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The Beneficial Health and Financial Implications of the Patient Protection and Affordable Act for Pregnant Women, New Mothers, and Infants

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I. INTRODUCTION

Women comprise approximately half of the nation's workforce and are the primary providers for forty percent of American families. Mothers with children are now the fastest growing demographic in the workforce.[1] Despite this, as of 2007 seventeen million women in the United States were uninsured.[2] Although similar proportions of men and women remain uninsured, women are more likely than men to struggle with rising health costs and eroding health benefits.[3] Uninsured and underinsured women have greater difficulty accessing health care than men because on average they receive lower incomes, have higher out-of-pocket health costs, and are more frequent users of the health care system.[4] Women account for sixty one percent of physician visits, attributable to gynecological and maternity issues.[5] All women are advised to see a gynecologist on an annual or bi-annual basis, and more frequently if pregnant. They have also been burdened by the high costs for pharmaceuticals, as they are the primary purchasers of medication for the family, purchasing fifty-nine percent of prescription

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1. *Health Care Reform Boosts Support for Employed Breastfeeding Mothers*, UNITED STATES BREAST FEEDING COMM., http://www.usbreastfeeding.org/Workplace/WorkplaceSupport/-orkplaceSupportinHealth CareReform/tabid/175/Default.aspx (last visited April 22, 2011).

2. *Women's Health Policy Facts*, KAISER FAM. FOUND. (Feb. 2007), http://www.kff.org/ womenshealth/upload/6000_05.pdf.

3. *Seven of 10 Women Are Uninsured or Underinsured, Have Medical Bill or Debt Problems, or Problems Accessing Care Because of Cost, New Study Finds*, COMMONWEALTH FUND (May 11, 2009), http://www.commonwealthfund.org/Content/News/News-Releases/2009/May/Seven-of-10-Women-Are-Uninsured-or-Underinsured.aspx.

4. *Id.*; Women's Health Policy Facts, *supra* note 2.

5. COMMONWEALTH FUND, *supra* note 3.

drugs.[6] Those most affected by exorbitant costs are single mothers of a lower socioeconomic status, women who work part time and are without employer-covered insurance, and stay at home mothers who are dependent on their spouse for coverage and are vulnerable to losing insurance if divorced, widowed, or if their spouse becomes unemployed.[7] However, even insured women struggle with costs, facing higher premium payments during their child-bearing years.[8]

High costs and barriers to insurance leave many women in a precarious position, especially when pregnant.[9] The Patient Protection and Affordable Care Act (PPACA) helps remedy these issues by enhancing access, controlling health care costs and improving prevention and research for maternity related issues.[10] Additionally, several provisions directly focus on improving health care for pregnant women, new mothers, and infants.[11] This article will first address how the PPACA contributes to closing the gap in the disparity of health related research and improves health care for pregnant women. Next, it will illustrate how specific research focused on postpartum depression will help improve prevention and treatment for this condition so that mothers can more quickly recover, refocus on work and family, and avoid extensive medical costs. It will then examine the positive health and financial implications of the PPACA's provision that requires employers to grant new mothers reasonable breastfeeding breaks during work hours. Finally, this article will address the importance of the PPACA's implementation of programs for the cessation of tobacco use for pregnant women.

Initially, each provision will cost the government money.[12] However, ultimately, the preventative and treatment solutions will theoretically lead to healthier pregnancies, a higher infant mortality rate, and reduced hospitalization and treatment costs in the long term.[13] This may result in a higher ranking for the United States on the international

6. Merlin Goldman, *Direct-to-consumer advertising: Benefit Patients?*, INNOVARO PHARMLICENSING http://pharmalicensing.com/public/articles/view/1114434041_426ce9f96f0fc/direct-to-consumer-advertising-benefit-patients (last visited April 22, 2011).

7. *Id*.

8. COMMONWEALTH FUND, *supra* note 3.

9. *Id.*

10. Patient Protection and Affordable Care Act, Pub. L. No.111-148, §3509, 124 Stat. 461 (2010) [hereinafter PPACA].

11. *Id.*

12. Karen Lasser et al., *Access to Care, Health Status, and Health Disparities in the United States and Canada: Results of a Cross-National Population-Based Survey*, 96 AM. J. PUB. H. 1 (2006).

13. PPACA, *supra* note 10, at §3509, §4107, §4207.

stage of public health. More prestige can lead to more financial investment in a healthcare system that can sustain quality care and access for pregnant women.

II. UTILIZING RESEARCH FOR PREVENTION AND TREATMENT OF COMPLICATIONS RELATED TO PREGNANCY TO IMPROVE QUALITY AND LOWER COSTS

It is imperative that the United States advance its medical research regarding prenatal and premature birth services. Specifically, research coupled with a focus on prevention of diseases related to pregnancy and infancy will not only improve the health of mothers and children, but will also curb health care costs by reducing long-term expenses of diagnosis and treatment.[14] Until 1993, the Food and Drug Administration (FDA) banned research and testing on women of child-bearing age.[15] Male and female physiology differs greatly and the female body's reaction to drugs changes even more during pregnancy.[16] This ban has caused an insufficient understanding of pregnant women's physiology among the medical community. This disparity in research and, consequently, the lack of resources geared towards understanding maternity related healthcare must be rectified. [17]

The PPACA addresses the disparity in healthcare research between men and women by creating more research facilities and funding specifically geared towards women. Section 3509 specifically allocates resources for health offices located at federal agencies, which will work to improve prevention, treatment, and female centric research in health programming.[18] Despite initial expenditures, costs will be offset by reduction of female centric diseases and more safe and beneficial treatment options for pregnant women and infants. This provision is cost effective as it is more expensive to treat a patient after diagnosis.[19] Consequently, the United States will save millions of dollars that would have otherwise been needed for hospitalization and treatment. [20]

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14. Dean Ornish, *Yes, Prevention is Cheaper Than Treatment*, NEWSWEEK, http://www.pmri.org/publications/newsweek/Yes_Prevention_is_Cheaper_than_Treatment_Dean_Ornish.pdf (last visited April 22, 2011).

15. Dulce Obias-Manno et al., *The Food and Drug Administration Office of Women's Health: Impact of Science on Regulatory Policy*, 16 J. WOMEN'S HEALTH 808, 819 (2007).

16. *Id.* at 808.

17. *Id.*

18. PPACA, *supra* note 10, at § 3509.

19. HOMER ET AL., PREVENTION INST. & THE CAL. ENDOWMENT WITH THE URBAN INST., REDUCING HEALTH CARE COSTS THROUGH PREVENTION 1 (2007).

19. *Id.;* PPACA, *supra* note 10, at § 3509.

20. HOMER ET AL., *supra* note 19, at 1.

III. NEW TREATMENTS FOR POSTPARTUM DEPRESSION WILL IMPROVE THE MENTAL HEALTH AND PRODUCTIVITY OF MOTHERS

According to the Department of Health and Human Service's (HHS) Center for Disease Control and Prevention, approximately one in ten women suffer from depression during any trimester of pregnancy, or any month within the first year of giving birth.[21] Postpartum depression can be devastating for many women. It debilitates their ability to carry on daily activities, interact with her family and friends, and hinders the capacity of a mother to bond with her baby, thereby potentially creating developmental delays in the child. [22]

Not only can this be emotionally devastating, but it can also have negative financial effects. The World Health Organization estimates that depression is the fourth leading cause of financial burden, costing the United States approximately 30 to 50 billion dollars a year in lost productivity and direct medical costs.[23] Because women are twice as likely to suffer from depression as men, and depression is more likely to occur within three months of childbirth, an initiative to prevent depression at this stage could reduce the financial burden imposed on society.[24] As of 2010, PPACA has designated three 1 million dollar grants to States to subsequently provide services, including case management and treatment, to those suffering from or who are at risk for postpartum depression.[25] An argument against these grants is that women will not be responsive. However, in a study conducted among 4,400 pregnant women, it was found that women were often willing to obtain treatment if referred.[26] Therefore, more resources will lead to more referrals and more routine screenings for detection, so that women will have available avenues to seek help.

PPACA's recognition of postpartum depression will directly improve treatment, and may also legitimize this mental illness, thereby providing psychological benefits to those

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21. *Id.*

22. *Maternal and Infant Health Research: Pregnancy Complications*, CTR. FOR DISEASE CONT. & PREVENTION, http://www.cdc.gov/reproductivehealth/maternalinfanthealth/PregComplications.htm (last visited April 22, 2011).

23. Dwenda K. Gjerdingen, *Postpartum Depression Screening: Importance, Methods, Barriers, and Recommendations for Practice*, 20 J. AM. BD. FAM. & MED. 280, 280 (2007), *available at* http://www.jabfm.com/cgi/content/full/20/3/280.

24. *Id.*

25. *The Patient Protection and Affordable Care Act Maternal and Child Related Highlights*, ASS'N OF MATERNAL & CHILD HEALTH PROGRAMS, http://www.amchp.org/Advocacy/health-reform/Documents/Senate%20Bill%20-%20MCH%20Highlights%203%2022%2010.pdf (last visited April 22, 2011).

26. *Maternal and Infant Health Research*, *supra*, note 22.

who suffer from it. By creating awareness of this disease, it can curb stigmatization and, alternatively, validate symptoms and acknowledge that a substantial proportion of women suffer from depression during pregnancy. More awareness and acceptance will allow women to feel more comfortable seeking help. The faster women obtain treatment, the more quickly they can get back to work, to taking care of their families, and becoming contributing members of society.[27] Prevention of postpartum depression would preclude women from taking additional time off work, and could potentially save families extensive costs otherwise needed to treat the mother and provide childcare while the mother is unable to do so.

While mothers require medical attention as a result of postpartum depression, so do the children. Children of depressed mothers are more likely to have delayed psychological, cognitive, and motor development and are at higher risk of avoidance and distressed behavior.[28] This delayed development requires healthcare resources to address these problems.[29] Hence, medical treatment for both mother and child can become costly.[30] These costs are burdensome on both individuals and the government. Despite the initial costs involved in addressing the problem of postpartum depression, research and prevention are a long-term solution that will ultimately improve the mental health of children and mothers. If fewer women and children need medical treatment it can be inferred that the nearly 50 billion dollars spent each year due to lost productivity and direct medical costs will decrease, and both individuals and the government will save money.

IV. ACCOMMODATING BREASTFEEDING IN THE WORKPLACE CAN IMPROVE THE HEALTH OF MOTHER AND CHILD, THEREBY DECREASING COSTS AND INCREASING PRODUCTIVITY.

Breastfeeding is a personal choice and one that varies largely across cultural, racial, and ethnic lines. Nevertheless, major health organizations as well as federal government health agencies recommend that mothers breastfeed exclusively for the first six months, and optimally, through the first year of the infants life.[31] Health professionals determined

27. Gjerdingen, *supra* note 23.
28. *Id.*
29. *Id.*
30. *Id.*
31. *Workplace Accommodations to Support and Protect Breastfeeding*, UNITED STATES BREASTFEEDING COMMITTEE, at 2, http://www.usbreastfeeding.org/Portals/0/Publications/HC-Reform-Background-2010-05-USBC.pdf.

that breastfeeding improves the health of both mother and infant.[32] Breast milk contains antibodies that protect infants from bacteria and viruses; breastfeeding reduces the risk of ear, skin, stomach, and respiratory infections, diarrhea, sudden infant death syndrome (SIDS), necrotizing enterocolitis, and in the longer term reduces the risk of obesity, diabetes, asthma, and childhood leukemia. More breastfeeding can lead to the higher infant and child mortality rates.[33] In addition, it can improve the mothers' health.[34] Breastfeeding often enables a quicker return to pre-pregnancy weight, and can even reduce the risk of breast cancer, ovarian cancer, diabetes, post-partum depression and heart disease.[35] According to an analysis of a study published by the Center for Disease Control and Prevention, if ninety percent of women breastfed for six months, this would save the United States approximately 13 billion dollars in medical costs as well as prevent 911 deaths per year.[36] While this study does not provide a controlling variable for socio-demographic associations with breastfeeding, there is sufficient evidence to support this analysis.[37]

A negative stigmatization is often associated with breastfeeding in public places, and more specifically, in the work place.[38] Despite its known benefits, an unsupportive work environment that is not conducive to breastfeeding often deters women from continuing it once they return.[39] This is especially true for lower wage earners who have few, if any, accommodations for breastfeeding.[40] Before PPACA, there were no federal regulations for working mothers who chose to breastfeed, although certain state laws existed.

Section 4207 of the PPACA amends the Fair Labor Standard Act and requires that employers provide a reasonable break time for nursing mothers.[41] The provision specifically states that employers must provide a reasonable amount of time and a clean and private place, other than a bathroom, for an employee to express breast milk needed

32. *Id.*
33. *Id.*
34. *Id.*
35. *Id.*
36. Nicholas Bakalar, *Despite Advice, Many Fail to Breast-Feed*, N.Y. Times, Apr. 19, 2010, at D7.
37. *Id.*
38. *Id.*
39. UNITED STATES BREASTFEEDING COMM., *supra* note 1, at 1.
40. *Id.*
41. PPACA, *supra* note 10, at § 4207.

to nurse her child.[42] However, the employer is not required to compensate the woman for the break time.[43] Employers that employ less than fifty employees are not subject to the regulation if it imposes an undue hardship.[44] The three essential requirements of this provision are time, space and support, which can be afforded in a variety of ways, from basic to comprehensive breastfeeding support systems.[45] Consequently, businesses will not expend significant costs to provide accommodations. In fact, employers can ultimately benefit financially, as many mothers will return to work more quickly and take less time off because both she and her infant will be healthier, assuming health statistics for breast feeding ring true. Additionally, because mothers will be more satisfied with their work environment and with personal achievement goals as mothers, the transition back to work is easier, which could result in an increase in productivity, and extended periods of employment.[46]

Based on conclusive scientific data, HHS has established that breastfeeding has become an important public health goal, and the passage of PPACA has solidified the government's commitment to this issue.[47] Establishing a societal message that it is normal and healthy to breastfeed encourages employers to provide more flexibility to mothers who work. New mothers should have the option to breastfeed, and that choice should not be predetermined by whether and where she works. Thus, reasonable accommodations for breastfeeding could result in psychological and physiological benefits to mother and child, thereby reducing direct medical costs by 13 billion dollars. It also allows a mother the ability to achieve both professional and maternal goals, thereby becoming more productive members of society and potentially saving the nation even more money in unemployment, welfare, and Medicaid costs that would otherwise be spent on unemployed mothers and their children.

V. SERVICES FOR CESSATION OF TOBACCO USE WILL SAVE LIVES, IMPROVE HEALTH, AND CUT SPENDING OF TREATMENT FOR SMOKE RELATED DISEASES.

Pursuant to section 4107 of the PPACA, new attempts are being made to curb tobacco

42. *Id.*
43. *Id.*
44. *Id.*
45. *Id.*
46. *Id.*, Bakalar, *supra* note 36, at D7.
47. Bakalar, *supra* note 36, at D7.

use among pregnant women.[48] Currently smoking is the leading preventable cause of death in the United States and an estimated 96 billion dollars in medical expenses and 97 billion dollars in lost productivity annually are attributed to smoking-related diseases.[49] A significant portion of these costs is attributed to pregnant women who smoke. Specifically, tobacco use can cause serious health related problems for mother and child.[50] Smoking cigarettes can reduce a woman's chance of getting pregnant by forty percent, but once pregnant it can also cause serious harm to the baby.[51] Because smoking reduces the supply of oxygen from the mother to the fetus, it can lead to complications such as premature birth, lower birth weight, brain damage, sudden infant death syndrome (SIDS) and stillbirth.[52] In fact, according to many health professionals, including the chairman of Obstetrics and Gynecology at Providence Hospital in Michigan, smoking cigarettes is the number one cause of adverse outcomes for babies.[53] Despite the dangers of smoking, mothers often have a difficult time giving up this addictive habit.[54]

Section 4107 of the PPACA requires States to provide Medicaid coverage for counseling and pharmacotherapy to pregnant women who want to quit smoking.[55] Services include diagnostics, therapy, counseling, and the use of prescription and non-prescription tobacco cessation agents approved by the FDA.[56] These services will prevent use of tobacco by pregnant women, thereby not only improving their health, but that of their children. A study published by the Obstetrics and Gynecology Journal found that if mothers quit smoking within the first trimester, they can reduce the chances of health complications for their babies to that of a non-smoker.[57] Even if a mother quits at thirty weeks, this can be sufficient to reduce weight and size related health problems for

48. PPACA, *supra* note 10, at § 4107.
49. *Tobacco Cessation in State Medicaid and Employee Program*, 19 NAT'L CONF. OF ST. LEGS 1 (Jan. 2011) *available at* http://www.ncsl.org/default.aspx?TabId=22022.
50. *See generally, WHO Framework Convention on Tobacco Control*, WORLD HEALTH ORG., http://www.who.int/fctc/en/ (last visited May 17, 2011).
51. Chris Woolston, *How Smoking During Pregnancy Affects You and Your Baby*, BABYCENTER, *available at* http://www.babycenter.com/0_how-smoking-during-pregnancy-affects-you-and-your-baby_1405720.bc (last visited April 22, 2011)
52. *Id.*
53. *Id.*
54. *Id.*
55. ASS'N OF MATERNAL & CHILD HEALTH PROGRAMS, *supra* note 25; PPACA, *supra* note 10, at § 4107.
56. *Id.*
57. Woolston, *supra* note 51.

the baby.[58] Thus, providing tobacco cessation services to pregnant women at any point during the pregnancy can prevent health complications down the line. State grants distributed prior to the PPACA have been successful in helping people stop smoking and have been an effective way to reduce national expenditures for state employees and Medicaid recipients diagnosed with smoking related diseases.[59] Because Medicaid covers pregnant women, tobacco cessation services and prevention could save significant costs that would otherwise be spent on hospitalization and treatment.

VI. CONCLUSION

Society needs to improve health care for mothers and children during the most vulnerable stages, gestation through infancy; and the PPACA takes significant steps in achieving this. Ideally, the PPACA will ensure that health care will be more accessible, affordable, and effective for pregnant women and new mothers. While significant upfront resources have been allocated towards improving maternal health issues, this could result in long-term savings. Prevention and better health care for pregnant women, mothers and infants will reduce hospitalization, doctors' visits, and various medical costs. Not only does the PPACA provide tangible health benefits for women, but has psychological advantages as well. It will reduce the negative connotations related to postpartum depression and breastfeeding in the workplace, while helping to deter smoking. This allows women to be empowered mothers and productive members of society.

Healthier mothers and babies will also lead to a lower infant mortality rate and, therefore, a higher life expectancy rate. Thus, the United States will rise in rankings on the international stage, which in turn will lead to more financial investment in the nation's health care system. This encourages more innovation, access, and higher quality care. Additionally, more prestige will instill more confidence in the national health care system and consequently, health agencies will have more concern for and pressure to maintain quality care and access for pregnant women and mothers.

58. *Id.*
59. *Tobacco Cessation*, *supra* note 49.