

## SB21-194: MATERNAL HEALTH PROVIDERS

Concerning maternal health.

### Details

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<b>Bill Sponsors:</b>	Senate – Buckner (D) House – Herod (D)
<b>Committee:</b>	Senate Health & Human Services Senate Appropriations
<b>Bill History:</b>	3/22/2021- Introduced in Senate, Assigned to Health & Humans Services 4/14/2021- Senate Health & Human Services Refer Amended to Appropriations
<b>Next Action:</b>	Hearing in Senate Appropriations
<b>Fiscal Note:</b>	<u>April 13, 2021</u> , the bill increases state expenditures by \$5.3 million and 1.2 FTE in FY 2021-22 and by \$19.2 million and 0.8 FTE in FY 2022-23.

### Bill Summary

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The bill requires state regulated health plans and Medicaid to reimburse health professionals that provide services related to labor and delivery in a way that promotes high-quality, cost-effective care, prevents risk in subsequent pregnancy, and does not discriminate based on the type of provider or facility. Additionally, health professionals that provide health-care services related to labor and delivery must implement best practices for interprofessional collaboration and the transfer of a pregnant person from home or a birthing center to a health facility. The Department of Public Health and Environment (CDPHE) and the Colorado Maternal Mortality Review Committee must make recommendations to improve numerous topics related to maternal health. The Department of Health Care Policy and Financing (HCPF) must seek an amendment to the state Medicaid plan and the Children’s Health Plan Plus (CHP+) to provide 12 months of postpartum medical benefits to persons who qualified for benefits while pregnant.

### Issue Summary

#### Postpartum Care & Maternal Mortality

While postpartum care has traditionally centered around one clinical visit six to eight weeks after delivery, there has been a shift to emphasize that postpartum care is an ongoing process that typically requires multiple visits and follow up care that may last a year or even longer.<sup>1</sup> However, Disruptions in perinatal insurance coverage disproportionately affect indigenous, Hispanic, and black non-Hispanic women.<sup>2</sup> Postpartum care is important not only for those who experience pregnancy complications or have chronic conditions, but also for every person who has given birth, as a wide array of conditions can arise in the postpartum period, which play a role in maternal health and broader health outcomes.

Mental health is a central component during the postpartum period. In the past ten years, suicidality has risen among pregnant and postpartum individuals.<sup>3</sup> One in ten individuals experience perinatal depression,

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<sup>1</sup> University of North Carolina, School of Social Work, Jordan Institute for Families (n.d.) *4<sup>th</sup> Trimester Project*. Retrieved from <https://jordainstituteforfamilies.org/collaborate/community-initiatives/4thtrimesterproject/the4thtrimester/>

<sup>2</sup> Daw, JR. et al. Racial and Ethnic Disparities in Perinatal Insurance Coverage, *Obstetrics & Gynecology*: 2020; 135(4):917-924. doi: 10.1097/AOG.0000000000003728 Retrieved from

[https://journals.lww.com/greenjournal/Fulltext/2020/04000/Racial\\_and\\_Ethnic\\_Disparities\\_in\\_Perinatal.20.aspx](https://journals.lww.com/greenjournal/Fulltext/2020/04000/Racial_and_Ethnic_Disparities_in_Perinatal.20.aspx)

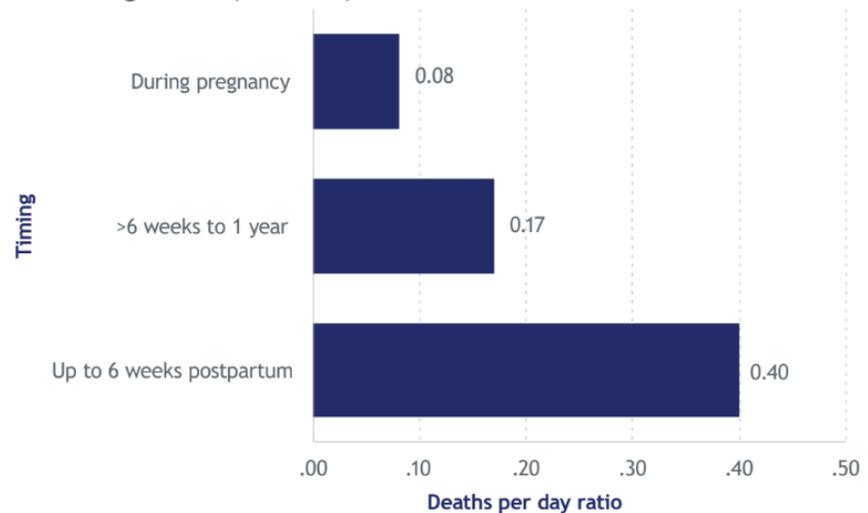
<sup>3</sup> Admon LK, Dalton VK, Kolenic GE, et al. Trends in Suicidality 1 Year Before and After Birth Among Commercially Insured Childbearing Individuals in the United States, 2006-2017. *JAMA Psychiatry*. 2021;78(2):171–176. doi:10.1001/jamapsychiatry.2020.3550. Retrieved from

with higher rates and lower access to treatment for BIPOC individuals and those with low-incomes.<sup>4</sup> Due to the complexity of mental health in the postpartum period, the American College of Obstetricians and Gynecologists (ACOG) recommends screening during the initial postpartum visit and referral to treatment.<sup>5</sup> Treatment for mental health in the postpartum period can be provided over a long duration, which often last beyond 60 days.

Pregnancy-related deaths occur not only during delivery but also during pregnancy and up to 1 year postpartum.<sup>6</sup> Approximately one-third of maternal deaths happen in the postpartum period.<sup>7</sup> Black and American Indian/Alaska Native women in this country are about 3 times more likely to die from pregnancy-related causes than white women.<sup>8</sup> In Colorado, from 2014-2016, American Indian individuals were 4.8 times more likely to have a

pregnancy-associated death than other non-American Indian demographic groups.<sup>9</sup> However, there was not a significantly different percentage of pregnancy-associated deaths occurring among Black, white, Asian, and Hispanic Coloradans. During the same period in Colorado, the top five singular causes for maternal death were suicide, drug overdose, injury (including motor vehicle crashes), homicide, and cardiac conditions. The accompanying chart from the Colorado Maternal Mortality Review Committee demonstrates the prevalence of deaths during certain periods.

Figure 7. Timing of Death, Colorado, 2014-2016.



### Current Postpartum Medicaid Coverage

In 2017, Colorado's Medicaid program financed 45% of all births in the state.<sup>10</sup> For those covered by Medicaid while pregnant, they continue to have coverage for 60 days postpartum.

[https://jamanetwork.com/journals/jamapsychiatry/article-abstract/2772882?utm\\_source=STAT+Newsletters&utm\\_campaign=97fadf08d3-MR\\_COPY\\_01&utm\\_medium=email&utm\\_term=0\\_8cab1d7961-97fadf08d3-149539289&applied=scweb](https://jamanetwork.com/journals/jamapsychiatry/article-abstract/2772882?utm_source=STAT+Newsletters&utm_campaign=97fadf08d3-MR_COPY_01&utm_medium=email&utm_term=0_8cab1d7961-97fadf08d3-149539289&applied=scweb)

<sup>4</sup> Kaiser Family Foundation. (March 9, 2021). *Expanding Postpartum Medicaid Coverage*. Retrieved from <https://www.kff.org/womens-health-policy/issue-brief/expanding-postpartum-medicaid-coverage/>

<sup>5</sup> ACOG (Nov. 2018). *Screening for Perinatal Depression*. Retrieved from [https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2018/11/screening-for-perinatal-depression?utm\\_source=redirect&utm\\_medium=web&utm\\_campaign=otn](https://www.acog.org/clinical/clinical-guidance/committee-opinion/articles/2018/11/screening-for-perinatal-depression?utm_source=redirect&utm_medium=web&utm_campaign=otn)

<sup>6</sup> Petersen EE, Davis NL, Goodman D, et al. *Vital Signs: Pregnancy-Related Deaths, United States, 2011–2015, and Strategies for Prevention, 13 States, 2013–2017*. *MMWR Morb Mortal Wkly Rep* 2019;68:423–429. Retrieved from [https://www.cdc.gov/mmwr/volumes/68/wr/mm6818e1.htm?s\\_cid=mm6818e1\\_w#suggestedcitation](https://www.cdc.gov/mmwr/volumes/68/wr/mm6818e1.htm?s_cid=mm6818e1_w#suggestedcitation)

<sup>7</sup> U.S. Department of Health & Human Services (2017). *Action Plan to Improve Maternal Health in America*. Retrieved from [https://aspe.hhs.gov/system/files/aspe-files/264076/healthy-women-healthy-pregnancies-healthy-future-action-plan\\_0.pdf](https://aspe.hhs.gov/system/files/aspe-files/264076/healthy-women-healthy-pregnancies-healthy-future-action-plan_0.pdf)

<sup>8</sup> Petersen EE, Davis NL, Goodman D, et al. *Vital Signs: Pregnancy-Related Deaths, United States, 2011–2015, and Strategies for Prevention, 13 States, 2013–2017*. *MMWR Morb Mortal Wkly Rep* 2019;68:423–429. Retrieved from [https://www.cdc.gov/mmwr/volumes/68/wr/mm6818e1.htm?s\\_cid=mm6818e1\\_w#suggestedcitation](https://www.cdc.gov/mmwr/volumes/68/wr/mm6818e1.htm?s_cid=mm6818e1_w#suggestedcitation)

<sup>9</sup> Colorado Department of Public Health and Environment (2020). *Colorado Maternal Mortality Prevention Program Legislative Report 2014–2016*. Retrieved from <https://drive.google.com/file/d/11sB0qnM1DmfCA-Z87el3KMHN6oBy5t2y/view>

<sup>10</sup> Kaiser Family Foundation (2021). *Births financed by Medicaid*. Retrieved from <https://www.kff.org/medicaid/state-indicator/births-financed-by-medicaid/?currentTimeframe=0&selectedRows=%7B%22states%22:%7B%22colorado%22:%7B%7D%7D%7D&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>

Following the 60 days postpartum period, postpartum people with incomes up to 138% FPL, in the states that have expanded Medicaid, may have pathways to coverage.<sup>11</sup> Individuals with slightly higher incomes may qualify for subsidized coverage in the individual market through Connect for Health Colorado. However, even with a premium subsidy, some may find the out-of-pocket costs to be unaffordable and may have to change providers to remain in-network.

### **State & Federal Efforts of Address Postpartum Insurance Coverage**

The American Rescue Plan Act of 2021 (ARPA) has given states a new option to extend Medicaid postpartum coverage from 60 days to 12 months.<sup>12</sup> The act allows states to extend the postpartum period to a year by filing a State Plan Amendment (SPA) to their Medicaid program and the option to extend coverage under a state's Children's Health Insurance Plan (CHIP). States that elect the new option must provide full Medicaid benefits during pregnancy and the extended postpartum period. The new option can take effect starting April 1, 2022 and would be available to states for five years.

A number of states, both expansion and non-expansion, are taking action to try to extend the period of Medicaid postpartum eligibility, but the initiatives vary in scope. Some states have applied for waivers from the federal government to provide Medicaid coverage beyond 60 days postpartum. A non-expansion state, Georgia, enacted legislation to extend postpartum coverage from 60 days to six months for those who had a Medicaid funded birth, and the state has submitted a waiver application to CMS.<sup>13</sup> Recently, Illinois' waiver request was approved by the federal government.<sup>14</sup> The waiver allows Illinois' Medicaid program to provide full benefits to postpartum women with incomes up to 208 % of FPL for 12 months postpartum. The state will also provide continuous eligibility for a woman during the entire period, ensuring continuity of coverage.

### **Colorado Maternal Mortality Review Committee**

The Maternal Mortality Review Committee reviews causes of maternal deaths in Colorado. The committee includes individuals from obstetrics & gynecology, maternal-fetal medicine, midwifery, nursing, anesthesiology, forensic pathology, psychology, psychiatry, mental and behavioral health care, and public health.

## **This Legislation**

### **Mandatory Coverage-Maternity**

A carrier offering a health benefit plan in Colorado would be required to reimburse participating providers that provide services related to labor and delivery in a manner that promotes high-quality, cost-effective care and prevents risk in subsequent pregnancies as well as does not discriminate based on the type of provider or facility.

### **Transfers from Home and Birthing Centers**

Health professionals licensed, registered, or certified by the state to provide labor and delivery-related services must implement best practices for interprofessional collaboration and the transfer of a pregnant person from a home or a birth center to a hospital. A health care provider at the hospital must accept a transfer of a pregnant person from a home or birthing center without discrimination based on:

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<sup>11</sup> Kaiser Family Foundation. (March 9, 2021). *Expanding Postpartum Medicaid Coverage*. Retrieved from <https://www.kff.org/womens-health-policy/issue-brief/expanding-postpartum-medicaid-coverage/>

<sup>12</sup> Kaiser Family Foundation (March 18, 2021). *Postpartum Coverage Extension in the American Rescue Plan Act of 2021*. Retrieved from <https://www.kff.org/policy-watch/postpartum-coverage-extension-in-the-american-rescue-plan-act-of-2021/>

<sup>13</sup> CMS (2020). *Georgia Postpartum Extension*. Retrieved from <https://www.medicaid.gov/medicaid/section-1115-demo/demonstration-and-waiver-list/104911>

<sup>14</sup> CMS (2021). *Illinois Approval Letter*. Retrieved from <https://www.medicaid.gov/medicaid/section-1115-demonstrations/downloads/il-continuity-care-admin-simplification-ca.pdf>

- Age, citizenship status, color, disability, gender, gender expression, gender identity, genetic information, health status, national origin, race, religion, sex, or sexual orientation or
- Whether the person was seeking care outside of the hospital setting when the person began experiencing symptoms that require immediate care at a hospital

This section does not prohibit providers from billing for the services rendered. The acceptance of a transferred pregnant person does not establish an employment or consultation relationship between the accepting provider and the transferring provider or establish grounds for vicarious liability.<sup>15</sup>

### **Birth Certificate Worksheet**

The birth certificate worksheet form must include a place to report where the pregnant person intended to give birth at the onset of the person's labor.

### **CDHPE & Colorado Maternal Mortality Review Committee**

The bill amends and adds onto the duties of CDPHE and the Colorado Maternal Mortality Review Committee in relation to maternal mortality. CDPHE and the Committee are to incorporate input and feedback from the following:

- Interested and affected stakeholders, with a focus on pregnant persons or in the postpartum period and their family members
- Multidisciplinary, nonprofit organizations representing pregnant persons or in the postpartum period, with a focus on those from racial and ethnic minority groups
- Multidisciplinary, community-based organizations that provide support or advocacy for pregnant persons or in the postpartum period, with a focus on those from racial and ethnic minority groups

Additionally, they are to make recommendations to improve the collection and public reporting of maternal health data from hospitals, health systems, midwifery practices, and birthing centers, including:

- Data on race and ethnicity correlated with conditions and outcomes
- Data on disability correlated with conditions and outcomes
- Data on uptake of trainings on bias, racism, or discrimination
- Data on incidents of disrespect or mistreatment of a pregnant person and
- Data collected through stories from pregnant and postpartum persons and their family members, with a focus on the experiences of marginalized groups including persons of racial and ethnic minority groups

Further, the entities must study the use of research evidence in policies related to the perinatal period in Colorado and by September 1, 2023, must report to the Senate Health and Human Services Committee and House Health and Insurance Committee on the use of research evidence in policies related to the perinatal period in the state using the implementation science framework. The department can contract with a third party to conduct the research.

### **Medicaid Provider Reimbursement**

HCPF must reimburse all Medicaid eligible providers that provide labor and delivery services in a manner that promotes high-quality, cost-effective care, prevents risk in subsequent pregnancies, and does not discriminate based on the type of provider or facility.

### **Medicaid Postpartum Coverage**

With the receipt of federal financial participation to the maximum extent allowed under federal law, a person who was eligible for all pregnancy-related and postpartum services under Medicaid for the 60 days following the pregnancy remains continuously eligible for all services under Medicaid for the 12 month

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<sup>15</sup> *Vicarious liability*: Liability that a supervisory party (such as an employer) bears for the actionable conduct of a subordinate or associate (such as an employee) based on the relationship between the two parties.

postpartum period. HCPF is to seek any state plan amendment necessary to implement this benefit and can only implement the benefit upon receiving federal authorization and financial participation.

### CHP+ Postpartum Coverage

With the receipt of federal financial participation to the maximum extent allowed under federal law, a person who was eligible for the Children's Health Plan Plus (CHP+) while pregnant and remains eligible for all pregnancy-related and postpartum services under CHP+ for the 60 days following the pregnancy remains continuously eligible for all services under CHP+ for the 12 month postpartum period. HCPF is to seek any state plan amendment necessary to implement this benefit and can only implement the benefit upon receiving federal authorization and financial participation.

### Effective Date

The bill, subject to a petition, takes effect at 12:01am on the day following the expiration of the 90 day period after the final adjournment of the General Assembly.

### Fiscal Note

The bill increases state expenditures by \$5.3 million and 1.2 FTE in FY 2021-22 and by \$19.2 million and 0.8 FTE in FY 2022-23. In terms of the expenditures for the expanded coverage, a 50 percent federal match is assumed for Medicaid costs<sup>16</sup>, and a 65 percent match is assumed for CHP+. The accompanying table from the fiscal note addresses the bill as introduced and does not reflect the amendments that occurred in the Senate Health and Human Services Committee. The amendments are unlikely to substantially change the fiscal note.

**Table 2**  
**Expenditures Under SB 21-194**

Cost Components	FY 2021-22	FY 2022-23
<b>Department of Health Care Policy and Finance</b>		
Personal Services	\$47,855	-
Operating Expenses	\$1,080	-
Capital Outlay Costs	\$6,200	-
CBMS Programming (OIT)	\$297,882	-
MMIS Programming (HCPF)	\$212,505	-
Expanded Coverage (Medicaid)	\$3,736,637	\$14,946,549
Expanded Coverage (CHP)	\$1,029,420	\$4,117,680
Centrally Appropriated Costs <sup>1</sup>	\$11,330	-
FTE – Personal Services	0.7 FTE	0.0 FTE
<b>HCPF Subtotal</b>	<b>\$5,342,909</b>	<b>\$19,064,229</b>
	<i>General Fund</i>	\$2,087,443
	<i>Cash Funds</i>	\$219,779
	<i>Federal Funds</i>	\$3,024,357
	<i>Centrally Appropriated</i>	\$11,330
		\$8,035,348
		\$879,114
		\$10,149,767
		\$0
<b>Department of Public Health and Environment</b>		
Personal Services	\$37,733	\$56,600
Operating Expenses	\$810	\$1,080
Capital Outlay Costs	\$6,200	-
Research Contractor	\$37,500	\$50,000
Legislative Report Translation	-	\$4,000
Centrally Appropriated Costs <sup>1</sup>	\$25,274	\$36,016
FTE – Personal Services	0.5 FTE	0.8 FTE
<b>CDPHE Subtotal</b>	<b>\$107,517</b>	<b>\$147,695</b>
<b>Total</b>	<b>\$5,450,426</b>	<b>\$19,211,925</b>
	<b>Total FTE</b>	<b>1.2 FTE</b>
		<b>0.8 FTE</b>

<sup>1</sup> Centrally appropriated costs are not included in the bill's appropriation.

<sup>16</sup> The Kasier Family Foundation demonstrates that the federal match for federal fiscal year 2022 will be 56.2%, which reflects higher federal matching funding made available through the Families First Coronavirus Response Act (amended by the Coronavirus Aid, Relief, and Economic Security Act). Retrieved from <https://www.kff.org/medicaid/state-indicator/federal-matching-rate-and-multiplier/?currentTimeframe=0&selectedDistributions=fmap-percentage&selectedRows=%7B%22states%22:%7B%22colorado%22:%7B%7D%7D%7D&sortModel=%7B%22colld%22:%22Location%22,%22sort%22:%22asc%22%7D>

## Reasons to Support

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The improved collaboration between health providers within hospitals and those that serve the needs of pregnant people at home and at birth centers would better meet the diverse needs and preferences of families. By strengthening the infrastructure surrounding the labor, delivery, and postpartum periods the well-being of parents and children will be the key focus during the delivery of health care in different settings.

Many of the conditions that account for a significant share of pregnancy-related mortality and morbidity, such as cardiovascular diseases, hypertension, and depression often require care over a longer-term than 60 days. Providing insurance coverage access through Medicaid and CHP+ to postpartum persons with low-incomes for a longer period also promotes continuity and access to preventive services such as contraception, intrapartum care, and behavioral health screening. Extending Medicaid coverage to 12 months postpartum will ensure that even more postpartum Coloradans have access to health care during a formative time for both parent and infant.

## Supporters

- American Civil Liberties Union of Colorado
- Colorado Center on Law and Policy
- Colorado Children’s Campaign
- Colorado Community Health Network
- Colorado Consumer Health Initiative
- Colorado Organization for Latina Opportunity and Reproductive Rights (COLOR)
- Elephant Circle
- Illuminate Colorado
- Interfaith Alliance
- Junior League of Denver
- Mental Health Colorado
- Planned Parenthood of the Rocky Mountains

## Reasons to Oppose

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The required acceptance of transfers is already covered in emergency situations under the Emergency Medical Treatment and Labor Act (EMTALA). Some assert that a relationship between a home birth provider or a birth center and a hospital should be prior to the possible transfer, preferably during prenatal care, to ensure a successful transfer.

## Opponents

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## About this Analysis

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This analysis was prepared by Health District of Northern Larimer County staff to assist the Health District Board of Directors in determining whether to take an official stand on various health-related issues. The Health District is a special district of the northern two-thirds of Larimer County, Colorado, supported by local property tax dollars and governed by a publicly elected five-member board. The Health District provides medical, mental and behavioral health, dental, preventive and health planning services to the communities it serves. This analysis is accurate to staff knowledge as of date printed. For more information about this analysis or the Health District, please contact Alyson Williams, Policy Coordinator, at (970) 224-5209, or e-mail at [awilliams@healthdistrict.org](mailto:awilliams@healthdistrict.org).

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<sup>17</sup> Specifically opposed to Section 2, which concerns the transfer of pregnant persons from a birth center or home birth to a hospital. But otherwise in an ‘amending’ position.