

116TH CONGRESS
2D SESSION

H. R. 6317

To provide for special enrollment periods during public health emergencies, coverage of services related to public health emergencies, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 23, 2020

Mr. DOGGETT (for himself, Ms. DEGETTE, Ms. WILD, Mr. BRENDAN F. BOYLE of Pennsylvania, Mr. MICHAEL F. DOYLE of Pennsylvania, Mr. EVANS, Mr. CISNEROS, Mr. DEUTCH, Ms. VELÁZQUEZ, Mr. PASCRELL, Mr. KHANNA, Ms. CASTOR of Florida, Mr. CASTRO of Texas, Mr. VARGAS, Mr. CONNOLLY, Mrs. HAYES, Mr. TRONE, Mr. LARSON of Connecticut, Mr. BLUMENAUER, Mrs. FLETCHER, Mr. JOHNSON of Georgia, Ms. MOORE, Mr. ALLRED, Mr. CUELLAR, Ms. JOHNSON of Texas, Ms. SEWELL of Alabama, Ms. WASSERMAN SCHULTZ, Mr. KILDEE, Mr. MCGOVERN, Mr. LEWIS, Ms. GARCIA of Texas, Ms. MUCARSEL-POWELL, Mr. DANNY K. DAVIS of Illinois, Mr. NADLER, Ms. SHALALA, Mr. BEYER, Mr. SCHNEIDER, Mrs. NAPOLITANO, Mr. CRIST, Ms. SPANBERGER, Mr. SOTO, Mr. LAWSON of Florida, Ms. PORTER, Mr. RYAN, Mr. KENNEDY, Mr. NEGUSE, Ms. WILSON of Florida, Mrs. DINGELL, Mr. HASTINGS, Mr. COHEN, Mr. CLAY, Mr. CÁRDENAS, Ms. SCHAKOWSKY, Mrs. TORRES of California, Ms. ESCOBAR, Mr. BUTTERFIELD, Mr. WELCH, Mr. SEAN PATRICK MALONEY of New York, Ms. PRESSLEY, Mr. SIRES, Ms. DAVIDS of Kansas, Ms. SPEIER, Ms. ADAMS, Mr. TED LIEU of California, Ms. KUSTER of New Hampshire, Ms. TORRES SMALL of New Mexico, Ms. DELAURO, Mr. COX of California, Mr. POCAN, Ms. PINGREE, and Ms. OMAR) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and Labor, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To provide for special enrollment periods during public health emergencies, coverage of services related to public health emergencies, 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 “Ensuring Coverage in
5 Public Health Emergencies Act of 2020”.

6 **SEC. 2. SPECIAL ENROLLMENT PERIODS DURING PUBLIC**
7 **HEALTH EMERGENCIES.**

8 (a) PUBLIC HEALTH SERVICE ACT.—Title XXVII of
9 the Public Health Service Act (42 U.S.C. 300gg et seq.)
10 is amended—

11 (1) in section 2702(b)(2) (42 U.S.C. 300gg–
12 1(b)(2)), by inserting “, which shall include a special
13 enrollment period of 30 days during a public health
14 emergency declared under section 319, which period
15 may be extended for such time as the Secretary may
16 require” before the period at the end; and

17 (2) in section 2704(f) (42 U.S.C. 300gg–3(f)),
18 by adding at the end the following:

19 “(4) PUBLIC HEALTH EMERGENCIES.—If the
20 Secretary declares a public health emergency under
21 section 319, a group health plan, and a group health

1 insurance issuer offering group health insurance cov-
2 erage in connection with a group health plan, shall
3 permit an employee who is eligible, but not enrolled,
4 for coverage under the terms of the plan or coverage
5 (or a dependent of such an employee if the depend-
6 ent is eligible, but not enrolled, for coverage under
7 such terms) to enroll for coverage under the terms
8 of the plan or coverage during the special enrollment
9 period required under section 2702(b)(2) of the Pub-
10 lic Health Service Act (42 U.S.C. 300gg-1(b)(2)).”.

11 (b) ERISA.—Section 701(f) of the Employee Retire-
12 ment Income Security Act of 1974 (29 U.S.C. 1181(f))
13 is amended by adding at the end the following:

14 “(4) PUBLIC HEALTH EMERGENCIES.—If the
15 Secretary of Health and Human Services declares a
16 public health emergency under section 319 of the
17 Public Health Service Act (42 U.S.C. 247d), a
18 group health plan, or a health insurance issuer offer-
19 ing group health insurance coverage in connection
20 with such a plan, shall permit an employee who is
21 eligible, but not enrolled, for coverage under the
22 terms of the plan or coverage (or a dependent of
23 such an employee if the dependent is eligible, but
24 not enrolled, for coverage under such terms) to en-
25 roll for coverage under the terms of the plan or cov-

1 erage during the special enrollment period required
2 under section 2702(b)(2) of the Public Health Serv-
3 ice Act (42 U.S.C. 300gg-1(b)(2)).”.

4 (c) IRC.—Section 9801(f) of the Internal Revenue
5 Code of 1986 (26 U.S.C. 9801(f)) is amended by adding
6 at the end the following new paragraph:

7 “(4) PUBLIC HEALTH EMERGENCIES.—If the
8 Secretary of Health and Human Services declares a
9 public health emergency under section 319 of the
10 Public Health Service Act (42 U.S.C. 247d), a
11 group health plan shall permit an employee who is
12 eligible, but not enrolled, for coverage under the
13 terms of the plan (or a dependent of such an em-
14 ployee if the dependent is eligible, but not enrolled,
15 for coverage under such terms) to enroll for coverage
16 under the terms of the plan during the special en-
17 rollment period required under section 2702(b)(2) of
18 the Public Health Service Act (42 U.S.C. 300gg-
19 1(b)(2)).”.

20 (d) RULE OF CONSTRUCTION.—Nothing in the
21 amendments made by subsections (a) and (b) shall be con-
22 strued to prevent a group health plan or health insurance
23 issuer from offering a special enrollment period in addition
24 to any such period required under Federal law.

1 **SEC. 3. COVERAGE OF PREVENTION AND TREATMENT RE-**
2 **LATED TO PUBLIC HEALTH EMERGENCIES.**

3 (a) REQUIRED COVERAGE.—

4 (1) IN GENERAL.—Subpart II of part A of title
5 XXVII of the Public Health Service Act (42 U.S.C.
6 300gg–11 et seq.) is amended by adding at the end
7 the following:

8 **“SEC. 2729A. COVERAGE OF PREVENTION AND TREATMENT**
9 **RELATED TO PUBLIC HEALTH EMERGENCIES.**

10 “(a) IN GENERAL.—A group health plan or a health
11 insurance issuer offering group or individual health insur-
12 ance coverage shall provide coverage for such services re-
13 lated to a disease or condition relating to a public health
14 emergency declared under section 319, which, as applica-
15 ble, shall include any services for the prevention or treat-
16 ment, of the disease or condition.

17 “(b) SCOPE OF BENEFITS.—The prevention and
18 treatment measures for which coverage is required under
19 subsection (a) shall—

20 “(1) be at the same level as benefits for the
21 prevention or treatment of other similar or related
22 diseases or conditions, if applicable, under the plan
23 or coverage; and

24 “(2) include, with respect to the disease or con-
25 dition reasonably related to the public health emer-
26 gency, even if no diagnosis has been made and even

1 if the enrollee ultimately is determined not to have
2 the disease or condition, as applicable—

3 “(A) vaccines to prevent the disease or
4 condition, if applicable;

5 “(B) testing for diagnosis of the disease or
6 condition, if applicable;

7 “(C) care related to symptoms an enrollee
8 may experience; and

9 “(D) treatments for the disease or condi-
10 tion.

11 “(c) COST-SHARING.—Cost-sharing for services for
12 which coverage is required under subsection (a) shall be
13 comparable to similar such services that would be covered
14 by the plan or coverage outside of a public health emer-
15 gency.

16 “(d) WAIVER OF RESTRICTIONS.—

17 “(1) IN GENERAL.—A group health plan or
18 health insurance issuer offering group or individual
19 health insurance coverage shall waive any restriction
20 (including any prior authorization requirement, limi-
21 tation on filling or refilling prescription drugs, or
22 other restrictions) on access to covered benefits re-
23 quired under this section, if the service is deter-
24 mined by a qualified health professional to be medi-
25 cally necessary by the provider and the Secretary de-

1 termines such restriction to be unduly burdensome
2 in the context of the applicable public health emer-
3 gency.

4 “(2) TERM OF WAIVER.—Any waiver of restric-
5 tions pursuant to paragraph (1) shall apply only for
6 the duration of the public health emergency, as de-
7 clared under section 319.”.

8 (2) ERISA.—

9 (A) IN GENERAL.—Subpart B of part 7 of
10 subtitle B of title I of the Employee Retirement
11 Income Security Act of 1974 (29 U.S.C. 1181
12 et seq.) is amended by adding at the end the
13 following:

14 **“SEC. 716. COVERAGE OF PREVENTION AND TREATMENT**
15 **RELATED TO PUBLIC HEALTH EMERGENCIES.**

16 “(a) IN GENERAL.—A group health plan or a health
17 insurance issuer offering group health insurance coverage,
18 shall provide coverage for such services related to a disease
19 or condition relating to a public health emergency declared
20 under section 319 of the Public Health Service Act, which,
21 as applicable, shall include any services for the prevention
22 or treatment, of the disease or condition.

23 “(b) SCOPE OF BENEFITS.—The prevention and
24 treatment measures for which coverage is required under
25 subsection (a) shall—

1 “(1) be at the same level as benefits for the
2 prevention or treatment of other similar or related
3 diseases or conditions, if applicable, under the plan
4 or coverage; and

5 “(2) include, with respect to the disease or con-
6 dition reasonably related to the public health emer-
7 gency, even if no diagnosis has been made and even
8 if the enrollee ultimately is determined not to have
9 the disease or condition, as applicable—

10 “(A) vaccines to prevent the disease or
11 condition, if applicable;

12 “(B) testing for diagnosis of the disease or
13 condition, if applicable;

14 “(C) care related to symptoms an enrollee
15 may experience; and

16 “(D) treatments for the disease or condi-
17 tion.

18 “(c) COST-SHARING.—Cost-sharing for services for
19 which coverage is required under subsection (a) shall be
20 comparable to similar such services that would be covered
21 by the plan or coverage outside of a public health emer-
22 gency.

23 “(d) WAIVER OF RESTRICTIONS.—

24 “(1) IN GENERAL.—A group health plan or
25 health insurance issuer offering group health insur-

1 ance coverage shall waive any restriction (including
2 any prior authorization requirement, limitation on
3 filling or refilling prescription drugs, or other re-
4 strictions) on access to covered benefits required
5 under this section, if the service is determined by a
6 qualified health professional to be medically nec-
7 essary by the provider and the Secretary determines
8 such restriction to be unduly burdensome in the con-
9 text of the applicable public health emergency.

10 “(2) TERM OF WAIVER.—Any waiver of restric-
11 tions pursuant to paragraph (1) shall apply only for
12 the duration of the public health emergency, as de-
13 clared under section 319 of the Public Health Serv-
14 ice Act.”.

15 (B) CLERICAL AMENDMENT.—The table of
16 sections for subpart B of part 7 of subtitle B
17 of title I of the Employee Retirement Income
18 Security Act of 1974 is amended by adding at
19 the end the following:

“Sec. 715. Additional market reforms.

“Sec. 716. Coverage of prevention and treatment related to public health emer-
gencies.”.

20 (3) IRC.—

21 (A) IN GENERAL.—Subchapter B of chap-
22 ter 100 of the Internal Revenue Code of 1986
23 is amended by adding at the end the following
24 new section:

1 **“SEC. 9816. COVERAGE OF PREVENTION AND TREATMENT**
2 **RELATED TO PUBLIC HEALTH EMERGENCIES.**

3 “(a) IN GENERAL.—A group health plan shall pro-
4 vide coverage for such services related to a disease or con-
5 dition relating to a public health emergency declared
6 under section 319 of the Public Health Service Act, which,
7 as applicable, shall include any services for the prevention
8 or treatment, of the disease or condition.

9 “(b) SCOPE OF BENEFITS.—The prevention and
10 treatment measures for which coverage is required under
11 subsection (a) shall—

12 “(1) be at the same level as benefits for the
13 prevention or treatment of other similar or related
14 diseases or conditions, if applicable, under the plan;
15 and

16 “(2) include, with respect to the disease or con-
17 dition reasonably related to the public health emer-
18 gency, even if no diagnosis has been made and even
19 if the enrollee ultimately is determined not to have
20 the disease or condition, as applicable—

21 “(A) vaccines to prevent the disease or
22 condition, if applicable;

23 “(B) testing for diagnosis of the disease or
24 condition, if applicable;

25 “(C) care related to symptoms an enrollee
26 may experience; and

1 “(D) treatments for the disease or condi-
2 tion.

3 “(c) COST-SHARING.—Cost-sharing for services for
4 which coverage is required under subsection (a) shall be
5 comparable to similar such services that would be covered
6 by the plan outside of a public health emergency.

7 “(d) WAIVER OF RESTRICTIONS.—

8 “(1) IN GENERAL.—A group health plan shall
9 waive any restriction (including any prior authoriza-
10 tion requirement, limitation on filling or refilling
11 prescription drugs, or other restrictions) on access to
12 covered benefits required under this section, if the
13 service is determined by a qualified health profes-
14 sional to be medically necessary by the provider and
15 the Secretary determines such restriction to be un-
16 duly burdensome in the context of the applicable
17 public health emergency.

18 “(2) TERM OF WAIVER.—Any waiver of restric-
19 tions pursuant to paragraph (1) shall apply only for
20 the duration of the public health emergency, as de-
21 clared under section 319 of the Public Health Serv-
22 ice Act.”.

23 “(B) CLERICAL AMENDMENT.—The table of
24 sections for subchapter B of chapter 100 of

1 such Code is amended by adding at the end the
2 following new item:

 “Sec. 9816. Coverage of prevention and treatment related to public health
 emergencies.”.

3 **SEC. 4. EFFECTIVE DATE; APPLICATION.**

4 The amendments made by this Act shall take effect
5 on the date of enactment of this Act and shall apply with
6 respect to plan years in effect on the date of enactment
7 of this Act, and plan years beginning on or after such
8 date.

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