The Affordable Care Act’s Birth Control & Breastfeeding Benefits: What Every Nurse-Midwife Should Know

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Presentation

Quick overview of the Affordable Care Act

1. Coverage, benefits, preventive services
2. Breastfeeding support and supplies
3. Contraception
4. Resources and Tools
5. Questions/Discussion
Why This is Important: Women & the Affordable Care Act

The health care law, known as the Affordable Care Act (ACA), protects women from discriminatory health insurance practices, makes health coverage more affordable and easier to obtain, and improves access to many of the health services people need.
What Does the Affordable Care Act Do?

• Expands Coverage
  – Medicaid
  – Insurance Exchanges (marketplaces)

• Insurance Protections
  – No pre-existing limit exclusions
  – No gender rating
  – Maternity care and other essential health benefits
  – Preventive services with no co-pays

• Shared Responsibility
  – Individual responsibility
  – Employer responsibility
Where Do Women Get Their Health Coverage?

Women’s Health Insurance Coverage in 2011

- Employer Sponsored Insurance (ESI), 59.80%
- Uninsured, 19.60%
- Medicaid, 12.30%
- Other Public Insurance, 6.00%
- Individual Market, 7.70%

Women’s Preventive Health Services

All new insurance plans are required to provide (at no cost-sharing) the following services:

• The full range of FDA-approved contraception methods and contraceptive counseling
• well-woman visits
• screening for gestational diabetes
• human papillomavirus (HPV) DNA testing for women > 30 years
• sexually-transmitted infection counseling
• human immunodeficiency virus (HIV) screening and counseling;
• breastfeeding support, supplies, and counseling
• domestic violence screening and counseling

No copayments, deductibles or co-insurance

http://www.hrsa.gov/womensguidelines/
Preventive Services

• Applies to all new health plans and Medicaid expansion plans

• No cost-sharing allowed on:
  – ‘A’ or ‘B’ rating by US Preventive Services Task Force
  – Immunizations recommended by the CDC
  – Pediatric services
  – **Women’s preventive services**

Full list of covered preventive services:
Women’s knowledge about ACA coverage for preventive services is uneven

Share of women who know the ACA:

- Requires nearly all Americans to have health insurance by 2014 or else pay a fine: 74%
- Requires most private plans to cover the full cost of at least one preventive visit or well woman visit: 60%
- Requires most private plans to cover the full cost of many preventive services such as mammogram and pap tests: 57%
- Requires most private plans to cover the full cost of breast pump rentals for new mothers: 34%
- Prohibits insurance companies from charging women higher premiums than men: 33%

NOTE: Among women ages 18-64 except question on breast pump rentals among women ages 18-44.
SOURCE: Kaiser Family Foundation, 2013 Kaiser Women’s Health Survey.
Understanding “Grandfathered” Status

All “new” health plans must provide breastfeeding support, supplies and counseling

• What does “new” mean?

• “New” refers to whether or not a plan is “grandfathered”

• What is a grandfathered and ungrandfathered plan?
Understanding “Grandfathered” Status

Grandfathered plans are:

- Health plans that existed on or before the ACA was signed into law (March 23rd, 2010)
- Grandfathered plans do not have to follow the preventive services requirement
- Grandfathered plans have been “grandfathered” into the new system
Understanding “Grandfathered” Status

Un-grandfathered plans are:

• Plans created after March 23rd 2010

• Group health plans that have implemented significant changes
  – Some of these changes include: significantly cutting benefits; increasing cost-sharing; or changing premium contributions by more than 5%

This means that a plan has “lost grandfathered status”
Understanding “Grandfathered” Status

• All un-grandfathered private health plans have to follow the preventive health services coverage and cost-sharing rules including breastfeeding support, supplies and counseling

• When you hear that “all new health plans” have to cover these services, it means that all “un-grandfathered” plans must cover them
Differences in Coverage Depending on Type of Insurance

Preventive Services

- All “new” (un-grandfathered) health insurance plans
- Medicaid expansion plans
- Does not apply to traditional Medicaid (existing Medicaid programs)
- Does not apply to TRICARE
ACA Requirements
Coverage for Breastfeeding Support & Supplies
Coverage for Breastfeeding Support & Supplies

Coverage is for:

- “comprehensive lactation support and counseling”
- “costs of renting or purchasing breastfeeding equipment”
- benefits are required for “the duration of breastfeeding”
Issues Related to Coverage

Insurance Company can:

• Use *reasonable medical management* techniques to determine “the frequency, method, treatment, or setting” of a covered preventive service

• This could include pump rental instead of purchase

• Require women to use in-network providers and DME companies
Issues Related to Coverage

Insurance Company cannot:

• Impose cost-sharing like a co-payment, deductible or co-insurance on breast pumps or lactation education

• Impose an un-allowable limit or waiting period
  
  Examples:
  “limit of one breast pump per calendar year”
  “pump must be obtained within 6 months following delivery”

• Refuse to offer lactation counseling, or only provide this benefit in a hospital setting
Issues Related to Coverage

Insurance Company must:

• Establish a network for women to obtain the benefit

• Allow women to obtain a benefit out-of-network if there are no providers in network
Issues Related to Coverage

Federal guidance is silent on:

• Type of breast pump

• “Supplies” – other than a breast pump

• Reimbursement policy

• Certification and/or licensure standards
Differences in Coverage

Medicaid
• Varies by state

• CMS survey:
  – 25 of the responding States covered breastfeeding education services
  – 15 of the responding States covered individual lactation consultations
  – 31 of the responding States covered equipment rentals

• Kaiser survey: breastfeeding counseling 39/48 states cover in traditional Medicaid program
Closing the Gaps

• TRICARE – the National Defense Authorization Act would require TRICARE to cover breastfeeding support and supplies

• Traditional Medicaid – States have option to provide preventive services and get 1% FMAP increase
  – Does not apply to women’s preventive services, but USPSTF recommends interventions during pregnancy and after birth to promote and support breastfeeding
Are Insurance Plans Following the Requirements?

Maybe…

• Breast pump coverage – mostly at no cost-sharing but lack of access to hospital grade pumps and time limits

• Little or no access to lactation education, counseling
  – Carriers have not established a network for lactation services
NWLC National & State Enforcement Activities

Goal: Ensure Women Have Access to Required Benefits

• Track trends through hotline and other contacts

• Document the need for enforcement of existing guidance and federal law

• Advocate for additional guidance to clarify important issues (lack of access to hospital grade pumps)

• State enforcement through Departments of Insurance, Regulators

• Federal enforcement through Department of Labor, Department of HHS, and Treasury
Resources and Tools

• Toolkit: [www.nwlc.org/breastfeeding](http://www.nwlc.org/breastfeeding)
  – Fact sheets and FAQs
  – Sample Appeal letters
  – Flow chart to talk to insurance company
  – How to determine if your plan is grandfathered

• Hotline (1.866.745.5487) and [prevention@nwlc.org](mailto:prevention@nwlc.org)
  – Intake

• Outreach
  – New contacts in breastfeeding community through coalitions, providers, nonprofit organizations, small businesses
ACA Requirements
Birth Control Coverage
“All FDA-Approved Contraceptive Methods, Sterilization Procedures, and Patient Education and Counseling”

FDA Birth Control Guide:
http://www.fda.gov/downloads/ForConsumers/ByAudience/ForWomen/FreePublications/UCM356451.pdf
Methods for Women on the FDA Birth Control Guide

• Sterilization surgery for women
• Sterilization surgical implant for women
• Implantable rod
• IUD Copper
• IUD with Progestin
• Shot/Injection
• Patch
• Vaginal Contraceptive Ring
• Oral Contraceptives (Combined Pill)
• Oral Contraceptives (Progestin only)
• Oral Contraceptives Extended/Continuous Use
• Diaphragm with Spermicide
• Sponge with Spermicide
• Cervical Cap with Spermicide
• Female Condom
• Plan B/Plan B One Step/Next Choice
• Ella
Covering Services Associated with Birth Control

Plans are required to cover “services related to follow-up and management of side effects, counseling for continued adherence, and device removal” without cost-sharing

Examples:
- IUD insertion, ultrasound to confirm placement, and removal
- Sterilization anesthesia, confirmation tests
Can Plans Limit Coverage without Cost-Sharing?

- Plans must cover all of the FDA-approved methods
- “Reasonable medical management techniques” are allowed. Examples:
  - Cost-sharing for brand-name drugs
  - Cost-sharing for out-of-network services
  - Prescription for over-the-counter methods
- The “Waiver Process”
  - Allows women to access medically appropriate method without cost-sharing if plan typically imposes cost-sharing
  - Typically involves providers completing paperwork on why method is medically appropriate
Are Insurance Plans Following the Requirement?

In the majority of cases, yes...

Between Fall 2012 and Spring 2013:

- Pill with no cost-sharing: 15% → 40%
- NuvaRing with no cost-sharing: 23% → 52%

But there are some problems...

- Excluding some FDA-approved methods
- Only covering generics without cost-sharing
- Charging for services associated with birth control
NWLC’s “Getting the Coverage You Deserve” Toolkit

• FAQs about the health care law’s birth control coverage requirement
• What plans are and are not allowed to do around cost-sharing
• How to find out if a plan should be covering birth control without cost-sharing
• Appeal letters for insurance companies: instructions and sample letters
Resources for You & Your Patients

National Women’s Law Center

• “Getting the Coverage You Deserve” Toolkit: www.nwlc.org/preventiveservices

• Hotline: 1-866-PILL4US and pill4us@nwlc.org
What Patients Can Do

Challenge the Plan’s Coverage Policy:

1) Learn more about through NWLC resources and toolkits
2) Ensure the ACA applies to the woman’s plan (determine grandfathered status)
3) File an appeal of the plan’s coverage denial
4) If appeal is unsuccessful, file a second-level appeal or second-level review
5) If second-level appeal is unsuccessful, file a complaint with the government agency that regulates the plan (either the state insurance commissioner or U.S. Department of Labor)

*It’s important state and federal regulators hear about the problems women are having getting coverage for breastfeeding benefits and birth control.
Thank you!

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Questions/Discussion