



### What Health Reform Means for Women in New Jersey

May 2010

The comprehensive health care reform that President Obama signed into law makes important advances for women’s health. The new law protects women in New Jersey from discriminatory health insurance practices, makes health coverage more affordable and easier for them to obtain, and improves access to many of the health services they need. The flaws of the new law, however, include unnecessary restrictions on abortion care, a key component of reproductive health care for women.

#### Health Reform Prohibits Sex Discrimination in Health Care

Insurance companies, health care providers, and health programs that receive funding from or are operated by the federal government cannot discriminate on the basis of sex, race, national origin, age, or disability. This protection applies broadly and nationwide, and it is effective immediately.

#### Health Reform Ends Harmful Insurance Industry Practices

In addition to the far-reaching protection against discrimination mentioned above, the new health reform law explicitly prohibits discriminatory insurance practices. Protections include (but are not limited to):

- A ban on gender rating for individuals and small businesses, so that by 2014 (at the latest) insurers across the country will no longer be allowed to charge individual women and small employers with a predominately-female workforce more for coverage.
  - New Jersey already prohibits gender rating in the individual market and uses a “rate band” to restrict the practice for small businesses with up to 50 employees.<sup>1</sup> The federal health reform law establishes additional protections by banning gender rating entirely for small businesses and by extending the prohibition to employers with between 51 and 100 workers.
- Prohibitions on coverage denials and exclusions for women with “pre-existing conditions” such as pregnancy; having had a C-section, breast, or cervical cancer; or having received medical treatment for domestic or sexual violence. By 2014 (at the latest) insurers across the country will be required to accept all applicants for coverage regardless of their medical history, and will no longer be able to issue coverage with pre-existing condition exclusions. (For children, the prohibition on pre-existing condition exclusions begins in September 2010.)
  - While New Jersey already requires insurers to accept all applicants for coverage regardless of their medical history, residents will benefit from the new federal law’s prohibition on pre-existing condition exclusions.<sup>2</sup>
  - Uninsured women in New Jersey with a pre-existing condition will have more immediate access (beginning in 2010) to coverage without exclusions through a “high-risk pool” that will be available on a temporary basis, until the new insurance rules are in effect.
- A ban on lifetime and annual limits prohibits health plans from placing dollar limits on covered services, giving women the security of knowing that their plan benefits won’t run out when they need them the most. Lifetime limits are banned for all health plans

starting in September 2010. Annual limits will also be strictly regulated at that point, and will be banned entirely for all new health plans and existing group plans in 2014.

### **Health Reform Makes Insurance More Affordable and Easier to Obtain**

Women in New Jersey are poorer (on average) than men and have more trouble affording health care. For instance, 16% of women in the state report not visiting a doctor due to high costs.<sup>3</sup> The health reform law will expand access to affordable coverage by 2014, when:

- Up to 88,000 uninsured, low-income women in New Jersey will be newly eligible for coverage through Medicaid, which will be expanded to those up to 133% of the federal poverty level (FPL), or roughly \$29,000 a year for a family of four.<sup>4</sup>
- A new Health Insurance Exchange will be established in New Jersey to serve as an easy-to-use “insurance shopping center” where women can compare and choose the high-quality health plan that best fits their needs.
- Approximately 304,000 women in New Jersey will receive health insurance subsidies to help pay the premiums and out-of-pocket costs of Exchange-based health plans; subsidies will be available to those with family incomes up to 400% of the FPL, or roughly \$88,000 a year for a family of four.<sup>5</sup>

### **Health Reform Ensures that Health Plans Cover Many of the Services Women Need, Although Abortion is Singled out for Differential Treatment**

- All new health plans issued on or after September 23, 2010, will be required to cover key preventive services at no cost.
- Starting in 2014, health plans sold to individuals and small businesses must cover a broad range of health services that are particularly important for women. Coverage requirements include maternity care, prescription drugs (which should include contraceptive drugs and devices) and mental health care.
- New Jersey has a new and immediate opportunity to expand eligibility for Medicaid coverage for family planning to women and men with family incomes up to 200% of the FPL, the same income eligibility level for pregnancy.
- But abortion care – a key component of reproductive health care for women – is treated differently than all other services. HHS cannot require abortion to be a benefit in the Exchanges; instead, health care plans will determine whether or not to cover abortion. Health care plans cannot use federal funds for abortion services beyond those permitted under the Hyde Amendment (in cases of life endangerment, rape, and incest) and plans and individuals with coverage for such services will be required to take extra administrative steps. It is also required that there be at least one multistate plan (i.e. a plan sold in more than one state) offered through each Exchange that does not cover abortion services beyond those permitted under the Hyde Amendment.

### **There Are Many Additional Provisions of Health Reform That Will Improve the Health and Well-Being of New Jersey Women and Their Families**

Additional benefits of the new health reform law include (but are certainly not limited to):

- Women are more likely than men to work for small businesses that don't offer health insurance, and will benefit from the new tax credits to help small businesses provide coverage to their employees (available for the 2010 tax year), as well as unprecedented access to affordable small group health coverage through the Exchanges.

- Young women—who are more likely to be uninsured than women in any other age group—will benefit from a new rule beginning in September 2010 which allows young adults to remain on their parents' health insurance policy as a dependent until age 26.<sup>6</sup>
- Starting in 2010, older women in particular will benefit from a provision which closes the Medicare Part D “donut hole,” or the coverage gap that currently requires seniors to spend a considerable amount out-of-pocket for prescription drugs. In 2007, 64% of the Medicare beneficiaries that were affected by the “donut hole” were women.<sup>7</sup>
- A new national, voluntary insurance program known as CLASS will be established as early as 2011 to provide long-term services and supports to individuals with functional limitations. This program will alleviate burdens on family caregivers, who are most often women.<sup>8</sup>
- Nursing mothers and their infants will gain from a requirement that employers provide a reasonable break time and location to express breast milk (effective immediately).<sup>9,10</sup>
- Women will have “direct access” to obstetrical and gynecological care. Starting in September 2010, all new health plans are prohibited from requiring authorization or prior approval when women seek this type of health care.<sup>11</sup>

**For more detailed information on how women will benefit from the new health reform law, visit the National Women’s Law Center website: [www.nwlc.org/reformmatters](http://www.nwlc.org/reformmatters)**

<sup>1</sup> Brigette Courtot and Julia Kaye, National Women’s Law Center, *Still Nowhere to Turn: Insurance Companies Treat Women Like a Pre-Existing Condition* (Oct. 2009), <http://www.nwlc.org/pdf/stillnowheretoturn.pdf>

<sup>2</sup> Families USA, *Failing Grades: State Consumer Protections in the Individual Health Insurance Market* (2008), <http://www.familiesusa.org/resources/publications/reports/failing-grades.html>

<sup>3</sup> Kaiser Family Foundation, *Putting Women’s Health Disparities on the Map* (2009), <http://www.statehealthfacts.org/comparemapreport.jsp?rep=31&cat=15>

<sup>4</sup> National Women’s Law Center calculations based on health insurance data for women ages 18-64 from the Current Population Survey’s 2008 Annual Social and Economic Supplement, using CPS Table Creator, [http://www.census.gov/hhes/www/cpstc/cps\\_table\\_creator.html](http://www.census.gov/hhes/www/cpstc/cps_table_creator.html)

<sup>5</sup> *Ibid.* Includes an estimated 232,000 uninsured women and 72,000 women who currently purchase coverage from the individual health insurance market.

<sup>6</sup> At least thirty states already have laws that extend dependent coverage to young adult children, regardless of enrollment in school. Many of these state laws are more restrictive than the new federal law, and none apply to self-insured or ERISA plans (as the federal law does). The National Conference of State Legislatures (NCSL) provides a list of states’ dependent coverage laws at: <http://www.ncsl.org/default.aspx?tabid=14497>

<sup>7</sup> U.S. Department of Health and Human Services, *Strengthening the Health Insurance System: How Health Insurance Reform Will Help America’s Older and Senior Women*, <http://www.healthreform.gov/reports/seniorwomen/index.html>, Last Accessed on April 26, 2010.

<sup>8</sup> Kaiser Family Foundation, *Women and Health Care: A National Profile* (July 2005), <http://www.kff.org/womenshealth/upload/Women-and-Health-Care-A-National-Profile-Key-Findings-from-the-Kaiser-Women-s-Health-Survey.pdf>

<sup>9</sup> This provision applies to all employers, though employers with fewer than 50 employees may be exempt if they demonstrate that the requirements impose an “undue hardship” on the employer’s business.

<sup>10</sup> At least twenty-four states already have laws related to expressing breast milk in the workplace. The National Conference of State Legislatures (NCSL) provides a list of these states and summaries of their laws at: <http://www.ncsl.org/IssuesResearch/Health/BreastfeedingLaws/tabid/14389/Default.aspx>

<sup>11</sup> Thirty-six states and DC already have direct access laws that managed care companies and group health plans must comply with. However, the new health reform law is broader in scope, since it requires all new health plans (i.e. for individuals and groups of all sizes, including self-insured health plans) to comply. The Kaiser Family Foundation provides a list of existing direct access laws at: <http://www.statehealthfacts.org/comparemaptable.jsp?ind=493&cat=10>