

FACT SHEET

Breastfeeding and the Health Care Law

July 2013

The health care law takes significant steps in making breastfeeding more accessible and affordable for millions of Americans.

Health Insurance Plans Must Cover Breastfeeding Equipment and Supplies

As of August 1, 2012, all new health plans¹ must cover without cost sharing – which means not paying any co-payment, co-insurance, or deductible – breastfeeding equipment and supplies for the “for the duration of breastfeeding.”² While a health insurer must cover breastfeeding equipment and supplies, it has some discretion to determine the scope of this coverage by implementing “reasonable medical management techniques to determine the frequency, method, treatment, or setting” for the coverage.³ One example could include requiring a purchase, rather than rental, of a breast pump.

Health Insurance Plans Must Cover Comprehensive Lactation Support and Counseling

Recognizing the difficulties breastfeeding mothers can have with breastfeeding or breast pumping, the health care law now requires all new health plans to cover “comprehensive prenatal and postnatal lactation support [and] counseling.”⁴ This means that breastfeeding mothers now have health insurance coverage for lactation counseling without cost sharing for as long as they are breastfeeding. Health insurers must cover such consultations without cost sharing, but can use “reasonable medical management techniques”

to determine the scope of coverage, which could include covering only in-network trained providers without cost sharing. However, there is a general rule applied to the preventive services provisions that if an insurance plan offers no in-network providers, the patient may visit an out-of-network provider with no cost sharing.⁵

Access to Break Time and a Private Room to Pump At Work

The health care law requires that employers⁶ provide employees “reasonable break time” to pump up to 1 year after the child’s birth. The employer must provide a place other than a bathroom “that is shielded from view and free from intrusion from coworkers and the public.”⁷ Employers are not required to compensate nursing mothers who take breaks for expressing milk, unless the employee uses an otherwise-offered compensated break to pump.

- 1 Health plans that existed before the health care law are considered “grandfathered” and do not have to follow the preventive services cost sharing rules. This means that the plan can continue to operate as it has until it makes significant changes.
- 2 FAQs About Affordable Care Act Implementation (Part XII), February 20, 2013, at 8.
- 3 FAQs About Affordable Care Act Implementation (Part XII), February 20, 2013, at 8.
- 4 FAQs About Affordable Care Act Implementation (Part XII), February 20, 2013, at 8.
- 5 FAQs About Affordable Care Act Implementation (Part XII), February 20, 2013, at 4.
- 6 The requirement applies to employers who are not exempt under section 7 of the Fair Labor Standards Act. Employers with fewer than 50 employees must comply unless the employer can show that the break provisions cause undue hardship. The Department of Labor has said that “undue hardship is determined by looking at the difficulty or expense of compliance for a specific employer in comparison to the size, financial resources, nature, and structure of the employer’s business.” U.S. Department of Labor, Wage and Hour Division, Fact Sheet #73: Break Time for Nursing Mothers under the FLSA.
- 7 29 U.S.C. 207(r)(1)(B).