

# STATE OF NEW YORK

6902

2023-2024 Regular Sessions

## IN ASSEMBLY

May 8, 2023

Introduced by M. of A. SOLAGES -- read once and referred to the Committee on Health

AN ACT to amend the social services law and the public health law, in relation to Medicaid expanding coverage for pregnant and postpartum individuals and their children, establishing a health expense account program for pregnant and postpartum individuals, and requiring the creation of informative pamphlets on maternal depression

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subparagraph 1 of paragraph (b) of subdivision 4 of  
2 section 366 of the social services law, as amended by section 3 of part  
3 CCC of chapter 56 of the laws of 2022, is amended to read as follows:

4 (1) A pregnant [~~woman~~] or postpartum individual eligible for medical  
5 assistance under subparagraph two or four of paragraph (b) of subdivi-  
6 sion one of this section on any day of [~~her~~] their pregnancy will  
7 continue to be eligible for such care and services for a period of [~~one~~  
8 year] two years beginning on the last day of pregnancy, without regard  
9 to any change in the income of the family that includes the pregnant  
10 [~~woman~~] or postpartum individual, even if such change otherwise would  
11 have rendered [~~her~~] them ineligible for medical assistance.

12 § 2. Subparagraph 2 of paragraph (b) of subdivision 4 of section 366  
13 of the social services law, as added by section 2 of part D of chapter  
14 56 of the laws of 2013, is amended to read as follows:

15 (2) A child born to [~~a woman~~] an individual eligible for and receiving  
16 medical assistance on the date of the child's birth shall be deemed to  
17 have applied for medical assistance and to have been found eligible for  
18 such assistance on the date of such birth and to remain eligible for  
19 such assistance for a period of [~~one year, so long as the child is a~~  
20 ~~member of the woman's household and the woman remains eligible for such~~  
21 ~~assistance or would remain eligible for such assistance if she were~~  
22 ~~pregnant~~] two years, without regard to any change in the income of the

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 family that includes the child, even if such change otherwise would have  
2 rendered them ineligible for medical assistance.

3 § 3. Section 365-a of the social services law is amended by adding a  
4 new subdivision 6-a to read as follows:

5 6-a. Any inconsistent provision of law notwithstanding, medical  
6 assistance for pregnant and postpartum individuals shall also include  
7 all pregnancy-related and postpartum services including, but not limited  
8 to, coverage for maternal mental health conditions for postpartum indi-  
9 viduals diagnosed with a maternal mental health condition.

10 § 4. Title 3 of article 25 of the public health law is amended to read  
11 as follows:

12 TITLE III  
13 [~~CONTROL OF MIDWIFERY~~] HEALTH  
14 EXPENSE ACCOUNT PROGRAM FOR  
15 PREGNANT AND POSTPARTUM INDIVIDUALS

16 Section 2560. Definitions.

17 2561. Health expense account program for pregnant and postpartum  
18 individuals.

19 2562. Federal participation.

20 2563. Implementation of the program.

21 § 2560. Definitions. For the purpose of this title, unless the context  
22 clearly requires otherwise:

23 1. "eligible person" means pregnant individuals and individuals up to  
24 two years postpartum that are receiving medical assistance under title  
25 eleven of article five of the social services law.

26 2. "out-of-pocket pregnancy-related costs" includes, but is not limit-  
27 ed to, birth and infant care classes, doula services, midwifery care,  
28 lactation support services, prenatal vitamins, lab tests or screening,  
29 prenatal acupuncture or acupressure, and transportation expenses essen-  
30 tial to medical care.

31 § 2561. Health expense account program for pregnant and postpartum  
32 individuals. 1. On or before July first, two thousand twenty-five, the  
33 department, in consultation with the department of social services,  
34 shall establish a health expense account program for pregnant and post-  
35 partum individuals. Under this program, an eligible person shall be  
36 eligible for reimbursement for out-of-pocket pregnancy-related costs in  
37 an amount not to exceed one thousand two hundred fifty dollars.

38 2. An eligible person shall not have to seek approval or be denied  
39 reimbursement for care for that care to be considered an out-of-pocket  
40 pregnancy-related cost. The department may authorize reimbursement for  
41 additional pregnancy-related expenses as it deems fit.

42 3. An eligible person shall not be reimbursed for out-of-pocket preg-  
43 nancy-related costs unless the request for reimbursement is submitted  
44 within three months after the last day of pregnancy or within three  
45 months of the out-of-pocket pregnancy-related cost occurring.

46 4. The department shall be allowed to contract out for purposes of  
47 implementing the health expense account program for pregnant and post-  
48 partum individuals.

49 § 2562. Federal participation. In implementing this title, the depart-  
50 ment shall seek to maximize federal financial participation. To the  
51 extent federal financial participation is unavailable, the department  
52 shall implement this title only with state funds with an opt-out option  
53 allowing localities with no need for the program established under this  
54 title to opt-out. To ensure such program is run effectively or based on  
55 a locality's needs, localities shall consult with organizations that  
56 address pregnant and postpartum individuals. In the event that a locali-

1 ty opts out, said locality shall provide the department and the office  
2 of mental health with justification, and any unused funds shall be real-  
3 located to other localities demonstrating a need for such additional  
4 funding.

5 § 2563. Implementation of the program. The department shall implement  
6 this title through all-county or plan letters, or similar instructions,  
7 no later than January first, two thousand twenty-seven.

8 § 5. Subdivision 2 of section 2500-k of the public health law, as  
9 added by chapter 199 of the laws of 2014, is amended to read as follows:

10 2. Maternal depression information. (a) The commissioner, in consulta-  
11 tion with the commissioner of mental health, shall make available to  
12 maternal health care providers information on maternal depression. The  
13 information shall include, but not be limited to:

14 (i) a summary of the current evidence base and professional guidelines  
15 for maternal depression screening;

16 (ii) validated, evidence-based tools for maternal depression screen-  
17 ing;

18 (iii) information about follow-up support for patients who may require  
19 further evaluation, referral, or treatment including, when available,  
20 information about specific community resources and entities licensed by  
21 the office of mental health; ~~and~~

22 (iv) information on engaging support for the mother, which may include  
23 communicating with the other parent of the child and other family  
24 members, as appropriate and consistent with patient confidentiality;

25 (v) information on the psychological needs of the postpartum mother;  
26 and

27 (vi) how to be sensitive to cultural differences that surround child-  
28 birth, which may involve eating particular foods and restricting certain  
29 activities.

30 (b) The commissioner, in consultation with the commissioner of mental  
31 health, shall develop and distribute to maternal health care providers  
32 an informative pamphlet for patients with information on maternal  
33 depression including, but not limited to:

34 (i) the signs and symptoms of maternal depression;

35 (ii) how to seek help for maternal depression;

36 (iii) physiological changes and medical issues that may arise during  
37 the postpartum period; and

38 (iv) contact information where a patient can file a complaint or  
39 report of any misconduct.

40 (c) The information on maternal depression shall be posted on the  
41 department's website as a printable file, shall be available for order  
42 as a printed deliverable, and shall be written in layperson's language  
43 and shall be made available in English and the six most common non-Engl-  
44 ish languages spoken by individuals with limited English proficiency in  
45 New York state as based on the most recent census. The commissioner  
46 shall, in collaboration with the commissioner of mental health, update  
47 and review the information on maternal depression, as necessary.

48 § 6. This act shall take effect on the one hundred eightieth day after  
49 it shall have become a law; provided, however, that section one of this  
50 act shall take effect on the same date and in the same manner as section  
51 3 of part CCC of chapter 56 of the laws of 2022, takes effect.