STATE OF NEW YORK

5625

2023-2024 Regular Sessions

IN SENATE

March 9, 2023

Introduced by Sen. PERSAUD -- read twice and ordered printed, and when printed to be committed 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:

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

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

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

(2) A child born to [~~a woman~~] **an individual** eligible for and receiving medical assistance on the date of the child's birth shall be deemed to have applied for medical assistance and to have been found eligible for such assistance on the date of such birth and to remain eligible for such assistance for a period of [~~one year, so long as the child is a member of the woman's household and the woman remains eligible for such assistance or would remain eligible for such assistance if she were 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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family that includes the child, even if such change otherwise would have rendered them ineligible for medical assistance.

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

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

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

TITLE III

[~~CONTROL OF MIDWIFERY~~] HEALTH EXPENSE ACCOUNT PROGRAM FOR PREGNANT AND POSTPARTUM INDIVIDUALS

Section 2560. Definitions.

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

2562. Federal participation.

2563. Implementation of the program.

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

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

2. "out-of-pocket pregnancy-related costs" includes, but is not limited to, birth and infant care classes, doula services, midwifery care, lactation support services, prenatal vitamins, lab tests or screening, prenatal acupuncture or acupressure, and transportation expenses essential to medical care.

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

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

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

4. The department shall be allowed to contract out for purposes of implementing the health expense account program for pregnant and postpartum individuals.

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

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

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

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

2. Maternal depression information. (a) The commissioner, in consultation with the commissioner of mental health, shall make available to maternal health care providers information on maternal depression. The information shall include, but not be limited to:

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

(ii) validated, evidence-based tools for maternal depression screening;

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

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

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

(vi) how to be sensitive to cultural differences that surround childbirth, which may involve eating particular foods and restricting certain activities.

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

(i) the signs and symptoms of maternal depression;

(ii) how to seek help for maternal depression;

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

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

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

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