

118TH CONGRESS  
2D SESSION

# H. R. 8390

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group health plans and health insurance issuers offering group or individual health insurance that provide coverage for mental health services and substance use disorder services provide such services without the imposition of cost-sharing from the diagnosis of pregnancy through the 1-year period following such pregnancy, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MAY 14, 2024

Ms. MOORE of Wisconsin (for herself, Ms. KUSTER, Mrs. MCBATH, Ms. TOKUDA, Ms. NORTON, Mr. GOTTHEIMER, Mrs. HAYES, Ms. JACKSON LEE, Ms. MCCOLLUM, Mrs. WATSON COLEMAN, Ms. DELBENE, Mr. MFUME, Ms. TITUS, Mr. POCAN, Mr. TORRES of New York, Ms. TLAIB, Ms. CRAIG, Ms. PORTER, Mrs. DINGELL, Ms. BUSH, and Mr. THANEDAR) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, Ways and Means, and Oversight and Accountability, 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

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## A BILL

To amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group health plans and health insurance issuers offering group or individual health insurance that provide coverage for mental health services and substance use disorder services provide such services without the imposition of cost-sharing from the

diagnosis of pregnancy through the 1-year period following such pregnancy, 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 “Mental Health and  
5 Making Access More Affordable Act of 2024” or the  
6 “Mental Health and MAMA Act of 2024”.

7 **SEC. 2. COST SHARING WITH RESPECT TO MENTAL HEALTH**  
8 **SERVICES AND SUBSTANCE USE DISORDER**  
9 **SERVICES FOR PREGNANT AND POSTPARTUM**  
10 **INDIVIDUALS.**

11 (a) PHSA.—

12 (1) IN GENERAL.—Part D of title XXVII of the  
13 Public Health Service Act (42 U.S.C. 300gg–111 et  
14 seq.) is amended by adding at the end the following  
15 new section:

16 **“SEC. 2799A–11. COST SHARING REQUIREMENTS WITH RE-**  
17 **SPECT TO MENTAL HEALTH SERVICES AND**  
18 **SUBSTANCE USE DISORDER SERVICES FOR**  
19 **PREGNANT AND POSTPARTUM INDIVIDUALS.**

20 “(a) IN GENERAL.—In the case of a group health  
21 plan or a health insurance issuer offering group or indi-  
22 vidual health insurance coverage that provides a benefit  
23 for mental health services or substance use disorder serv-  
24 ices (including such services which are telehealth services

1 and are provided under such plan or coverage) with re-  
2 spect to plan years beginning on or after the date that  
3 is 2 years after the date of enactment of this section, the  
4 plan or coverage shall not impose any cost sharing require-  
5 ment for such services that are furnished by an in-network  
6 provider to a participant, beneficiary, or enrollee under the  
7 plan or coverage from the diagnosis of pregnancy (as de-  
8 fined by the Secretary) through the 1-year period begin-  
9 ning on the day after the last day of such pregnancy of  
10 such participant, beneficiary, or enrollee (or, in the case  
11 of an individual enrolled in such plan or coverage for a  
12 portion of such period, during such portion).

13 “(b) DEFINITIONS.—In this section:

14 “(1) The terms ‘mental health services’ and  
15 ‘substance use disorder services’ have the meaning  
16 given such terms for purposes of section 2726.

17 “(2) The term ‘telehealth service’ means a serv-  
18 ice that is furnished through telehealth technologies  
19 (as defined in section 330I(a)).”.

20 (2) CONTINUITY OF CARE.—Section 2799A–3  
21 of the Public Health Service Act (42 U.S.C. 300gg–  
22 113) is amended—

23 (A) in subsection (a)(2)(C), by inserting “,  
24 in the case of a continuing care patient de-  
25 scribed in subsection (b)(1)(D)(ii), the date on

1 which such individual is no longer such a con-  
2 tinuing care patient with respect to such pro-  
3 vider or facility, or in the case of a continuing  
4 care patient described in subsection (b)(1) other  
5 than in subparagraph (D)(ii) of such sub-  
6 section,” after “is provided and ending on”;  
7 and

8 (B) by amending subsection (b)(1)(D) to  
9 read as follows:

10 “(D)(i) is pregnant and undergoing a  
11 course of treatment for the pregnancy from the  
12 provider or facility; or

13 “(ii)(I) requires mental health services  
14 or substance use disorder services from a  
15 provider or facility following a pregnancy;

16 “(II) received a course of treat-  
17 ment from such provider or facility  
18 while pregnant; and

19 “(III) the last day of such preg-  
20 nancy occurred during the previous 1-  
21 year period; or”.

22 (b) ERISA.—

23 (1) IN GENERAL.—Subpart B of part 7 of sub-  
24 title B of title I of the Employee Retirement Income

1 Security Act of 1974 is amended by adding at the  
2 end the following new section:

3 **“SEC. 726. COST SHARING REQUIREMENTS WITH RESPECT**  
4 **TO MENTAL HEALTH SERVICES AND SUB-**  
5 **STANCE USE DISORDER SERVICES FOR PREG-**  
6 **NANT AND POSTPARTUM INDIVIDUALS.**

7 “(a) IN GENERAL.—In the case of a group health  
8 plan or a health insurance issuer offering group health in-  
9 surance coverage that provides a benefit for mental health  
10 services or substance use disorder services (including such  
11 services which are telehealth services and are provided  
12 under such plan or coverage) with respect to plan years  
13 beginning on or after the date that is 2 years after the  
14 date of enactment of this section, the plan or coverage  
15 shall not impose any cost sharing requirement for such  
16 services that are furnished by an in-network provider to  
17 a participant or beneficiary under the plan or coverage  
18 from the diagnosis of pregnancy (as defined by the Sec-  
19 retary) through the 1-year period beginning on the day  
20 after the last day of such pregnancy of such participant  
21 or beneficiary (or, in the case of an individual enrolled in  
22 such plan or coverage for a portion of such period, during  
23 such portion).

24 “(b) DEFINITIONS.—In this section:

1           “(1) The terms ‘mental health services’ and  
2           ‘substance use disorder services’ have the meaning  
3           given such terms for purposes of section 712.

4           “(2) The term ‘telehealth service’ means a serv-  
5           ice that is furnished through telehealth technologies  
6           (as defined in section 330I(a) of the Public Health  
7           Service Act).”.

8           (2) CONTINUITY OF CARE.—Section 718 of the  
9           Employee Retirement Income Security Act of 1974  
10          (29 U.S.C. 1185g) is amended—

11           (A) in subsection (a)(2)(C), by inserting “,  
12           in the case of a continuing care patient de-  
13           scribed in subsection (b)(1)(D)(ii), the date on  
14           which such individual is no longer such a con-  
15           tinuing care patient with respect to such pro-  
16           vider or facility, or in the case of a continuing  
17           care patient described in subsection (b)(1) other  
18           than in subparagraph (D)(ii) of such sub-  
19           section,” after “is provided and ending on”;  
20           and

21           (B) by amending subsection (b)(1)(D) to  
22           read as follows:

23           “(D)(i) is pregnant and undergoing a  
24           course of treatment for the pregnancy from the  
25           provider or facility; or

1 “(ii)(I) requires mental health services  
2 or substance use disorder services from a  
3 provider or facility following a pregnancy;

4 “(II) received a course of treat-  
5 ment from such provider or facility  
6 while pregnant; and

7 “(III) the last day of such preg-  
8 nancy occurred during the previous 1-  
9 year period; or”.

10 (3) CLERICAL AMENDMENT.—The table of con-  
11 tents in section 1 of the Employee Retirement In-  
12 come Security Act of 1974 (29 U.S.C. 1001 et seq.)  
13 is amended by inserting after the item relating to  
14 section 725 the following new item:

“Sec. 726. Cost sharing requirements with respect to mental health services  
and substance use disorder services for pregnant and  
postpartum individuals.”.

15 (c) IRC.—

16 (1) IN GENERAL.—Subchapter B of chapter  
17 100 of the Internal Revenue Code of 1986 is amend-  
18 ed by adding at the end the following new section:

19 **“SEC. 9826. COST SHARING REQUIREMENTS WITH RESPECT**  
20 **TO MENTAL HEALTH SERVICES AND SUB-**  
21 **STANCE USE DISORDER SERVICES FOR PREG-**  
22 **NANT AND POSTPARTUM INDIVIDUALS.**

23 “(a) IN GENERAL.—In the case of a group health  
24 plan that provides a benefit for mental health services or

1 substance use disorder services (including such services  
2 which are telehealth services and are provided under such  
3 plan) with respect to plan years beginning on or after the  
4 date that is 2 years after the date of enactment of this  
5 section, the plan shall not impose any cost sharing require-  
6 ment for such services that are furnished by an in-network  
7 provider to a participant or beneficiary under the plan  
8 from the diagnosis of pregnancy (as defined by the Sec-  
9 retary) through the 1-year period beginning on the day  
10 after the last day of such pregnancy of such participant  
11 or beneficiary (or, in the case of an individual enrolled in  
12 such plan for a portion of such period, during such por-  
13 tion).

14 “(b) DEFINITIONS.—In this section:

15 “(1) The terms ‘mental health services’ and  
16 ‘substance use disorder services’ have the meaning  
17 given such terms for purposes of section 9812.

18 “(2) The term ‘telehealth service’ means a serv-  
19 ice that is furnished through telehealth technologies  
20 (as defined in section 330I(a) of the Public Health  
21 Service Act).”.

22 (2) CONTINUITY OF CARE.—Section 9818 of  
23 the Internal Revenue Code of 1986 is amended—

24 (A) in subsection (a)(2)(C), by inserting “,  
25 in the case of a continuing care patient de-



1 scribed in subsection (b)(1)(D)(ii), the date on  
2 which such individual is no longer such a con-  
3 tinuing care patient with respect to such pro-  
4 vider or facility, or in the case of a continuing  
5 care patient described in subsection (b)(1) other  
6 than in subparagraph (D)(ii) of such sub-  
7 section,” after “is provided and ending on”;  
8 and

9 (B) by amending subsection (b)(1)(D) to  
10 read as follows:

11 “(D)(i) is pregnant and undergoing a  
12 course of treatment for the pregnancy from the  
13 provider or facility; or

14 “(ii)(I) requires mental health services  
15 or substance use disorder services from a  
16 provider or facility following a pregnancy;

17 “(II) received a course of treat-  
18 ment from such provider or facility  
19 while pregnant; and

20 “(III) the last day of such preg-  
21 nancy occurred during the previous 1-  
22 year period; or”.

23 (3) CLERICAL AMENDMENT.—The table of sec-  
24 tions for subchapter B of chapter 100 of the Inter-

1       nal Revenue Code of 1986 is amended by adding at  
2       the end the following new item:

“Sec. 9826. Cost sharing requirements with respect to mental health services  
and substance use disorder services for pregnant and  
postpartum individuals.”.

3       (d) FEHBP.—

4             (1) IN GENERAL.—Section 8902(p) of title 5,  
5       United States Code, is amended—

6                     (A) by striking “and 2799A-7” and insert-  
7             ing “2799A-7, and 2799A-11”;

8                     (B) by striking “and 722” and inserting  
9             “722, and 726”; and

10                    (C) by striking “and 9822” and inserting  
11             “9822, and 9826”.

12             (2) EFFECTIVE DATE.—The amendments made  
13       by paragraph (1) shall apply with respect to con-  
14       tracts entered into or renewed for contract years be-  
15       ginning on or after the date that is 2 years after the  
16       date of enactment of this section.

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