Trials and Tribulations of the Affordable Care Act

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- I have no commercial interest or relationship that would cause bias in this presentation.

Disclosure

- Participants will be able to explain how lactation services and pumps are supposed to be insured by the affordable care act.
- Participants will be able to describe how the Insurance/DME process work, and be able to explain the process to patients.
- Participants will list at least 2 ways to advocate for patients in the State of Florida.

Objectives

- 1965 –Medicaid and Medicare developed under Lyndon B. Johnson
- 1997 – AAP policy urging employers to support women pumping at work
- 1998—NY Maloney Bill supporting women pumping at work
- 2000- International Labour Organization, Maternity Protection Convention—included provision for paid breaks or reduced work hours to allow new mothers to breastfeed
- 2008- Galinsky, Bond, and Sakai (2008) U.S. employers providing a private space or lactation room rose from 37% in 1998 to 53% in 2008

History toward ACA

- 2010—Patient Protection and Affordable Care Act signed into law—Provides for nursing breaks and most mothers employed on an hourly basis to express breastmilk (PPACA, 2010).
- Break time for nursing mothers law
- Access to free pumps (double electric)
- Support and counseling from trained providers
- Projected additional 165,000 breastfeeding mothers annually—(Drago and Hayes, 2010)
- Plans cannot charge copayment, coinsurance or deductible for these services when delivered by network provider. Plans required to have network providers starting on or after August, 2012

History toward ACA

- As a lactation consultant/breastfeeding advocate, the majority of your patients/clients will be effected by ACA and how insurance companies interpret it.
- You are the professional who is uniquely qualified to determine which breast pump is appropriate for your patient/client.
- You may be the only person who would advocate for your patient or client. Insurance companies, legislators, case managers, and even physicians can be clueless in this area.

Why do I need to know ACA/insurance issues?

- Section 2707 –Essential Health Benefits (EHB) coverage package
  - US Preventative Services Task Force (USPSTF) Recommendation – Level **B**
    - The USPSTF recommends interventions during pregnancy and after birth to promote and support breastfeeding.
- Section 2713 – An insurer shall at a minimum provide coverage for, and not impose any cost sharing requirements for:
  - EHB – includes breastfeeding (see above)
  - Cost sharing limitation does not apply to grandfathered health plans.

ACA specifics

"Comprehensive lactation support and counseling, by a trained provider during pregnancy, and costs for renting breastfeeding equipment." HHS HRSA

- Key Dates for Sections 2707 & 2713:
  - New or revised plans ("non-grandfathered"): August 1, 2012
  - Grandfathered Plans: Until they trigger a change in status
- What triggers "non-grandfather" status for a health plan?
  - Eliminating a benefit,
  - Increasing cost-sharing or co-payments,
  - Decreasing contrib. rate of employer or employee union,
  - Changing the annual benefit limit.

ACA specifics

- Section 4207 – Reasonable Breaktime & Location for Nursing Mothers
  - For up to one year after birth. (Now in effect for Employers)
- Expansion of Insurance Coverage for Essential Health Benefits (through Insurance exchanges):
  - Experts estimated that insurance coverage will expand by 20 million lives.
    - 10 million in Medical Assistance programs (occurred in 2014).
      - ACA provisions 2707 and 2713 are not applicable to Medicaid programs but many state MA programs already provide coverage for BF support and breast pumps.
    - 10 million in Commercial Insurance Health Insurance plans.

ACA Specifics

- **Payers must provide at NO cost to the patient "Comprehensive lactation support and counseling, by a trained provider during pregnancy, and costs for renting breastfeeding equipment." HHS HRSA**
- **Who are the payers?**
- **Who are trained providers?**
- **How come most payers aren't "renting" breast pumps?**

ACA

- Some State **Medicaid** programs provide pumps, but others don't. There is incentive through section 4106. Under section 4106, those states that cover USPSTF grade A and B services with NO cost sharing are entitled to an increased federal match for such services.
- **Tricare** is not required to provide these services, but in the process of changing policy to include them.

Payers are Mainly Insurance Providers

- Tricare has updated its policy to include breast pumps retroactively as of December 19, 2014
- http://www.tricare.mil/BreastPumpPolicyUpdate060815
- http://m.military.com/daily-news/2015/06/05/new-tricare-policy-gives-free-breast-pumps.html
- http://breastfeedingincombatboots.com/2015/06/tricare-lactation-policy/

More on Tricare

- Need to be certified by insurance companies
- Some certify IBCLC, but most prefer licensed professions.
- Trained providers are left to the discretion of the insurance company

Trained Providers

- "Q. What if my insurance company doesn't have any lactation consultants or breast pump supplier in-network?
- A. The insurance company must cover services from an out-of-network provider without any cost sharing. Federal Guidance is clear, "If a plan or issuer does not have in its network a provider who can provide the particular service, than the plan or issuer most cover the item or service when performed by an out-of-network provider and not impose cost-sharing with respect to the item or service." (National Breastfeeding Center, 2014)

No In-Network Providers

- LARGE PLANS (UHG, Aetna, Cigna, BC/BS)
  Will likely distribute through DME at set reimbursement rate
  - Specified DMEs (Nat'l or owned by Insurance Plan) who choose the product based on reimbursement rate
  - May include Open Network of contracted providers
    - Can vary State to State by plan
    - Reimbursement may be low
- LOCAL PLANS (BC/BS Local) -
  May distribute through contracted providers (Pharmacy, Local DME)
  - At MSRP or other specified amount
  - Product may or may not be restricted – mom can choose
  - Vendor may bill insurance company directly
  - Customer (mom) may pay and submit for reimbursement up to the benefit limit
  - May include upgrade programs

Pump provision by Insurance Companies

- ICD9 –alpha-numeric codes given for every diagnoses. Full list at www.icd9data.com
- CPT (Correct Procedural Terminology)—five digit alpha-numeric numbers created by the American Medical Association.
- Breast Pump Codes: 1. E0603 – breast pump, electric (ac and/or dc) any type. 2. E0604 – breast pump, hospital grade, electric (ac and/or dc) any type.
- Physicians NPI #

Codes, codes, codes…

- HMO—OB/GYN referral authorization to their IPA (Independent Physician Association)
- PPO-***signed*** prescription (no electronic copy) with Mother's name, DOB, address, insurance copy and reason for request. Work with DMEs which have to be contracted with the insurance companies.

Insurance Navigation

- http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html
- Hhs.gov FAQ sheet – generalized info, not highly supportive of insured

The Bad News—hhs.gov

- **Q: My friend told me that health insurance covers breast pumps now. Is that true?**
- **A:** The Affordable Care Act (2010) requires most health insurance plans to cover the cost of a breast pump as part of women's preventative health services. These rules apply to **Health Insurance Marketplace plans**, and all other private health insurance plans, except for **grandfathered plans**."
- http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html

FAQ – Private Insurance

- **"Q: I have private insurance and they told me that they do not cover breast pumps. What should I do?**
- **A:** If you believe your plan covers the cost of a breast pump, but your claim is denied, you have the right under the Affordable Care Act to an **internal appeal** and **external appeal**. If you need help, contact your state's **Department of Insurance** or **Consumer Assistance Program**.
- Go to **https://www.healthcare.gov/what-are-my-breastfeeding-benefits/** for more information."
- http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html

FAQ – Private Insurance

- There are 3 steps in the internal appeals process:
- **1. You file a claim:** A claim is a request for coverage. You or a health care provider will usually file a claim to be reimbursed for the costs of treatment or services.
- **2. Your health plan denies the claim:** Your insurer must notify you in writing and explain why:
  - Within 15 days if you're seeking prior authorization for a treatment
  - Within 30 days for medical services already received
  - Within 72 hours for urgent care cases

Internal Appeal

- **3. You file an internal appeal:** To file an internal appeal, you need to:
  - Complete all forms required by your health insurer. Or you can write to your insurer with your name, claim number, and health insurance ID number.
  - Submit any additional information that you want the insurer to consider, such as a letter from the doctor.
  - The Consumer Assistance Program in your state can file an appeal for you.
- You must file your internal appeal within **180 days (6 months)** of receiving notice that your claim was denied. ***If you have an urgent health situation, you can ask for an external review at the same time as your internal appeal.***
- If your insurance company still denies your claim, you can file for an external review.

Internal Appeal

- There are 2 steps in the external review process:
- **1. You file an external review:** You must file a written request for an external review within 60 days of the date your insurer sent you a final decision. Some plans may allow you more than 60 days to file your request. The notice sent to you by your health insurance issuer or health plan should tell you the timeframe in which you must make your request.
- **2. External reviewer issues a final decision:** An external review either upholds your insurer's decision or decides in your favor. Your insurer is required by law to accept the external reviewer's decision.

External Review

- Insurance companies in ***all*** states must participate in an external review process that meets the consumer protection standards of the health care law.
- Standard external reviews are decided as soon as possible - no later than 60 days after the request was received.
- **Federal:** If your state doesn't have an external review process that meets the minimum consumer protection standards, the federal government's Department of Health and Human Services (HHS) will oversee an external review process for health insurance companies in your state.

External Review

- FL does not have their own external review process, and therefore follows an HHS administered external review process.
- Call toll free: 1-888-866-6205 to request an external review request form. Then fax an external review request to: 1-888-866-6190.
- Mail an external review request form to: MAXIMUS Federal Services 3750 Monroe Avenue, Suite 705 Pittsford, NY 14534
- Submit a request via email: is ferp@maximus.com
- Visit www.externalappeal.com . In the future, you'll be able to file a request using a secure website.

External Review

- How many postpartum families have the time or fortitude to pursue internal or external review when all they need is a lactation consult or a breast pump?
- Most families will complain to the lactation consultant, doctor or insurance company, but most complaints do not go beyond the insurance carrier.

BIG QUESTIONS

- My experience is that although noble in the thought to provide ALL breastfeeding mothers with lactation services and a breast pump, our government left this process in the hands of insurance companies--which very much like the mortgage companies of the housing debacle--are not being held accountable to follow the law. So as a result, almost all companies are NOT paying for lactation services and when it comes to breast pumps, they are trying to provide the cheapest pumps possible--even for families with babies in NICU. Hospital grade breast pumps are rarely provided. I have recommended that families complain at state level--but we are dealing with new parents who mainly complain to us, their doctors, and the insurance company--but they rarely go beyond that. To make the process even more entertaining, when things are working with a particular insurance company or DME, the rules change.

The Bottom Line

- The National Women's Legal Center (NWLC) was very concerned about a FAQ publication distributed by the U.S. Dept. of Health and Human Services. The next several slides deal with the FAQ (dated Sept. 30, 2014).
- http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html

What is government doing?

- **"Q: I have Medicaid. Can I get a breast pump?**
- **A:** In some states, yes. Because states run their own **Medicaid** programs within federal guidelines, different states have different rules. Check with your Medicaid provider first.
- If your state's Medicaid program does not cover breast pumps, you may be eligible for a free one through the Special Supplemental Nutrition Program for Women, Infants, and Children — better known as WIC. You may be able to get a breast pump if you already receive WIC benefits. Contact your state's **WIC Breastfeeding Coordinator** for more information."
- http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html

FAQ-WIC & Medicaid

- **"Q: Can I just buy a pump and be reimbursed?**
- **A:** Some insurance plans require a prescription or pre-authorization from your doctor. Talk to your health insurance company about what is covered before you rent or purchase a breast pump."
- http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html

FAQ-Prescriptions & Pre-authorizations

- **"Q: Will my insurance plan cover a rental breast pump? What if I want to buy a new one instead?**
- **A:** Your health insurance company can tell you what specific types of breastfeeding equipment are covered under your plan. ***Some plans cover only rental pumps,*** and some plans cover new pumps but only specific types. Contact your health insurance company to find out what type of breast pump is covered."
- http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html

FAQ-Rental or Purchase

- **"Q: Does the law require my insurance to cover an electric pump?**
- **A:** No, the law does not require health insurance plans to cover a certain type of pump. Check with your health insurance company to see what type(s) of pump(s) your plan covers."
- http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html

FAQ-Manual or Electric

- **"Q: I want to keep breastfeeding when my maternity leave is over, but I'm not sure when or where I would pump at work. What do I do?**
- **A:** It might seem difficult to keep breastfeeding after you go back to work, especially if you're not in an office — but there are a lot of ways to make it work. And the law is on your side. The Affordable Care Act amended the Fair Labor Standards Act (FLSA), which covers most hourly wage–earning and some salaried employees. Many employers are required to help their employees who are nursing moms in two ways:
- http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html

FAQ- Going Back to Work

- Workers must be given "reasonable" break time to pump for a breastfeeding child for 1 year after the child's birth. The law recognizes that each woman has different needs for pumping breaks. Employers are not required to pay employees for the time they spend pumping, and many women use existing paid breaks to pump.
- Women who need to pump or nurse must be given a private space. This space cannot be a bathroom.
- To see whether you are covered under this law, or if you have more protections under your state law, check out our website ***Supporting Nursing Moms at Work***. There we have **creative solutions** for all types of workspaces and **suggestions for talking to your employer** about what you need."
- http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html

Going Back to Work cont.

- **"Q: I need a hospital-grade pump in order to finish pumping during my break at work. Can I get one?**
- **A:** Only your health insurance company can tell you what type of pump it will cover or provide. If you chose to get a used pump from a friend or from another parent in your neighborhood, be sure that it is a multi-user pump. Only pumps that are meant to be used by more than one mother ("multi-user pumps") should be shared. The **FDA** considers all other breast pumps to be single-user devices."
- http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html

FAQ-Hospital Grade Pump

- **"Q: I'm having trouble using my breast pump and I have to go back to work in a few days. Can you help me?**
- **A:** Yes. First, congratulations on practicing with your breast pump before you go back to work. It's important to be comfortable pumping before you have to do it in an unfamiliar environment like work or school.
- If you're having trouble, you can call us toll-free at 800-994-9662, Monday through Friday, from 9 a.m. to 6 p.m., ET to talk to a trained breastfeeding peer counselor in English or Spanish. A counselor can answer your questions about how to store pumped milk, teach you how to clean your breast pump, and give you tips to get the milk flowing when your baby isn't there.
- If you need more help with breastfeeding, ask your health insurance company for a list of providers who can provide lactation support. Most health insurance plans, including those in the Health Insurance Marketplace." http://www.hhs.gov/healthcare/prevention/breast-pumps/index.html

FAQ-Breast Pump Problems

Step 1: Contact your hospital (referral source) Contracts Administrator
- Ask for Membership Services contact info for your largest payers
- Is there a Hospital-owned Pharmacy or DME that might participate in distribution?

Step 2: Contact Membership Services for each of your largest payers
- Inquire about DME Benefits with regard to provision of Breastpumps (Personal/Rental)
- Ask how they plan to dispense pumps to their members (Personal/Rental)
- Use Flow Chart to get as much information as possible

Step 3: Determine coverage by payer for both Personal AND Rental pumps

Step 4: Develop strategy as to how you will handle your private insurance patients' needs for breast pumps and services
- Partner with Hospital-owned Pharmacy or DME?
- Become a contracted provider (DME or non-DME)?
- Service patient as a non-contracted provider?
- Continue to rent/sell breastpumps on cash basis?
- REINVENT YOUR BUSINESS

Insurance Plan Navigation

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National Resources

- National Women's Legal Center Website
- http://www.nwlc.org/resource/new-benefits-breastfeeding-moms-facts-and-tools-understand-your-coverage-under-health-care-

- USBC/NBfC Policy
- **http://www.usbreastfeeding.org/Portals/0/Publications/Model-Policy-Payer-Coverage-Breastfeeding-Support.pdf**

National Resources

- State of Breastfeeding Coverage: Health Plan Violations of the Affordable Care Act
- Publication May, 2015

NWLC

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