

Date of Hearing: August 20, 2025

ASSEMBLY COMMITTEE ON APPROPRIATIONS

Buffy Wicks, Chair

SB 257 (Wahab) – As Amended July 17, 2025

Policy Committee: Health

Vote: 14 - 0

Urgency: No

State Mandated Local Program: Yes

Reimbursable: No

SUMMARY:

This bill prohibits a health plan or insurer from denying, limiting, or seeking reimbursement for maternity services or newborn and pediatric care services because the enrollee or insured is acting as a gestational carrier. This bill also establishes pregnancy as a triggering event for enrollment in the individual health insurance market.

Specifically, this bill:

- 1) Prohibits a health plan contract or health insurance policy issued, amended, or renewed on or after January 1, 2026, that provides coverage for maternity services or newborn and pediatric care services from seeking reimbursement for maternity services or newborn and pediatric care services because the enrollee is acting as a gestational carrier.
- 2) Prohibits a health plan or health insurer, to comply with the restriction on seeking reimbursement described in item 1, above, from denying coverage to an enrollee or the enrollee's newborn or otherwise discriminating against an enrollee, an enrollee's newborn, or an attending health care provider based on the circumstances of conception.
- 3) Defines "maternity services" to include prenatal care, ambulatory care maternity services, involuntary complications of pregnancy, neonatal care, and inpatient hospital maternity care, including labor and delivery and postpartum care.
- 4) Adds pregnancy as a triggering event for which an individual health plan or health insurer must allow an individual to enroll in or change individual health benefit plans and policies outside of the usual enrollment periods.
- 5) Prohibits enrollment in an individual health plan contract or health insurance policy from being affected by the circumstances of conception, including if the individual is acting as a gestational carrier, and requires coverage be extended to individuals who are dependents of the pregnant individual and an individual to whom the pregnant individual is a dependent.

FISCAL EFFECT:

Costs to the California Public Employees Retirement System (CalPERS) in the low to mid hundreds of thousands of dollars per year, based on CHBRP's and CalPERS' estimated total CalPERS premium increases of \$1.15 million (General Fund).

The Department of Insurance estimates costs of \$6,000 in fiscal year (FY) 2025-26 and \$18,000 in FY 2026-27 for state administration (Insurance Fund).

The Department of Managed Health Care estimates minor and absorbable costs.

Covered California anticipates minor and absorbable systems and outreach costs.

CHBRP estimates this bill will increase annual net expenditures for employers and enrollees for newly covered benefits by approximately \$69.9 million.

COMMENTS:

- 1) **Purpose.** This bill is sponsored by Insurance Access Equity Alliance. According to the author:

[This bill] closes an unfair loophole in health insurance coverage for pregnancy. Health insurers are increasingly exploiting surrogate and gestational carrier contracts to demand reimbursement after claims are paid by asserting a right to reimbursement and placing liens on the policyholder. This practice penalizes surrogates/gestational carriers, people pursuing family building through surrogacy, and the professionals who support them. It deters participation in surrogacy, and when people do participate, it forces intended parents to pay exorbitant out-of-pocket expenses, putting surrogacy further out of reach for average people. Without proper regulation, some insurers even seek reimbursement beyond deductibles or out-of-pocket maximums. This disproportionately impacts people facing infertility, LGBTQ+ individuals, and single parents.

[This bill] also makes pregnancy a qualifying life event for enrollment in health insurance, so every pregnant person can access essential prenatal care. SB 257 bridges gaps to support consistent, equitable maternal healthcare coverage and healthy pregnancies for all, including gestational carriers and the families they help create.

- 2) **Background. *Health Coverage for Surrogates or Gestational Carriers.*** According to the California Health Benefits Review Program (CHBRP), the Kaiser Essential Health Benefits (EHB) benchmark plan's Evidence of Coverage states enrollees who enter into a surrogacy arrangement must pay for any covered medical services related to conception, pregnancy, or delivery connected to that arrangement. The amount the enrollee must pay must not exceed the compensation the surrogate or gestational carrier is entitled to receive under the agreement. The Kaiser EHB plan also requires enrollees to notify the plan in writing within 30 days of entering into a surrogacy arrangement. This notice must include a copy of any contracts or documents explaining the arrangement. By using the plan's surrogacy-related health services, the surrogate or gestational carrier automatically assigns to the plan their right to receive any payments due to them (or a designated payee) under the surrogacy agreement, and allows Kaiser to place a lien on those payments to recover its costs. CHBRP estimates 83% of the insurance market now has such repayment provisions, but if this bill is implemented, that percentage would drop to zero.

Pregnancy as a Qualifying Event. CHBRP estimates this bill would result in 5,303 previously uninsured pregnant people and their dependents gaining coverage. In addition, 1,065 gestational carriers and their dependents will gain full coverage for all maternity and labor/delivery services, with no requirement to reimburse their insurers or health plans. CHBRP found one study suggesting a special enrollment period for pregnant people is associated with increased enrollment in health insurance among pregnant people, but noted that it found no studies of the effects of special enrollment periods on use of maternity services or maternal or infant health outcomes. CHBRP noted this bill could result in small cost savings due to better prenatal care leading to improved health outcomes for both the person who was pregnant and the child.

Costs. CHBRP estimates this bill would increase annual net expenditures by \$69.9 million for health plans and insurance. CHBRP projects premium increases will range from \$.12 per member per month (PMPM) for small-group plans to \$2.04 PMPM for plans purchased in the individual market, and health insurance policy costs would rise \$0.11 PMPM for small-group policies and \$0.13 PMPM for individual market policies. CHBRP also estimates a total increase of \$1.15 million for CalPERS plan premiums, of which the state pays an estimated 40% to 50%.

- 3) **Opposition.** The California Association of Health Plans (CAHP) and the Association of California Life and Health Insurance Companies (ACLHIC) write in opposition that special enrollment periods are currently confined to “qualifying life events,” such as relocation, marriage, family expansion, or the loss of employer-sponsored coverage. These exceptions maintain market integrity without tying access to specific medical conditions. CAHP and ACLHIC argue this bill challenges the existing equilibrium by introducing condition-based enrollment provisions, potentially setting precedent for favoring particular medical conditions over others and destabilizing the market. A significant component of California’s strategy to ensure broad access to affordable quality health care is the encouragement and incentivization of insurance purchases among those without immediate medical need. CAHP and ACLHIC argue this bill risks undermining this objective by permitting individuals to defer purchasing insurance until its necessity becomes apparent.

CAHP and ACLHIC also argue that provisions allowing gestational carriers to add newborn children to their coverage raises various legal questions, such as what defines a dependent, noting that gestational carriers often have no legal or biological ties to the child. Finally, CAHP and ACLHIC contend that forbidding insurers from recouping maternity service costs when an enrollee functions as a gestational carrier risks encouraging non-California residents to exploit California’s accommodating health care framework, potentially further straining resources and affordability for the state's residents.

- 4) **Drafting Question:** this bill lists “involuntary complications of pregnancy” under “maternity services.” The author may wish to clarify this provision.