

# SENATE BILL 36

C3  
HB 1038/18 – HGO

(PRE-FILED)

9lr0717

---

By: **Senator Lam**

Requested: November 13, 2018

Introduced and read first time: January 9, 2019

Assigned to: Finance

---

## A BILL ENTITLED

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; making  
10 conforming changes; and generally relating to health benefit plans offered to  
11 individuals and small employers.

12 BY renumbering

13 Article – Insurance  
14 Section 15–1201(j) through (aa), respectively  
15 to be Section 15–1201(k) through (bb), respectively  
16 Annotated Code of Maryland  
17 (2017 Replacement Volume and 2018 Supplement)

18 BY adding to

19 Article – Insurance  
20 Section 15–1201(j)  
21 Annotated Code of Maryland  
22 (2017 Replacement Volume and 2018 Supplement)

23 BY repealing and reenacting, with amendments,

24 Article – Insurance  
25 Section 15–1208.1(c), (e), and (f) and 15–1316  
26 Annotated Code of Maryland  
27 (2017 Replacement Volume and 2018 Supplement)

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

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

7 **Article – Insurance**

8 15–1201.

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

11 15–1208.1.

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

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

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

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

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

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

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

28 **(5) (I) AN ELIGIBLE EMPLOYEE WHO BECOMES PREGNANT, AS**  
29 **CERTIFIED BY A HEALTH CARE PRACTITIONER; AND**

30 **(II) AN ELIGIBLE EMPLOYEE’S SPOUSE OR DEPENDENT WHO**  
31 **BECOMES PREGNANT, AS CERTIFIED BY A HEALTH CARE PRACTITIONER, PROVIDED**

1 **THE SPOUSE OR DEPENDENT IS OTHERWISE ELIGIBLE FOR COVERAGE.**

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

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

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

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

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

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

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

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

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

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

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

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

27 **[(i)] 1.** the date the child support order or other court order is  
28 effective; or

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

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

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

7 **(2) IF AN ELIGIBLE EMPLOYEE ENROLLS AN INDIVIDUAL DESCRIBED**  
8 **IN SUBSECTION (C)(5) OF THIS SECTION IN A HEALTH BENEFIT PLAN, THE**  
9 **COVERAGE SHALL BECOME EFFECTIVE NOT LATER THAN THE FIRST DAY OF THE**  
10 **MONTH IN WHICH THE INDIVIDUAL RECEIVES CERTIFICATION OF PREGNANCY.**

11 15–1316.

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

13 (2) “Dependent” means an individual who is or who may become eligible  
14 for coverage under the terms of a health benefit plan because of a relationship with another  
15 individual.

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

18 **[(3)] (4)** “Qualifying coverage in an eligible employer–sponsored plan”  
19 has the meaning stated in 45 C.F.R. § 155.300.

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

23 (2) The annual open enrollment period for 2014 shall begin on November  
24 15, 2014, and extend through January 15, 2015, unless alternative dates are adopted by  
25 the federal Department of Health and Human Services.

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

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

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

32 (ii) discontinue enrollment in a health benefit plan offered by the

1 carrier; or

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

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

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

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

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

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

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

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

22 (2) A SPECIAL ENROLLMENT PERIOD FOR AN INDIVIDUAL WHO  
23 PURCHASES COVERAGE THROUGH THE INDIVIDUAL EXCHANGE IF THE INDIVIDUAL  
24 OR A DEPENDENT OF THE INDIVIDUAL BECOMES PREGNANT, AS CERTIFIED BY A  
25 HEALTH CARE PRACTITIONER.

26 (d) A carrier shall provide:

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

29 (2) A SPECIAL ENROLLMENT PERIOD FOR AN INDIVIDUAL WHO  
30 PURCHASES COVERAGE OUTSIDE THE INDIVIDUAL EXCHANGE IF THE INDIVIDUAL  
31 OR A DEPENDENT OF THE INDIVIDUAL BECOMES PREGNANT, AS CERTIFIED BY A  
32 HEALTH CARE PRACTITIONER.

33 (E) THE SPECIAL ENROLLMENT PERIODS DESCRIBED IN SUBSECTIONS

1 **(C)(2) AND (D)(2) OF THIS SECTION SHALL:**

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

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

6 ~~[(e)]~~ **(F) (1)** If an individual enrolls for coverage during one of the open  
 7 enrollment **PERIODS DESCRIBED IN SUBSECTION (B) OF THIS SECTION** or **DURING**  
 8 **ONE OF THE** special open enrollment periods described in **SUBSECTIONS (C)(1) AND**  
 9 **(D)(1) OF** this section, coverage shall be effective in accordance with the requirements in  
 10 45 C.F.R. § 155.420.

11 **(2) IF AN INDIVIDUAL ENROLLS FOR COVERAGE OR ENROLLS A**  
 12 **DEPENDENT FOR COVERAGE DURING ONE OF THE SPECIAL ENROLLMENT PERIODS**  
 13 **DESCRIBED IN SUBSECTIONS (C)(2) AND (D)(2) OF THIS SECTION, THE COVERAGE**  
 14 **SHALL BECOME EFFECTIVE NOT LATER THAN THE FIRST DAY OF THE MONTH IN**  
 15 **WHICH THE INDIVIDUAL ENROLLED IN COVERAGE RECEIVES CERTIFICATION OF**  
 16 **PREGNANCY.**

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

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

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

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

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

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

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

33 (i) limit the health maintenance organization's ability to renew

1 coverage already in force; or

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

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

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

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

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

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

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

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

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

20 (ii) relieve the carrier of the responsibility to renew coverage already  
21 in force.

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

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

26 SECTION 4. AND BE IT FURTHER ENACTED, That this Act shall take effect July  
27 1, 2019.