

SENATE THIRD READING

SB 257 (Wahab)

As Amended July 17, 2025

Majority vote

SUMMARY

Prohibits a health plan or health insurance policy 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. Requires health plans and health insurers to allow a pregnant individual to enroll in or change individual health benefit plans and policies outside of existing enrollment time periods.

Major Provisions

- 1) Prohibits a plan or health insurer, to comply with the above, from doing either of the following based on the circumstances of conception:
 - a) Denying coverage to an enrollee or the enrollee's newborn; and,
 - b) Otherwise discriminating against an enrollee, an enrollee's newborn, or an attending health care provider.
- 2) Expands the existing law provisions that require health plans and health insurers to allow an individual to enroll in or change individual health benefit plans and policies as a result of a triggering event by including as an additional triggering event when an individual is pregnant (the effect of this provision is to allow a pregnant individual to enroll in individual coverage, or switch their health plan coverage outside of open enrollment).

COMMENTS

Under California law, a health plan or health insurer is required to limit enrollment in individual health benefit plans to open enrollment periods, annual enrollment periods, and special enrollment periods. A special enrollment period in the individual market is generally limited to individuals who experience a triggering event (also called a qualifying life event or QLE).

Without a qualifying life event, individuals must wait until the next open enrollment period to apply for individual health plan coverage, or change individual health plan coverage. Related to this provision of existing law, this bill would make a two-fold change. First, it would allow individuals who are pregnant to purchase individual coverage outside of existing annual open enrollment periods. Second, it would allow pregnant individuals who already have individual coverage to switch coverage.

In addition, this bill also prohibits a health plan or health insurance policy 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. According to California Health Benefits Review Program (CHBRP), the Kaiser Essential Health Benefits (EHB) benchmark plan's Evidence of Coverage states that 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 cannot exceed the compensation the surrogate or gestational carrier is entitled

to receive under the agreement. The Kaiser policy 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 that 83% of the insurance market has such repayment provisions. Sponsors of this bill report that other insurers, including Blue Shield of California, Molina, Western Health Advantage, Sharp Healthcare, Sutter Health, L.A. Care, and Inland Empire Health Plan, have similar surrogacy policies.

This bill would also prohibit a health plan or health insurer from denying coverage to an enrollee or the enrollee's newborn. This provision is intended to avoid a gap in care for the newborn because the newborn is not the dependent of the gestational carrier under the surrogacy arrangement (the newborn child is a dependent of the intended parents). This bill would require coverage for the infant in the event the intended parents' coverage does not provide services in California beyond emergency care (for example, if the intended parents reside outside of California).

In 2026, CHBRP estimates that 6,368 people would gain full coverage for maternity and pediatric newborn services without having to reimburse their health plan or insurer. Of those, 5,303 people are expected to be previously uninsured pregnant people and their dependents who would gain full coverage because of the special enrollment period. An additional 1,065 are expected to be surrogates or gestational carriers and their dependents. CHBRP indicates total average annual cost of all health care for pregnant enrollees is \$21,700, divided between insurance carrier (\$16,217) and the enrollee cost-sharing (\$5,483). Annual average costs per dependent are \$5,545 for insurance carriers and \$1,875 for enrollee cost-sharing. CHBRP estimates this bill would increase total premiums paid by employers and enrollees for newly covered benefits by \$70,912,000. Enrollee cost-sharing for these benefits is estimated at \$20,343,000 compared to expenses previously not covered of \$21,310,000. Premium increases will range from \$.12 per member per month to as high as over \$2 per member per month for plans that are purchased in the individual market not through an employer.

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 and gestational carriers, the people pursuing family building through surrogacy, and the professionals who support them. The author argues this practice 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. The author concludes this bill bridges gaps to support consistent, equitable maternal health care coverage and healthy pregnancies for all, including gestational carriers and the families they help create.

Arguments in Support

This bill is sponsored by the Insurance Access and Equity Alliance. Proponents write that this vital legislation addresses critical gaps in health care coverage, ensuring that all pregnant individuals receive equitable treatment, regardless of the circumstances surrounding their pregnancy. Proponents believe the enactment of this bill would signify a monumental step forward in eliminating discriminatory practices in health care coverage related to pregnancy, and that it aligns with California's longstanding commitment to reproductive freedom and the protection of individual rights. The American College of Obstetricians and Gynecologists (ACOG) writes pregnancy is a significant medical and life circumstance that deserves the same flexibility and responsiveness currently afforded to other triggering events like marriage or job loss. ACOG says ensuring that individuals can access or adjust their health coverage when they become pregnant is a commonsense step that promotes maternal and infant health, especially in communities where coverage gaps contribute to disparities in care. The California WIC Association writes this bill is especially timely and needed given California's ongoing efforts to reduce maternal mortality, eliminate racial disparities in birth outcomes, and expand reproductive justice. The California WIC Association believes this bill takes a clear stand that pregnancy, no matter the pathway, deserves respect, timely care, and equal insurance treatment. The San Francisco Women's Political Committee writes that insurance discrimination disproportionately impacts women, LGBTQ+ individuals, people of color, and those in nontraditional family structures, and, that this bill ensures that all pregnant individuals have equitable access to health care, a crucial step toward reproductive freedom and gender justice in California.

Arguments in Opposition

The California Association of Health Plans (CAHP) and the Association of California Life and Health Insurance Companies (ACLHIC) write in opposition that in 2014, California saw the complete implementation of the Affordable Care Act (ACA), which brought substantial reforms to the health care landscape. One of the pivotal changes was the introduction of guaranteed issue coverage in the individual market, granting individuals and families the ability to secure health insurance without preexisting condition restrictions. A balancing measure to sustain a healthy insurance market required establishing an individual mandate and limiting enrollment periods to annual open enrollments and designated special enrollment periods linked to life events. Historically, unregulated enrollment opportunities without coverage constraints have led to market instability, as demonstrated in Washington State during the 1990s.

CAHP and ACLHIC write 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, generic and universally applicable, maintain market integrity without tying access to specific medical conditions. This bill challenges this equilibrium by introducing condition-based enrollment provisions, potentially setting precedent for favoring particular medical conditions over others, thereby 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, even in the absence of immediate medical need. CAHP and ACLHIC argue this practice sustains the financial robustness of the insurance market. CAHP and ACLHIC write that this bill risks undermining this objective by potentially permitting individuals to defer purchasing insurance until its necessity becomes apparent.

CAHP and ACLHIC also write that additional complexities arise with provisions allowing gestational carriers to add newborn children to their coverage, stating this raises various legal questions, such as what defines a dependent, noting that gestational carriers often have no legal or biological ties to the child, and there is the matter of who holds responsibility for medical and financial decisions for the child's care. Finally, CAHP and ACLHIC write that forbidding insurers from recouping maternity service costs when an enrollee functions as a gestational carrier risks promoting a phenomenon referred to as surrogacy tourism, wherein non-California residents exploit California's accommodating health care framework, potentially further straining resources and affordability for the state's residents.

FISCAL COMMENTS

According to the Assembly Appropriations Committee:

- 1) 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).
- 2) 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).
- 3) The Department of Managed Health Care estimates minor and absorbable costs.
- 4) Covered California anticipates minor and absorbable systems and outreach costs.
- 5) CHBRP estimates this bill will increase annual net expenditures for employers and enrollees for newly covered benefits by approximately \$69.9 million.

VOTES

SENATE FLOOR: 39-0-1

YES: Allen, Alvarado-Gil, Archuleta, Arreguín, Ashby, Becker, Blakespear, Cabaldon, Caballero, Cervantes, Choi, Cortese, Dahle, Durazo, Gonzalez, Grayson, Grove, Hurtado, Jones, Laird, Limón, McGuire, McNERney, Menjivar, Niello, Ochoa Bogh, Padilla, Pérez, Richardson, Rubio, Seyarto, Smallwood-Cuevas, Stern, Strickland, Umberg, Valladares, Wahab, Weber Pierson, Wiener

ABS, ABST OR NV: Reyes

ASM HEALTH: 14-0-2

YES: Bonta, Addis, Aguiar-Curry, Caloza, Carrillo, Flora, Mark González, Krell, Patel, Celeste Rodriguez, Sanchez, Schiavo, Sharp-Collins, Stefani

ABS, ABST OR NV: Chen, Patterson

ASM APPROPRIATIONS: 14-0-1

YES: Wicks, Sanchez, Arambula, Calderon, Caloza, Dixon, Elhawary, Fong, Mark González, Ahrens, Pacheco, Pellerin, Solache, Ta

ABS, ABST OR NV: Tangipa

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