

Chapter 355

(House Bill 127)

AN ACT concerning

Health Insurance – Health Benefit Plans – Special Enrollment Period for Pregnancy

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

BY renumbering

Article – Insurance

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

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

Annotated Code of Maryland

(2017 Replacement Volume and 2018 Supplement)

BY adding to

Article – Insurance

Section 15–1201(j)

Annotated Code of Maryland

(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**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15-1316.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) A carrier shall provide:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Approved by the Governor, April 30, 2019.