expended by such
 7 State for medical assistance under the State plan under
 8 this title or a waiver of such plan that are attributable
 9 to requirements imposed by the amendments made by the
 10 Improving Coverage and Care for Mothers Act (as deter-
 11 mined by the Secretary), shall be equal to 100 percent.”.

12 **SEC. 6. EFFECTIVE DATE.**

13 (a) IN GENERAL.—Subject to subsection (b), the
 14 amendments made by this Act shall apply with respect to
 15 medical assistance furnished on or after January 1, 2022.

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

1 close of the first regular session of the State legislature
2 that begins after the date of the enactment of this Act.
3 For purposes of the previous sentence, in the case of a
4 State that has a 2-year legislative session, each year of
5 the session shall be considered to be a separate regular
6 session of the State legislature.

