



## Proposal Would Bypass Health Insurance 'Birthday Rule' for Newborns

On July 22, 2021, House Representative Sharice Davids (D-KS) introduced the “Empowering Parents’ Health Care Choices Act” (H.R. 4636), a bill that would, if enacted, give parents more decision-making power in determining which parent’s family health plan (or employee + child health plan) will be the primary health plan for a newborn dependent child. Currently, the health insurance industry makes this determination automatically by following what is known as the “birthday rule.” Under the birthday rule, if a child is eligible for health coverage under both parents’ health plans, the primary coverage is determined by the parent whose birthday, excluding year of birth, occurs earlier in the calendar year. For example, if Parent A was born on February 15 and Parent B was born on November 15, then Parent A’s health plan will be the primary

health plan for the child, and Parent B's health plan will provide secondary coverage.

The birthday rule is not a law. It is a model rule created by the National Association of Insurance Commissioners (NAIC) to establish a uniform and fair way to determine primary and secondary health plan coverage for a child. The birthday rule has been adopted in most states.

Under the proposed legislation, parents would be given 60 days from the date of a child's birth to choose which parental health plan will cover the child as the primary health plan, and to notify that health plan of their selection. It would also give the administration the authority to instruct health plans and health insurers on how and when to notify parents of their rights under the new law. If the parents fail to select a primary health plan within the 60-day period following the child's birth, then the birthday rule will determine which health plan is primary for the child.

If enacted, the new law will apply to children born on or after January 1, 2022.

[Full text of the Empowering Parents' Health Care Choices Act \(H. R. 4636\)](#)

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