

HOUSE BILL 127

C3

9lr1372
CF SB 36

By: ~~Delegate Kelly~~ **Delegates Kelly, Pendergrass, Pena-Melnyk, Bagnall, Barron, Bhandari, Carr, Charles, Chisholm, Cullison, Hill, Johnson, Kerr, Kipke, R. Lewis, Metzgar, Morgan, Rosenberg, Saab, Sample-Hughes, and K. Young**

Introduced and read first time: January 21, 2019

Assigned to: Health and Government Operations

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 9, 2019

CHAPTER _____

1 AN ACT concerning

2 **Health Insurance – Health Benefit Plans – Special Enrollment Period for**
3 **Pregnancy**

4 FOR the purpose of requiring certain health benefit plans and certain carriers to provide a
5 special enrollment period during which certain individuals who become pregnant
6 may enroll in a health benefit plan; establishing the duration of the special
7 enrollment period; establishing certain effective dates of coverage for certain
8 individuals enrolled in certain health benefit plans during the special enrollment
9 period; defining a certain term; providing for the application of this Act; requiring
10 the Maryland Health Benefit Exchange to report to certain committees of the
11 General Assembly on or before a certain date; making conforming changes; and
12 generally relating to health benefit plans offered to individuals and small employers.

13 BY renumbering

14 Article – Insurance

15 Section 15–1201(j) through (aa), respectively

16 to be Section 15–1201(k) through (bb), respectively

17 Annotated Code of Maryland

18 (2017 Replacement Volume and 2018 Supplement)

19 BY adding to

20 Article – Insurance

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 Section 15–1201(j)
2 Annotated Code of Maryland
3 (2017 Replacement Volume and 2018 Supplement)

4 BY repealing and reenacting, with amendments,
5 Article – Insurance
6 Section 15–1208.1(c), (e), and (f) and 15–1316
7 Annotated Code of Maryland
8 (2017 Replacement Volume and 2018 Supplement)

9 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
10 That Section(s) 15–1201(j) through (aa), respectively, of Article – Insurance of the
11 Annotated Code of Maryland be renumbered to be Section(s) 15–1201(k) through (bb),
12 respectively.

13 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
14 as follows:

15 **Article – Insurance**

16 15–1201.

17 **(J) “HEALTH CARE PRACTITIONER” HAS THE MEANING STATED IN § 1–301**
18 **OF THE HEALTH OCCUPATIONS ARTICLE.**

19 15–1208.1.

20 (c) All small employer health benefit plans shall provide a special enrollment
21 period during which the following individuals may be enrolled under the health benefit
22 plan:

23 (1) an individual who becomes a dependent of the eligible employee
24 through marriage, birth, adoption, placement for adoption, or placement for foster care;

25 (2) an eligible employee who acquires a new dependent through marriage,
26 birth, adoption, placement for adoption, placement for foster care, or through a child
27 support order or other court order;

28 (3) the spouse of an eligible employee at the birth or adoption of a child,
29 placement of a child for foster care, or through a child support order or other court order,
30 provided the spouse is otherwise eligible for coverage; [and]

31 (4) at the option of the SHOP Exchange, an enrollee who is the eligible
32 employee or the spouse of the eligible employee, if:

33 (i) the enrollee loses a dependent or is no longer considered to be a
34 dependent due to divorce or legal separation; or

1 (ii) the employee or the employee's dependent dies; AND

2 (5) (I) AN ELIGIBLE EMPLOYEE WHO BECOMES PREGNANT, AS
3 ~~CERTIFIED~~ CONFIRMED BY A HEALTH CARE PRACTITIONER; AND

4 (II) AN ELIGIBLE EMPLOYEE'S SPOUSE OR DEPENDENT WHO
5 BECOMES PREGNANT, AS ~~CERTIFIED~~ CONFIRMED BY A HEALTH CARE
6 PRACTITIONER, PROVIDED THE SPOUSE OR DEPENDENT IS OTHERWISE ELIGIBLE
7 FOR COVERAGE.

8 (e) (1) The special enrollment period under subsection [(c)] (C)(1) THROUGH
9 (4) of this section shall be a period of not less than 31 days and shall begin on the later of:

10 [(1)] (I) the date dependent coverage is made available; or

11 [(2)] (II) the date of the marriage, birth, adoption, placement for adoption,
12 placement for foster care, child support order or other court order, divorce, legal separation,
13 or death, whichever is applicable.

14 (2) THE SPECIAL ENROLLMENT PERIOD UNDER SUBSECTION (C)(5)
15 OF THIS SECTION SHALL:

16 ~~(I) ALLOW FOR ENROLLMENT OF THE PREGNANT INDIVIDUAL~~
17 ~~IN A HEALTH BENEFIT PLAN AT ANY TIME AFTER THE COMMENCEMENT OF~~
18 ~~PREGNANCY, AS CERTIFIED BY A HEALTH CARE PRACTITIONER; AND~~

19 ~~(II) REMAIN OPEN FOR THE DURATION OF THE PREGNANCY.~~

20 (I) BE OPEN FOR A PERIOD OF 90 DAYS; AND

21 (II) BEGIN ON THE DATE A HEALTH CARE PRACTITIONER
22 CONFIRMS THE PREGNANCY.

23 (f) (1) If an eligible employee enrolls any of the individuals described in
24 subsection [(c)] (C)(1) THROUGH (4) of this section during the first 31 days of the special
25 enrollment period, the coverage shall become effective as follows:

26 [(1)] (I) in the case of marriage, not later than the first day of the first
27 month beginning after the date the completed request for enrollment is received;

28 [(2)] (II) in the case of a dependent's birth, as of the date of the
29 dependent's birth;

1 [(3)] (III) in the case of a dependent's adoption or placement for adoption,
2 the date of adoption or placement for adoption, whichever occurs first;

3 [(4)] (IV) in the case of a dependent's placement for foster care, the date of
4 placement; and

5 [(5)] (V) in the case of a dependent added due to a child support order or
6 any other court order:

7 [(i)] 1. the date the child support order or other court order is
8 effective; or

9 [(ii)] 2. for SHOP Exchange plans, if the SHOP Exchange permits
10 the eligible employee to select an effective date based on the date the plan selection is
11 received by the SHOP Exchange:

12 [1.] A. the first day of the month following receipt of the
13 plan selection, if the plan selection is received between the first and fifteenth day, inclusive,
14 of the month; and

15 [2.] B. the first day of the second month following receipt
16 of the plan selection, if the plan selection is received between the sixteenth and the last
17 day, inclusive, of the month.

18 **(2) IF AN ELIGIBLE EMPLOYEE ENROLLS AN INDIVIDUAL DESCRIBED**
19 **IN SUBSECTION (C)(5) OF THIS SECTION IN A HEALTH BENEFIT PLAN, THE**
20 **COVERAGE SHALL BECOME EFFECTIVE ~~NOT LATER THAN~~ ON THE FIRST DAY OF THE**
21 **MONTH IN WHICH THE INDIVIDUAL RECEIVES ~~CERTIFICATION~~ CONFIRMATION OF**
22 **PREGNANCY.**

23 15-1316.

24 (a) (1) In this section the following words have the meanings indicated.

25 (2) "Dependent" means an individual who is or who may become eligible
26 for coverage under the terms of a health benefit plan because of a relationship with another
27 individual.

28 **(3) "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN §**
29 **1-301 OF THE HEALTH OCCUPATIONS ARTICLE.**

30 [(3)] (4) "Qualifying coverage in an eligible employer-sponsored plan"
31 has the meaning stated in 45 C.F.R. § 155.300.

1 (b) (1) Beginning November 15, 2014, unless an alternative date is adopted by
2 the federal Department of Health and Human Services, a carrier that sells health benefit
3 plans to individuals in the State shall establish an annual open enrollment period.

4 (2) The annual open enrollment period for 2014 shall begin on November
5 15, 2014, and extend through January 15, 2015, unless alternative dates are adopted by
6 the federal Department of Health and Human Services.

7 (3) The annual open enrollment period for years beginning on and after
8 January 1, 2015, shall be the dates adopted by the federal Department of Health and
9 Human Services.

10 (4) During the annual open enrollment period, an individual shall be
11 permitted to:

12 (i) enroll in a health benefit plan offered by the carrier;

13 (ii) discontinue enrollment in a health benefit plan offered by the
14 carrier; or

15 (iii) change enrollment in a health benefit plan offered by the carrier
16 to a different health benefit plan offered by the carrier.

17 (5) If an individual enrolls in a health benefit plan offered by the carrier
18 during the annual open enrollment period for 2014, the effective date of coverage shall be:

19 (i) January 1, 2015, if the application is received by the carrier on
20 or before December 15, 2014, unless an alternative date is adopted by the federal
21 Department of Health and Human Services;

22 (ii) February 1, 2015, if the application is received by the carrier
23 from December 16, 2014, through January 15, 2015, unless an alternative date is adopted
24 by the federal Department of Health and Human Services; and

25 (iii) March 1, 2015, if the application is received by the carrier from
26 January 16, 2015, through February 15, 2015, unless an alternative date is adopted by the
27 federal Department of Health and Human Services.

28 (6) If an individual enrolls in a health benefit plan offered by the carrier
29 during the annual open enrollment period for years beginning on and after January 1, 2015,
30 the effective date of coverage shall be the date adopted by the federal Department of Health
31 and Human Services.

32 (c) A carrier participating in the Individual Exchange shall provide:

33 (1) the special enrollment periods specified in 45 C.F.R. § 155.420 for
34 individuals who purchase coverage through the Individual Exchange; AND

1 **(2) A SPECIAL ENROLLMENT PERIOD FOR AN INDIVIDUAL WHO**
 2 **PURCHASES COVERAGE THROUGH THE INDIVIDUAL EXCHANGE IF THE INDIVIDUAL**
 3 **OR A DEPENDENT OF THE INDIVIDUAL BECOMES PREGNANT, AS ~~CERTIFIED~~**
 4 **CONFIRMED BY A HEALTH CARE PRACTITIONER.**

5 (d) A carrier shall provide:

6 **(1) the special enrollment periods specified in 45 C.F.R. § 147.104(b)(2) for**
 7 **individuals who purchase coverage outside the Individual Exchange; AND**

8 **(2) A SPECIAL ENROLLMENT PERIOD FOR AN INDIVIDUAL WHO**
 9 **PURCHASES COVERAGE OUTSIDE THE INDIVIDUAL EXCHANGE IF THE INDIVIDUAL**
 10 **OR A DEPENDENT OF THE INDIVIDUAL BECOMES PREGNANT, AS ~~CERTIFIED~~**
 11 **CONFIRMED BY A HEALTH CARE PRACTITIONER.**

12 **(E) ~~THE~~ A SPECIAL ENROLLMENT ~~PERIODS~~ PERIOD DESCRIBED IN**
 13 **SUBSECTIONS SUBSECTION (C)(2) AND OR (D)(2) OF THIS SECTION SHALL:**

14 **~~(1) ALLOW FOR ENROLLMENT OF THE PREGNANT INDIVIDUAL IN A~~**
 15 **~~HEALTH BENEFIT PLAN AT ANY TIME AFTER THE COMMENCEMENT OF PREGNANCY,~~**
 16 **~~AS CERTIFIED BY A HEALTH CARE PRACTITIONER; AND~~**

17 **~~(2) REMAIN OPEN FOR THE DURATION OF THE PREGNANCY.~~**

18 **(1) BE OPEN FOR A PERIOD OF 90 DAYS; AND**

19 **(2) BEGIN ON THE DATE THE HEALTH CARE PRACTITIONER**
 20 **CONFIRMS THE PREGNANCY.**

21 **[(e)] (F) (1) If an individual enrolls for coverage during one of the open**
 22 **enrollment ~~PERIODS DESCRIBED IN SUBSECTION (B) OF THIS SECTION~~ or DURING**
 23 **ONE OF THE special open enrollment periods described in ~~SUBSECTIONS (C)(1) AND~~**
 24 **~~(D)(1) OF~~ this section, coverage shall be effective in accordance with the requirements in**
 25 **45 C.F.R. § 155.420.**

26 **(2) IF AN INDIVIDUAL ENROLLS FOR COVERAGE OR ENROLLS A**
 27 **DEPENDENT FOR COVERAGE DURING ~~ONE OF THE~~ A SPECIAL ENROLLMENT ~~PERIODS~~**
 28 **PERIOD DESCRIBED IN ~~SUBSECTIONS~~ SUBSECTION (C)(2) AND OR (D)(2) OF THIS**
 29 **SECTION, THE COVERAGE SHALL BECOME EFFECTIVE ~~NOT LATER THAN~~ ON THE**
 30 **FIRST DAY OF THE MONTH IN WHICH THE INDIVIDUAL ~~ENROLLED IN COVERAGE~~**
 31 **RECEIVES ~~CERTIFICATION~~ CONFIRMATION OF PREGNANCY.**

32 **[(f)] (G) (1) A health maintenance organization may:**

1 (i) limit the individuals who may apply for coverage to those who
2 live or reside in the health maintenance organization's service area; and

3 (ii) deny coverage to individuals if the health maintenance
4 organization has demonstrated to the Commissioner that:

5 1. it will not have the capacity to deliver services adequately
6 to any additional individuals because of its obligations to existing enrollees; and

7 2. it is applying the provisions of this paragraph uniformly
8 to all individuals without regard to the claims experience of those individuals and their
9 dependents or any health status-related factor relating to the individuals and their
10 dependents.

11 (2) A health maintenance organization that denies coverage to an
12 individual in accordance with paragraph (1) of this subsection may not offer coverage in the
13 individual market within the service area to any individual for a period of 180 days after
14 the date the coverage is denied.

15 (3) Paragraph (2) of this subsection does not:

16 (i) limit the health maintenance organization's ability to renew
17 coverage already in force; or

18 (ii) relieve the health maintenance organization of the responsibility
19 to renew coverage already in force.

20 ~~[(g)]~~ (H) (1) A carrier may deny a health benefit plan to an individual if the
21 carrier has demonstrated to the Commissioner that:

22 (i) it does not have the financial reserves necessary to offer
23 additional coverage; and

24 (ii) it is applying the provisions of this paragraph uniformly to all
25 individuals in the individual market in the State without regard to the claims experience
26 of those individuals and their dependents or any health status-related factor relating to
27 the individuals and their dependents.

28 (2) A carrier that denies a health benefit plan to an individual in the State
29 under paragraph (1) of this subsection may not offer coverage in the individual market
30 before the later of:

31 (i) the 181st day after the date the carrier denies coverage; and

32 (ii) the date the carrier demonstrates to the Commissioner that the
33 carrier has sufficient financial reserves to underwrite additional coverage.

1 (3) Paragraph (2) of this subsection does not:

2 (i) limit the carrier’s ability to renew coverage already in force; or

3 (ii) relieve the carrier of the responsibility to renew coverage already
4 in force.

5 (4) Health benefit plans offered after the time period described in
6 paragraph (2) of this subsection are subject to the requirements of this section.

7 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall apply to all
8 health benefit plans issued, delivered, or renewed in the State on or after January 1, 2020.

9 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before January 1, 2022,
10 the Maryland Health Benefit Exchange shall report to the Senate Finance Committee and
11 the House Health and Government Operations Committee, in accordance with § 2–1246 of
12 the State Government Article, on the use of the special enrollment periods as enacted by
13 Section 1 of this Act.

14 SECTION ~~4~~ 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
15 July 1, 2019.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.