

# SENATE BILL 36

C3  
HB 1038/18 – HGO

(PRE-FILED)

9lr0717  
CF HB 127

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By: **Senator Lam**

Requested: November 13, 2018

Introduced and read first time: January 9, 2019

Assigned to: Finance

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Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2019

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## 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

21 Section 15–1201(j)

22 Annotated Code of Maryland

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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.



(2017 Replacement Volume and 2018 Supplement)

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

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

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

### Article – Insurance

15–1201.

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

15–1208.1.

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

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

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

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

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

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

(ii) the employee or the employee’s dependent dies; **AND**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 15-1316.

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

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

26                    (3) "HEALTH CARE PRACTITIONER" HAS THE MEANING STATED IN §  
27 1-301 OF THE HEALTH OCCUPATIONS ARTICLE.

28                    [(3)] (4) "Qualifying coverage in an eligible employer-sponsored plan"  
29 has the meaning stated in 45 C.F.R. § 155.300.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32                   (2)     **A SPECIAL ENROLLMENT PERIOD FOR AN INDIVIDUAL WHO**  
33 **PURCHASES COVERAGE THROUGH THE INDIVIDUAL EXCHANGE IF THE INDIVIDUAL**

1 OR A DEPENDENT OF THE INDIVIDUAL BECOMES PREGNANT, AS ~~CERTIFIED~~  
2 CONFIRMED BY A HEALTH CARE PRACTITIONER.

3 (d) A carrier shall provide:

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

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

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

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

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

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

17 (2) BEGIN ON THE DATE THE HEALTH CARE PRACTITIONER  
18 CONFIRMS THE PREGNANCY.

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

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

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

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

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

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

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

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

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

14 (i) limit the health maintenance organization’s ability to renew  
15 coverage already in force; or

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

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

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

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

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

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

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

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

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

1 (ii) relieve the carrier of the responsibility to renew coverage already  
2 in force.

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

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

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

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

Approved:

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Governor.

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President of the Senate.

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Speaker of the House of Delegates.