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Breastfeeding and the Affordable Care Act

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INTRODUCTION

Increasing breastfeeding rates is a national priority due to the health, psychosocial, and economic benefits accrued by families and society.[1–3] The American Academy of Pediatrics recommends that infants are exclusively breastfed for approximately the first six months of life, after which complementary foods can be introduced, and to continue breastfeeding for one year or longer.[2] The most recent data from 2011 demonstrate that 79.2% of infants started to breastfeed and 18.8% were exclusively breastfed for the first six months, while 49.4% of infants received some breast milk at six months.[4] The Healthy People 2020 target is to increase the proportion of infants who are ever breastfed to 81.9%; those who are exclusively breastfed at six months to 25.5% and those who receive any breast milk at six months to 60.6%.[3] Although more advantaged mothers have already met and often exceed the Healthy People 2020 breastfeeding targets, groups of women with lower levels of education or income, or who are receiving WIC benefits are far from achieving these goals.[1, 5, 6]

The *2011 US Surgeon General's Call to Action to Support Breastfeeding* identified returning to work as an important barrier to breastfeeding for many women.[9] Research has found that women who return to work soon after birth or return full-time are less likely to start breastfeeding than women who are not employed.[7–9] Mothers who work full-time also have a shorter duration of breastfeeding than non-employed mothers.[8–10] Guendelman and colleagues examined the role of maternity leave and occupational characteristics on breastfeeding among women who were employed fulltime in California, one of only a few states that provides paid family leave.[9] They found that women with maternity leave of 12 weeks or less were less likely to start breastfeeding and more likely to stop after successfully beginning than women who did not return to work. Women with short maternity leave who were nonmanagers or had inflexible jobs had poorer breastfeeding outcomes than their more

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advantaged counterparts.[9] In addition, a study of low-income mothers found that those in administrative and manual occupations quit breastfeeding earlier than other women.[11] Taken together, this evidence suggests that in order to achieve national breastfeeding targets[3] additional support in the workplace is needed to promote breastfeeding.

Thus despite progress toward achieving the Healthy People 2020 breastfeeding targets,[4] socioeconomic status and the workplace create barriers to breastfeeding for many women. The recent implementation of the Patient Protection and Affordable Care Act (ACA)12 and its highly publicized provisions in support of breastfeeding, provides an opportune time to consider current legislation and its potential to address the socioeconomic disparities associated with breastfeeding. To that end, we first review the reported benefits of breastfeeding and current data on breastfeeding among US women, identifying disparities in breastfeeding rates based on income and employment status. We then analyze and compare the breastfeeding provisions of the major statutory programs designed to support breastfeeding, including the ACA, Medicaid, and the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC)[13]. We examine whether such measures adequately address the socioeconomic disparities in breastfeeding rates and consider how well they assist working mothers who choose to breastfeed. We conclude with a set of recommendations.

DISPARITIES IN BREASTFEEDING

The population-level benefits of breastfeeding are well-established.[1, 2, 14, 15] Fullterm infants who are breastfed are at reduced risk for sudden infant death syndrome, ear infections, gastrointestinal infections, and respiratory infections, as well as chronic conditions including asthma, obesity, and type 2 diabetes mellitus.[1, 2, 14, 15] Preterm infants who are not breastfed have higher rates of necrotizing enterocolitis.[14] Mothers who breastfeed are at lower risk for type 2 diabetes mellitus, and breast and ovarian cancers.[1, 2, 14, 15] The benefits of breastfeeding also extend to the economy and environment. If 90% of US mothers meet the recommendation of exclusive breastfeeding for 6 months, Bartick and Reinhold estimate that 911 deaths would be averted and the US economy would save nearly $13 billion.[16] The largest impact would be on reductions in sudden infant death syndrome ($4.7 billion; 447 deaths), necrotizing enterocolitis ($2.6 billion; 249 deaths), and lower respiratory tract infections ($1.8 billion; 172 deaths).[16] Furthermore, 90% compliance would save the US economy $3.7 billion in direct and indirect pediatric health costs, $10.1 billion in premature death from pediatric disease, and $3.9 billion on infant formula.[17] Breast milk is a renewable food and does not have an environmental footprint. In contrast, infant formulas and other human milk substitutes have packaging, shipping, and fuel costs required for the manufacture and transporting of these products.[1]

Despite these benefits and steady improvement in breastfeeding rates over recent decades,[4, 18] significant disparities persist. Mothers' socioeconomic circumstances remain one of the strongest indicators of breastfeeding. Mothers who receive or qualify for WIC or who have lower levels of education are less likely to start and continue breastfeeding than their more advantaged counterparts.[1, 5] Table 1 illustrates these socioeconomic disparities in

breastfeeding rates using 2011 data from the National Immunization Survey.[6] Regardless of whether the indicator is education, income, or WIC eligibility, there is approximately a twenty percentage point gap in rates of breastfeeding initiation between the most disadvantaged mothers and those who are better off. The gap extends to almost thirty percentage points for mothers reporting any breastfeeding at six months. For example, 72% of women who receive WIC initiated breastfeeding and 38% breastfed to six months, while comparable rates for women who were ineligible for WIC were 90% and 66%, respectively.[6]

Breastfeeding rates decrease rapidly within a few weeks after birth. Data from the Pregnancy Risk Assessment Monitoring System, a representative survey of US mothers, illustrates that in 2009, 79% of mothers initiated breastfeeding, while only 58% were breastfeeding at four weeks postpartum.[19] This twenty percentage point drop in breastfeeding rates suggests that women are experiencing significant challenges to continue breastfeeding beyond their hospital stay. A study of low-income mothers also found that the highest risk of quitting breastfeeding occurred during the first month postpartum followed by the time period around when women returned to work.[11]

Returning to work presents significant challenges for many women to start and continue breastfeeding. In 2013, 57% of mothers worked outside the home during their infant's first year, increasing to 61% with 1-year-olds and 65% with 2-year-olds.[20] Approximately 71% of these mothers worked full-time regardless of their child's age.[20] Mothers who return to work full-time are less likely to start breastfeeding and continue for a shorter amount of time than those who are not employed.[7–10] Healthy People 2020 has a target to increase the proportion of employers that report providing an onsite lactation room to 38%.[3] However, a survey by the Society for Human Resource Management in 2014 found that 28% of companies reported having an on-site lactation room down from 34% in 2013.[21] Six percent of companies offered lactation support services, defined as lactation consulting and education, also down from 8% the prior year.[21] Follow up research is needed to help determine whether the decrease in lactation rooms and support services is really going down or an artifact of the survey or study sample. There may be additional obstacles for women who wish to continue breastfeeding after returning to work. Employment may have inflexible work hours, insufficient break times and lack of private and clean facilities to express and store breast milk.[1]

ROLE OF LEGISLATION

Legislation can help reduce socioeconomic disparities in breastfeeding rates and the related barriers to breastfeeding for working mothers.[22] Historically, such laws were promulgated at the state level.[23] In general, state laws create a patchwork of regulation of variable significance depending upon where the breastfeeding woman lives. In fact, research demonstrates that the proportion of women protected by comprehensive breastfeeding policies in the workplace varied widely between states.[23, 24] Only a minority of state-level laws address the need of breastfeeding employees for break time and private space, or prohibit discrimination against breastfeeding employees. As of January 2015, only 25 states and DC had any law related to breastfeeding in the workplace.[25]

A federal law holds greater promise for a uniform and comprehensive breastfeeding policy. The ACA provides the first nation-wide approach to promote breastfeeding in the workplace and to increase access to breastfeeding supplies, counseling, and support among insured women.[12] However, despite some gains as a result of these federal efforts, incomplete coverage remains.

PATIENT PROTECTION AND AFFORDABLE CARE ACT (ACA)

Passed in 2010, the ACA contains two provisions that directly affect breastfeeding mothers. The first, requires certain employers to provide reasonable break time and a private space to express breast milk.[26] The second provision requires insurers to provide coverage of breastfeeding supplies and support services.[27] While these provisions are indeed a breakthrough in many respects for promotion of breastfeeding, the provisions are not without limitations that may moderate their effectiveness in supporting breastfeeding and decreasing breastfeeding disparities.

Section 4207 of the ACA, amending the Section 7 of the Fair Labor Standards Act (FLSA), with certain limitations, requires employers to provide employees a reasonable amount of time to express milk for 1 year after a child's birth each time that she needs to express milk; and to provide a location to express breast milk, that is not a bathroom, that is shielded from view and free from intrusion from coworkers and the public.[26] Such employers are not required to compensate nursing mothers during breaks to express milk, but if an employee has compensated breaks and she uses them to express milk, then she must be compensated in a similar way.

The FLSA, however, does not apply to all employees and employers. As an amendment to the FLSA, the ACA provision is similarly limited in its applicability. The FLSA covers employees that are subject to the overtime pay requirements in Section 7, which requires an employer to compensate the employee with premium pay for work in excess of 40 hours in a workweek.[28] As a result, the ACA provision generally covers hourly workers but not salaried employees. While this limit to the application of the breastfeeding requirement of §4207 is not insignificant, it should be noted that hourly workers face greater barriers to breastfeeding compared with salaried workers as they have less control in their schedules and may face possible pay reductions if they take breaks to breastfeed.[1] Like the FLSA, §4207 also provides an "undue hardship" exemption for certain employers that employ fewer than 50 employees. An undue hardship will be found if the requirement imposes on the small employer significant difficulty or expense when considered in relation to the size, financial resources, nature, or structure of the employer's business.[26]

Importantly, the ACA provision provides a "floor" not a "ceiling" for regulation in this area: states remain free to adopt laws that provide additional protections beyond those provided in the ACA. For example, states could require employers to pay women during break times to express milk even though this is not mandated by the ACA.[26]

Although this provision in the ACA provides those mothers covered by it the necessary time and space to either breastfeed or use a breast pump, only 4% of companies offer a subsidized or nonsubsidized child care center on-site or near-site.[21] This suggests that the majority of

women who continue breastfeeding after returning to work use a breast pump. For certain breastfeeding mothers, a second provision of the ACA related to breastfeeding may provide greater access to such pumps and, therefore, increase the rate of breastfeeding in the workplace. As noted below, however, some significant limitations apply that may temper the impact of this provision.

The ACA requires all new insurance policies in both the individual and group markets, and including the state and federal health insurance Marketplaces, to 1) provide coverage for certain preventive services, including comprehensive prenatal and postnatal lactation support, counseling, and equipment rental for the duration of breastfeeding, as recommended by the Health Resources and Services Administration (HRSA),[29] and 2) to provide that coverage with no cost sharing by the individual insured.[27] The requirement, referred to herein as §2713, became effective for all non-grandfathered health insurance plans or policies issued on or after August 1, 2012. Grandfathered plans (i.e., those in existence on the date of passage of the ACA) are not included in this requirement.[30]

Although scores of preventive items and services are now covered under §2713,[31] this requirement for coverage of breastfeeding items and services has garnered substantial attention in the popular press, if not yet in the peer-reviewed literature. Since most policies follow a calendar year, the media firestorm started within days after January 1, 2013 when the majority of women were affected by these health insurance changes:

> "The breast pump industry is booming, thanks to Obamacare" by Sarah Kliff, Washington Post (January 4, 2013)[32]

Through anecdotal evidence of newspaper articles and blog posts, it appeared that medical suppliers and shops were getting bombarded with inquiries for breast pumps.

However, only a few weeks later, the potential gaps and limitations of the law were becoming apparent:

> "Breast pump coverage under new law varies in practice" by Ann Carrns, New York Times (January 28, 2013)[33]

The ACA requirements for coverage of breastfeeding support, supplies, and counseling are not detailed, leaving room for coverage variation among insurance policies. Moreover, insurers may generally determine the frequency, method, treatment, or setting for the provision of the required items or services recommended, consistent with reasonable medical management techniques. The specific recommendations for breastfeeding provided by HRSA include "comprehensive lactation support and counseling by a trained provider during the pregnancy and/or in the postpartum period, and costs for renting breastfeeding equipment."[29] The requirement was later clarified to state that insurers may also cover the purchase of equipment, but no particular equipment is specified.[34] Thus, some plans may cover only a manual breast pump, rather than the costlier electric pump. Table 2 provides more details on what the legislation covers and what is left to the discretion of insurers. This poses significant challenges for lactating mothers returning to work, and impacts low-income mothers who will be unable to obtain the costlier pumps absent insurance coverage.

Indeed, insurance companies are given latitude in terms of what is covered and interpret the requirements differently.[35]

Also, with regard to the counseling requirement, guidance is not offered as to what constitutes a "trained" lactation counseling provider or how frequently lactation counseling and education services are to be made available. The regulations do provide that coverage with no cost sharing is only required under §2713 of "in-network" providers, unless, however, there are no in-network counselors. In that case, counseling by an out-of-network provider must be covered with no cost sharing. How such services are to be reimbursed is left to the insurers, and as a result reimbursement of lactation consultations and support services varies across insurance companies, providing further inconsistencies in coverage.[34] Costs will likely influence what an insurer will cover, given the lack of detailed requirements. Here, too, the popular press has chronicled numerous problems women are facing due to the lack of clear guidance with respect to coverage of these services under §2713:

> "Breast-feeding services lag behind the law" by Catherine Saint Louis, New York Times (September 30, 2013)[36]

Madden and Curtis emphasize that despite the good intentions of the law, without more detailed regulations for-profit insurance companies may interpret the requirements as narrowly (i.e., as economically) as possible in determining coverage of these items and services.[35] The government has yet to issue more specific guidelines for this provision, and appears unwilling to further constrain insurers under this provision.

As the above makes clear, despite the introduction of a national standard for breastfeeding promotion, many women will remain outside the reach of the ACA provisions. Certain women in the workplace do not fit the criteria for coverage under §4207, or their employer may qualify for an undue hardship exemption. In terms of the preventive care requirements, the regulations leave significant wiggle room for insurers to provide less than optimal equipment and counseling for breastfeeding mothers. To a certain extent, however, the ACA does reach into the lower-income population. The preventive care provision applies to all private insurance, including insurance obtained through the state and federal Marketplaces. Also, all insurance plans available through the Marketplace must provide coverage for certain benefits that the ACA and its implementing regulations identify as "essential health benefits."[37] These include all of the preventive care requirements of §2713, at no cost-sharing. Lower-income individuals--those above 100% of the Federal Poverty Level (FPL)--are eligible for subsidized health insurance through state or federal Marketplaces.[38] Such subsidies, depending on income, can cover the total cost of insurance.

MEDICAID PROGRAM

Medicaid is a means-tested, individual entitlement program that finances the delivery of primary, preventive and acute medical care services and long-term care services for certain low-income individuals. Medicaid is jointly funded by the federal and state governments.[39] Traditionally, Medicaid covered only certain categories of low-income individuals, such as children and pregnant women, among others. One of the significant changes wrought by the

ACA is the expansion of Medicaid beyond these categories to all individuals up to 133% of the FPL.[40] States may "opt into" or decline the expansion. As noted below, whether a state expands pursuant to the ACA has implications for access to breastfeeding supports, supplies, and services. Within the Medicaid program coverage for breastfeeding-related benefits, like that provided in the ACA, does not come as a "one-size-fits-all." Two main categories of coverage under Medicaid largely determine access to breastfeeding services and supplies: traditional Medicaid and so-called Medicaid "Alternative Benefit Plans (ABPs)," the latter authorized more recently through the Deficit Reduction Act of 2008.[41] With respect to breastfeeding-related benefits, the Medicaid ABPs are more closely aligned to the benefits available to individuals through the insurance plans from the Marketplace. All Medicaid expansion coverage will be through ABPs.

Traditional Medicaid

Eligibility for most groups in the traditional program is calculated based on a percentage of the FPL, which was $24,250 for a family of four in 2015.[42] States provide a basic set of mandated services determined by the federal government, but can choose to offer optional benefits. Medicaid coverage of "pregnancy-related services" does not explicitly state that breastfeeding or other lactation services are covered, but is considered broad enough to include lactation services.[43] The Centers for Medicare & Medicaid Services recommend that states include lactation services as separately reimbursed pregnancy-related services rather than only coordinating and referring women to WIC.[43] Given that under the traditional program there is no minimum Medicaid statute or Federal Medicaid regulations on standards for provisions of breast pumps or lactation services, states are responsible for determining policy, and the coverage of services varies widely across states.[30] A survey by the Kaiser Family Foundation in 2007/2008 found that Medicaid programs cover breastfeeding equipment rental in 31/44 states, breastfeeding education in 25/44 states, and individual lactation consultation in 15/44 states.[44] Furthermore, nine of the states that responded to the survey did not cover any of these breastfeeding support services.[19] The survey was performed prior to passage of the ACA and Deficit Reduction Act, and may produce different results post-2014 when the requirement for breastfeeding preventive services for state ABP plans took effect.

For traditional Medicaid programs the ACA did not change the provision of breastfeeding support, supplies, and counseling among Medicaid recipients. Section 4106 of the ACA, however, does provide a 1% permanent increase in federal Medicaid matching rates for preventive services recommended by the US Preventive Services Task Force at a level A or B.[45] This includes the level B recommendation on breastfeeding counseling during pregnancy and postpartum.[46] This incentive is consistent with the overall goal of the ACA to increase access to preventive care. It is unclear what, if any, impact the 1% increase incentive will have on the provision of counseling services by state Medicaid programs. The ACA has a more direct impact on breastfeeding women covered by Medicaid ABPs, including all newly covered by the ACA's Medicaid expansion.

Medicaid Expansion and Alternative Benefit Plans (ABPs)

Rather than providing the traditional set of Medicaid benefits, states may choose to offer an alternative set of benefits (also known as benchmark or benchmark-equivalent plans) for certain Medicaid beneficiaries. States, must, however, enroll all individuals newly covered as a result of the expansion in ABPs. Significantly, under the ACA, all ABPs are required to include coverage of "essential health benefits, " which include all preventive services provided under §2713.[47] As a result women who gain Medicaid coverage through the Medicaid expansion will be entitled to coverage consistent with the HRSA recommendation, including comprehensive prenatal and postnatal lactation support, counseling, and equipment rental for the duration of breastfeeding.[29, 34] This benefit must be provided with no cost-sharing.[48] Thus coverage of Medicaid for this group will be aligned with the coverage available through the Marketplace. At the same time, the failure of regulators, discussed above, to specify what exactly must be covered to satisfy these breastfeeding-related requirements will likewise create (or exacerbate) a lack of uniformity in coverage across state Medicaid programs. Those women who move between Medicaid expansion coverage and Marketplace coverage as their income changes, the "churn" effect noted above, will have the same benefit entitlement--preventive care under §2713 as an "essential health benefit" at no cost sharing, but the insurer in the Marketplace may interpret the breastfeeding-related requirement differently than the state Medicaid program--revealing another aspect of the patchwork nature of coverage.

Moreover, for those states that have not expanded Medicaid coverage, low-income individuals may have fewer options for healthcare. If household income is more than 100% of the FPL, individuals or families will be able to purchase a private health insurance plan through the Marketplace and may qualify for subsidies, in some cases covering 100% of the cost. In states that do not expand Medicaid, individuals or families may not meet the financial requirements for coverage through Medicaid and may also make too little to afford coverage through the Marketplace, creating a healthcare coverage gap.[49] As of January 2015, 28 states and DC adopted the Medicaid expansion, 7 states are under discussion, and 15 states chose not to adopt the expansion.[50]

WIC PROGRAM

The US Department of Health and Human Services recommends that if a state's Medicaid program does not cover breast pumps, then women should check their eligibility for a free one through the WIC program.[30] The WIC program is supported by the US Department of Agriculture to protect the health of low-income pregnant, postpartum, and breastfeeding women, infants, and children up to age 5 years by providing foods to supplement their diet, education, and breastfeeding promotion and support.[51] Women are eligible for WIC whose income is between 100% and 185% of the FPL. Unlike Medicaid, which is an entitlement program, WIC is a block grant program funded primarily by the federal government. Grants are awarded to states through annual appropriations. Individuals who meet eligibility requirements receive benefits subject to the availability of funds. Women are automatically income-eligible if they are eligible for other government-funded programs, including Medicaid. However, approximately 17% of women may be eligible for WIC, but not

enrolled.[52] Research has shown that WIC participants and eligible nonparticipants are more disadvantaged and have higher health risks than ineligible women (i.e. women with private health insurance).[52]

The WIC program promotes breastfeeding to all pregnant women, unless medically contraindicated. Each state has a WIC breastfeeding coordinator who oversees and organizes available breastfeeding services. Mothers who choose to breastfeed are: provided information through counseling and breastfeeding educational materials; provided support through peer counselors; eligible to participate in WIC longer than non-breastfeeding mothers; those who exclusively breastfeed receive an enhanced food package; and can receive breast pumps, breast shells or nursing supplementers to help support the initiation and duration of breastfeeding.[53] Breast pumps are not distributed prenatally and before a pump is issued WIC staff determine whether mothers can obtain a pump from the hospital, through private insurance or Medicaid.

Since WIC funds are limited, states need to prioritize which mothers receive a breast pump and what type because of the variability in cost. Breast pump programs should include an evaluation of the mother and infant to determine the type of pump required, a triage system for distribution if need exceeds supply, and criteria for issuance of each type of pump.[54] When deciding whether and which pump to provide, some of the additional factors that WIC staff are encouraged to consider are the number of hours of separation, frequency of separation, amount of formula provided by WIC, and the mother's breastfeeding goals.[54]

COMPARISON OF COVERAGE OF BREASTFEEDING ITEMS AND SERVICES

We now turn to a comparison of the breastfeeding education, lactation consultation, breast pumps, and breast pump supplies provided through Medicaid and WIC. As we noted above, the ACA breastfeeding preventive services requirements of §2713 apply to women receiving coverage through the Medicaid expansion. Also, the population of low-income women who are covered through insurance is not stagnant, but individuals may "churn" through the private insurance sector and Medicaid program as their income fluctuates. Medicaid coverage for breastfeeding items and services has changed in some states and for some populations as a result of the ACA Medicaid expansion. No deadline has been set for states that decide to join the expansion, so coverage of the Medicaid populations is in flux.

We conducted a survey of the Medicaid and WIC programs of all 50 states and DC (51 "states") to determine what items and services are provided for breastfeeding mothers. State Medicaid breastfeeding provisions were identified through a web search of the Centers for Medicare and Medicaid Services and state WIC breastfeeding resources were identified through a web search of the WIC program. If a search function was available, the following terms were used: breastfeeding, breast pump, lactation, lactation consultation, lactation services, durable medical equipment breast pump, pregnancy related services. Medicaid generally covers items defined as durable medical equipment and coverage varies by state.[55] For each state, breast pump codes were searched in the durable medical equipment manual. The web search focused on locating information on coverage of breastfeeding educational

classes or materials related to breastfeeding, lactation consultation, and breast pumps and supplies. Overall, state websites varied widely in the accessibility and completeness of information related to breastfeeding provisions.

For each state the breastfeeding coordinator or program director from WIC and a Medicaid state contact or public FAQ forum were contacted via email to confirm the accuracy of the web search. If the initial web search did not yield information and a confirmation was not received by the state contact, no information for that state is presented. For Medicaid, findings from the pre-ACA Kaiser report[44] were included if no other information was available.

Table 3 provides definitions of breastfeeding items and services for purposes of determining coverage based on those provided by the National WIC Association.[54] The ACA and its implementing regulations do not provide detailed definitions of the items and services required to be covered under §2713.

Medicaid and WIC distribute breast pumps in one of two ways. Mothers are: 1) permitted to keep the breast pump; or 2) required to return it to the agency or supplier. For the first method of distribution, mothers may either be provided with a pump at no cost or reimbursed for the cost of a breast pump after purchase through an authorized supplier and are allowed to keep the pump indefinitely. For the second method, mothers are loaned a pump at no cost or reimbursed for the rental of a pump through an authorized supplier and then are required to return the pump after breastfeeding has concluded. These distribution methods differ slightly between WIC and Medicaid. For WIC, breast pumps are purchased by the WIC agency using federal funds.[57] The pump is then given to the mother to keep or is loaned to the mother then returned to the WIC agency. With Medicaid, the pump is purchased from an authorized supplier and reimbursed by Medicaid or the pump is rented from an authorized supplier and Medicaid pays the rental cost and the mother then returns the pump after use.[55] As such, provided/reimbursed indicates that the mother retains possession of the breast pump, whereas loan/rental indicates the mother borrows the pump while breastfeeding and returns it afterwards.

Breast pumps vary in cost (i.e. manual is least expensive) and efficiency (i.e. manual is least efficient). As such, the type of breast pump provided is a balance between cost and efficiency. As a grant-based program, WIC must work with resources that may be limited, particularly when demand for services increases. The main criteria used by Medicaid and WIC to determine which type of breast pump include: separation of breastfeeding dyad due to work or school and infant or maternal medical necessity.[54] In some states, Medicaid may also require prior authorization or physician prescription for durable medical equipment.[58]

Medicaid breastfeeding items and services

For Medicaid, some web resources were available for 43 states and 13 states confirmed the information regarding breastfeeding items and services. Of the remaining 8 states, the pre-ACA Kaiser report[44] indicated that 5 states reported no services, 1 state had no data, and 2 states did not respond. Table 4 provides more detailed information on Medicaid

breastfeeding items and services. Medicaid programs may provide additional breastfeeding resources or include additional restrictions that are not listed on the state website.

- 14 states cover breastfeeding education
- 12 states cover lactation consultation
- 39 states include the provision of a breast pump
  - 24 states provide or reimburse a manual pump
  - 25 states provide or reimburse a single-user electric pump
    - Of those, 17 states provide single-user pump for medical necessity or due to separation of the breastfeeding dyad and require documentation
  - 28 states cover rental costs for multi-user/hospital grade pump
    - Of those, 23 states provide multi-user/hospital grade pump for medical necessity or due to separation of the breastfeeding dyad and require documentation
  - 8 states indicate breast pumps were not covered by Medicaid and 7 states did not include breast pumps as durable medical equipment
- 16 states cover breast pump supplies and 3 states for hospital-grade pumps only

WIC breastfeeding items and services

For WIC, some web resources were available for all 51 states and 34 states confirmed the information regarding breastfeeding items and services. Table 5 provides more detailed information on breastfeeding items and services for the WIC program. WIC programs may provide additional breastfeeding resources or include additional restrictions that are not listed on the state website.

- All states cover breastfeeding education
- All states cover lactation consultation
- All states include the provision of a breast pump
  - 46 states provide a manual pump
  - 39 states provide a single-user electric pump
    - Of those, 15 states provide single-user pump for medical necessity or due to separation of the breastfeeding dyad following breastfeeding assessment and based on availability
  - 42 states loan a multi-user/hospital grade pump
    - Of those, 21 states provide multi-user/hospital grade pump for medical necessity or due to separation of the breastfeeding dyad following breastfeeding assessment and based on availability
- All states cover some breast pump supplies although the type of supplies may vary

Among those states that confirmed the information on breastfeeding provisions, WIC staff noted that individual agency funding and the population served impacts the services provided, including the quantity and type of pump available, education services, and lactation consultation. WIC programs are trying to maximize the breastfeeding provisions offered to mothers within a limited budget.

GAPS IN COVERAGE

Breastfeeding rates vary widely by women's socioeconomic circumstances. Women with more advantaged circumstances are more likely to start and continue breastfeeding than women with more disadvantaged circumstances, as measured by WIC status, education, or income.[1, 5, 6] Legislation can be a valuable tool in reducing socioeconomic disparities in breastfeeding rates. We began this review with an observation that states provide a patchwork of provisions that support breastfeeding mothers in a variety of ways and that a more uniform and comprehensive approach was needed consistent with the status of breastfeeding as a national priority. The ACA goes far in some areas in providing that comprehensive and consistent national support of breastfeeding mothers. Breastfeeding workers may find a more welcoming workplace, including break time and a private space for expressing milk; and working and nonworking mothers may have other supports, such as lactation counseling, and supplies, such as breast pumps, provided through the §2713 preventive care provisions at no cost.

Despite the national reach of the ACA, gaps persist: workplace rules do not apply to all workplaces and preventive items and services at no cost-sharing is limited to those individuals who receive their health care coverage through (non-grandfathered) private insurance. For breastfeeding women whose income is above 100% of the FPL, new subsidized coverage through the Marketplaces may be available and will include the breastfeeding-related preventive items and services. This ACA preventive care benefit does not generally extend to all Medicaid recipients. Individuals enrolled in Medicaid ABPs, including those individuals in 28 states who qualify for the new expansion coverage are entitled to the ACA preventive care items and services at no cost sharing. Traditional Medicaid recipients may face less generous breastfeeding-related benefits, and in some states no such benefits at all.

Unfortunately some women will continue to fall through the cracks between insurance coverage and Medicaid. Although the WIC program is a safety net for low-income women and provides many of the same breastfeeding provisions as through the ACA, resources are limited. State Medicaid programs are referring women to their WIC programs if breastfeeding provisions are not provided.[43] WIC is not an entitlement program and its support to breastfeeding women eligible for its services is limited by the amount of the block grant received. WIC staff must prioritize who receives breast pumps and the preferred type of pump and extra supplies are not always available.

Even within programs, a lack of uniformity of benefits will likely result. For example, insurers have little guidance or oversight in what benefits are actually due in order to comply

with the requirements of §2713. The same uncertainty exists for §2713 coverage for those enrolled in Medicaid expansion coverage.

In light of the designation of breastfeeding as a national priority, the present mix of state and federal law--even after historic health reform--present an unacceptable patchwork rather than a unified commitment to eliminating breastfeeding disparities. At the same time, the new coverage through the ACA is a step forward from the earlier legislation limited to states. To keep the trend of broadening coverage continuing, both state and federal legislative and regulatory efforts--along with a commitment by insurers to effective implementation of the law--will be needed.

RECOMMENDATIONS

Although this review has focused on state and federal legislation as a means of reducing priorities, health care providers should become familiar with the benefits available under the various health care coverage options and provide information to patients who may be unaware of their rights both in the workplace and with regard to access to lactation counseling, education, and supplies related to breastfeeding.

- As noted, there are a number of gaps in the ACA provisions related to workplace break time and private space to express milk. Given that the House of Representatives has recently voted to repeal the ACA, the 56th such vote, it is unlikely that gaps in the coverage of this provision will be filled in by Congress anytime soon.[59] It can, however, provide a starting point for states to create similar workplace rights. States should finish the work begun by the ACA and pass legislation protecting all women in the workplace.
- States should continue to evaluate participation in the Medicaid expansion. Certainly, much is to be gained for breastfeeding women. Over time more states will likely sign on. A better understanding of what is at stake for breastfeeding mothers, and other low-income groups, may accelerate the rate of state adoption.
- Additional research is needed with regard to insurance and state Medicaid compliance with the preventive care requirements of §2713. How do insurers vary in terms of services and supplies provided to breastfeeding mothers; and what services and supplies are optimal for the breastfeeding mother both in and out of the workplace.
- Similarly, research concerning Medicaid coverage is needed. For the majority of states, information on the availability of breastfeeding resources is either not easily accessible or programs do no provide these provisions. Greater transparency via the internet should be a priority for these state programs. Such measures should include improved websites to provide easily accessible and up-to-date information on breastfeeding provisions federally and for each state.
- Armed with such research findings, advocates should seek out state and federal regulators and press the case for more detailed guidance as to specific services and supplies insurers and state programs should provide breastfeeding mothers consistent with the law. Enforcement should be made a priority.

Considering the benefits of breastfeeding,[1, 2, 14–17] growing disparities could have important short- and long-term consequences for child health. The ACA's reform of breastfeeding coverage in the US is a significant but insufficient step to ease the impacts of such disparities.

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KEY POINTS

- Mothers who receive or qualify for WIC or have lower income are less likely to start and continue breastfeeding than their more advantaged counterparts
- As of March 23, 2010, the Patient Protection and Affordable Care Act (ACA) required employers to provide reasonable break time and space to express breast milk
- As of January 1, 2013, the ACA required insurance companies to cover breastfeeding support, supplies, and counseling at no cost to new mothers
- This ACA preventive care benefit does not generally extend to all Medicaid recipients or women in the WIC program
- State and federal legislative and regulatory efforts will be needed to provide comprehensive coverage for all women and reduce disparities in breastfeeding

Table 1

Healthy People 2020 breastfeeding targets and rates of any and exclusive breastfeeding by socio-demographics among children born in 2011

	Any breastfeeding			Exclusive breastfeeding[a]
	Ever breastfed (%)	Breastfed at 6 months (%)	Breastfed at 12 months (%)	Through 6 months (%)
Healthy People 2020 target[3]	81.9	60.6	34.1	25.5
US National	79.2	49.4	26.7	18.8
Maternal education				
Less than high school	69.1	34.4	19.7	13.5
High school graduate	69.2	38.2	19.6	15.8
Some college or technical school	81.0	46.1	23.6	16.5
College graduate	91.2	68.3	38.1	25.5
Poverty income ratio[b]				
Less than 100	70.5	37.8	20.3	14.2
100–199	77.9	45.5	24.7	18
200–399	85.8	57.7	32.1	22
400–599	87.1	61.9	34.9	25.2
600 or greater	90.6	67.9	33.5	23.1
Receiving WIC				
Yes	71.8	37.8	19.7	13.9
No but eligible	83.4	56.1	32.8	26.5
Ineligible	89.9	66.0	36.2	24.9

Data from Breastfeeding rates based on samples from the 2012 and 2013 National Immunization Survey, Centers for Disease Control and Prevention, Department of Health and Human Services[6]

[a] Exclusive breastfeeding is defined as only breast milk

[b] Poverty income ratio is defined as the ratio of self-reported family income to the federal poverty threshold value depending on the number of people in the household

Abbreviation: WIC, Special Supplemental Nutrition Program for Women, Infants, and Children

Table 2

Select elements of the breastfeeding support, supplies, and counseling provision provided through the ACA for both non-grandfathered plans and Medicaid coverage through Alternative Benefit Plans (includes coverage of individuals enrolled through the ACA's Medicaid expansion)

What is covered at no cost sharing?	Requirements for coverage	Within discretion of each insurer
Breastfeeding education and lactation consultation provided in-network	• Available both before and after birth and for duration of breastfeeding • If such services are not available within the insurer's network, out-of-network services must be provided with no cost sharing	• Subject to reasonable medical management to determine frequency, method, treatment, or setting • Reimbursement policy is outside the scope of the HRSA Guidelines and regulations
Breast pump	• Available for duration of breastfeeding and in conjunction with each birth; • "Over the counter" items and services recommended under the preventive services provision must be provided without cost sharing as long as prescribed by a health care provider.	• Subject to reasonable medical management to determine frequency, method, treatment, or setting • Type of pump covered* • Whether pump is rented or purchased • Whether provider pre-authorization or prescription is required • Whether provided before or after birth
Breast pump supplies	• Available for duration of breastfeeding and in conjunction with each birth • Note: The specific supplies required to be covered are not stated	• Subject to reasonable medical management to determine frequency, method, treatment, or setting
* "Over-the-counter" products, such as breast pumps, recommended under the preventive services provision must be covered without cost-sharing when prescribed by a health care provider		

Abbreviation: ACA, Patient Protection and Affordable Care Act; HRSA, Health Resources and Services Administration

Data from United States Department of Labor. FAQS about affordable care act implementation part XII. Available at: http://www.dol.gov/ebsa/faqs/faq-aca12.html. Accessed February 5, 2015

Table 3

Definitions of breastfeeding items and services based on those provided by the National WIC Association

Breastfeeding items and services	Definition	Notes
Breastfeeding education	Group or individual classes, peer support, breastfeeding support lines, and educational materials	
Lactation consultation	Includes individuals with the following certifications: IBCLC, CLC, CLE, and CLS	
Breast pump	Electrically-or manually-controlled device used to remove milk from a mother's breast	• Manual (M): single-user breast pump powered by the user, often by hand. Least efficient and durable type of breast pump. Provided to mother to keep. • Single-user electric (S): electronically-powered breast pump.[56] Provided to mother to keep. • Multiple-user electric (E): electronically-powered breast pump with a closed system that requires the use of a collection kit (parts of the pump that touch the breast and collect milk). Hospital grade is a type of multi-user electric pump that operates on a closed system and is the most durable and efficient type of multi-user electric pump. Loaned to mother to return.
Breast pump supplies	Collection kit, tubing, extra tubing or bottles, or flanges	

Data from National WIC Association. Position paper: Guidelines for WIC agenices providing breast pumps, #08-002. Available at: https://s3.amazonaws.com/aws.upl/nwica.org/Guidelines_for_WIC_Agencies_Providing_Breast_Pumps.pdf. Accessed January 20, 2015

Table 4

State breastfeeding items and services provided through Medicaid

State	Breastfeeding education [e]	Lactation consultation [f]	Breast pump [g]	Breast pump supplies [h]
Alabama [c, i]				
Alaska[b]			L(E)[d]	
Arizona[b]	Yes		L(E)[d]	
Arkansas [b, i]	Yes	Yes		
California[b]	Yes	Yes	P(M) P(S)[d] L(E)[d]	Yes
Colorado[a]	No	No	P(M) P(S)[d] L(E)[d]	Yes
Connecticut[b]			P(M) P(S)[d] L(E)[d]	
Delaware[b]			L(E)[d]	
D.C.[b]	Yes	Yes	P(M) P(S)[d] L(E)[d]	
Florida [c, i]				
Georgia[b]			L(E)[d]	
Hawaii[a]		Yes	P(M) P(S)[d] L(E)[d]	No
Idaho[a]	Yes	Yes	P(M) P(S)[d] L(E)[d]	Yes
Illinois[b]			P(S)[d]	
Indiana[b]	Yes		Y[d]	
Iowa [a i]	No	Yes	No	Yes
Kansas[b]			P(M)[d] P(S)[d]	
Kentucky[a]	No	No	L(E)[d]	No
Louisiana [c, i]				
Maine [c, i]				
Maryland[a]	No	No	L(E)[d]	Yes
Massachusetts[b]			P(M) P(S) L(E)	
Michigan[b]			P(M) P(S) L(E)[d]	
Minnesota[a]	Yes	Yes	P(M) P(S) L(E)	H only
Mississippi[a]	No	No	P(M) P(S)[d]	Yes
Missouri[b]	Yes		Yes	
Montana[b]			L(E)[d]	Yes
Nebraska[b]			L(E)[d]	Yes
Nevada[a]	No	No	No	No
New Hampshire[b]			P(M)	
New Jersey [i]				

State	Breastfeeding education [e]	Lactation consultation [f]	Breast pump [g]	Breast pump supplies [h]
New Mexico[b]			P(S)[d]	
New York[b]	Yes	Yes	P(M) P(S) L(E)[d]	Yes
North Carolina [c, i]				
North Dakota[a]	No	No	P(M) P(S) L(E)[d]	Yes
Ohio[b]			P(M) P(S)[d] L(E)[d]	H only
Oklahoma [a, i]	No	Yes	No	No
Oregon[b]			P(M) P(S)[d] L(E)[d]	Yes
Pennsylvania[b]	Yes	Yes	P(M) P(S)	
Rhode Island[b]	Yes	Yes	P(M) P(S) L(E)	Yes
South Carolina[b]			Yes	
South Dakota				
Tennessee[a]	Yes	Yes	L(E)[d]	No
Texas[a]	No	No	P(M) P(S)[d] L(E)[d]	Yes
Utah[a]	No	No	P(M) P(S)	No
Vermont[b]	Yes		L(E)[d]	
Virginia [c]				
Washington[a]	No	No	P(M) P(S)[d] L(E)[d]	Yes
West Virginia[b]			P(M)[d] P(S)[d]	Yes
Wisconsin			P(M) P(S)[d] L(E)[d]	Yes
Wyoming[a]	Yes	No	P(M) P(S) L(E)	H only

[a] Information confirmed by state contact

[b] Information from web search only

[c] Information from the pre-ACA Kaiser report[44]

[d] Pump type determined by following: separation of breastfeeding dyad due to work or school, infant or maternal medical necessity, and/or requires prior authorization or physician prescription required for pump

[e] Education includes: group or individual classes, breastfeeding call lines, educational materials, and peer support

[f] Lactation consultation includes: Consultation from IBCLC, CLC, CLE, and CLS

[g] Breast pumps types and distribution method include: Manual (M), Single-user electric (S), Multi-user or hospital-grade electric (E) are either provided at no cost or reimbursed and retained by the mother (P) or loaned to or rented by the mother and returned after use (L)

[h] Breast pumps supplies include: tubing, flanges, and other additional supplies and are available with electric single-user or multi-user pumps, H only: indicates only with hospital-grade pumps

[i] Breast pump not listed as durable medical equipment

Blank indicates no information available via web search, state contact, or pre-ACA Kaiser report

Table 5

State breastfeeding items and services provided through the WIC program

State	Breastfeeding education [d]	Lactation consultation[e]	Breast pump [f]	Breast pump supplies [g]
Alabama [a]	Yes	Yes	P(M) L(E)	Yes
Alaska [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Arizona [a]	Yes	Yes	P(M) L(E)	Yes
Arkansas [a]	Yes	Yes	P(M) P(S)	Yes
California	Yes	Yes	P(M) P(S) L(E)[c]	Yes
Colorado [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Connecticut [b]	Yes	Yes	P(M) P(S)[c]	Yes
Delaware [b]	Yes	Yes	P(M) P(S)	Yes
D.C. [b]	Yes	Yes	P(M) L(E)[c]	Yes
Florida [a]	Yes	Yes	P(M) P(S) L(E)[c]	Yes
Georgia [b]	Yes	Yes	P(M) L(E)	Yes
Hawaii [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Idaho [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Illinois [b]	Yes	Yes	P(S)	Yes
Indiana [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Iowa [b]	Yes	Yes	Yes [c]	Yes
Kansas [a]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes
Kentucky [b]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes
Louisiana [b]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes
Maine [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Maryland [a]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes
Massachusetts [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Michigan [a]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes
Minnesota [a]	Yes	Yes	P(M) L(E)[c]	Yes
Mississippi [b]	Yes	Yes	Yes	Yes
Missouri [a]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes
Montana [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Nebraska [b]	Yes	Yes	P(M) P(S) L(E)[c]	Yes
Nevada [b]	Yes	Yes	L(E)[c]	Yes
New Hampshire [a]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes
New Jersey [a]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes

State	Breastfeeding education [d]	Lactation consultation[e]	Breast pump [f]	Breast pump supplies [g]
New Mexico [b]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes
New York [b]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes
North Carolina [b]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes
North Dakota [a]	Yes	Yes	P(M) L(E)	Yes
Ohio [b]	Yes	Yes	P(M) P(S) L(E)	Yes
Oklahoma [b]	Yes	Yes	P(M) P(S)	Yes
Oregon [b]	Yes	Yes	P(S)[c]	Yes
Pennsylvania [a, h]	Yes	Yes	P(M) P(S) L(E)	Yes
Rhode Island [a, h]	Yes	Yes	P(M) P(S)[c] L(E)[c]	Yes
South Carolina [a]	Yes	Yes	P(M) P(S) L(E)	Yes
South Dakota [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Tennessee [a]	Yes	Yes	P(M) L(E)[c]	Yes
Texas [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Utah [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Vermont [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Virginia [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Washington [a]	Yes	Yes	P(M) L(E)[c]	Yes
West Virginia [b]	Yes	Yes	P(M) P(S)[c]	Yes
Wisconsin [a]	Yes	Yes	P(M) P(S) L(E)	Yes
Wyoming [a]	Yes	Yes	P(M) L(E)[c]	Yes

[a] Information confirmed by state contact

[b] Information from web search only

[c] Pump type determined by following: separation of breastfeeding dyad due to work or school, infant or maternal medical necessity, and/or certification as exclusively breastfeeding following assessment by WIC staff

[d] Education includes: group or individual classes, breastfeeding call lines, educational materials, and peer support

[e] Lactation consultation includes: Consultation from IBCLC, CLC, CLE, and CLS

[f] Breast pumps types and distribution method include: Manual (M), Single-user electric (S), Multi-user or hospital-grade electric (E) are either provided at no cost or reimbursed and retained by the mother (P) or loaned to or rented by the mother and returned after use (L)

[g] Breast pumps supplies include: tubing, flanges, and other additional supplies and are available with electric single-user or multi-user pumps

[h] Only for those who do not qualify through Medicaid or other insurance

Blank indicates no information available via web search or state contact