



S3805

**SPONSOR'S STATEMENT:** (Begins on page 4 of introduced bill) Yes

**COMMITTEE STATEMENT:**

**ASSEMBLY:** No

**SENATE:** Yes Commerce  
6-3-2019

Commerce  
11-14-2019

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at [www.njleg.state.nj.us](http://www.njleg.state.nj.us))

**FLOOR AMENDMENT STATEMENT:** No

**LEGISLATIVE FISCAL ESTIMATE:** No

**VETO MESSAGE:** No

**GOVERNOR'S PRESS RELEASE ON SIGNING:** Yes

**FOLLOWING WERE PRINTED:**

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**REPORTS:** No

**HEARINGS:** No

**NEWSPAPER ARTICLES:** No

Rwh/cl

- §1 - C.17:48-6ss
- §2 - C.17:48A-7pp
- §3 - C.17:48E-35.43
- §4 - C.17B:26-2.1ll
- §5 - C.17B:27-46.1ss
- §6 - C.17B:27A-7.25
- §7 - C.17B:27A-19.29
- §8 - C.26:2J-4.44
- §9 - C.52:14-17.29cc
- §10 - C.52:14-17.46.6n
- §11 - C.30:4D-6o
- §12 - Note

P.L. 2019, CHAPTER 343, *approved January 13, 2020*  
 Assembly Committee Substitute (*First Reprint*) for  
 Assembly, No. 5509

1 AN ACT concerning health benefits coverage for breastfeeding  
 2 support and supplementing various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
 5 of New Jersey:

6

7 1. a. A hospital service corporation contract that provides  
 8 hospital or medical expense benefits and is delivered, issued,  
 9 executed or renewed in this State, or approved for issuance or  
 10 renewal in this State by the Commissioner of Banking and  
 11 Insurance, on or after the effective date of P.L. \_\_\_\_\_,

12 c. (C. \_\_\_\_\_)(pending before the Legislature as this bill), shall  
 13 provide coverage for comprehensive lactation support <sup>1</sup>**[and]** <sup>1</sup>  
 14 counseling <sup>1</sup>**[by a trained provider]** , and consultation<sup>1</sup>, and the  
 15 costs for renting or purchasing breastfeeding equipment, in  
 16 conjunction with each birth, for the duration of breastfeeding for  
 17 health plan enrollees, with no cost-sharing.

18 b. Coverage of breastfeeding equipment shall include:

19 (1) Purchase of a single-user breast pump, subject to the  
 20 following conditions:

21 (a) A contract shall cover the purchase of a double electric  
 22 breast pump. If an enrollee requests a manual pump in lieu of the  
 23 double electric breast pump, the health plan shall cover the  
 24 purchase of a manual pump.

25 (b) A double electric breast pump provided pursuant to this  
 26 paragraph shall be of sufficient power and durability to establish  
 27 and maintain milk supply for the duration of breastfeeding.

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup> Senate SCM committee amendments adopted November 14, 2019.

1 (c) A contract shall not require documentation of medical  
2 necessity, prior authorization, or a prescription for a breast pump  
3 provided pursuant to this paragraph.

4 (d) Coverage shall be available at any time during pregnancy  
5 and the postpartum period, and shall continue for the duration of  
6 breastfeeding as defined by the plan enrollee.

7 (e) Coverage for breast pumps shall include repair or  
8 replacement if necessary.

9 (2) Rental or purchase of a multi-user breast pump, on the  
10 recommendation of a licensed health care provider, subject to the  
11 following conditions:

12 (a) When recommended by a licensed health care provider, a  
13 contract shall provide coverage for a multi-user breast pump.

14 (b) A hospital service corporation may determine whether a  
15 rental or purchase is covered.

16 (c) Coverage for a multi-user breast pump shall be covered  
17 without regard to coverage or acquisition of a single-user breast  
18 pump.

19 (d) A hospital service corporation may require a letter of  
20 medical necessity from a lactation <sup>1</sup>~~provider~~ consultant<sup>1</sup> or other  
21 health care provider for coverage of a multi-user pump. The letter  
22 shall not interfere with the timely acquisition of a multi-user pump.

23 (3) Coverage of breastfeeding equipment pursuant to this  
24 section shall include two breast pump kits per birth event, as well as  
25 appropriate size breast pump flanges, <sup>1</sup>~~nipple shields, breast~~  
26 ~~shells,~~<sup>1</sup> or other lactation accessories recommended by a health  
27 care<sup>1</sup> provider.

28 (4) Breastfeeding equipment specified in paragraphs (1) and (3)  
29 of this subsection shall be furnished: within 48 hours of notification  
30 of need, if requested after the birth of the child; or by the later of  
31 two weeks before the enrollee's expected due date or 72 hours after  
32 notification, if requested prior to the birth of the child. If the  
33 hospital service corporation cannot ensure an enrollee receives  
34 breastfeeding equipment within 48 hours, an enrollee may purchase  
35 the equipment and the health plan shall reimburse all out-of-pocket  
36 expenses incurred by the enrollee, including any balance billing  
37 amounts.

38 (5) Breastfeeding equipment specified in paragraph (2) of this  
39 subsection shall be made available within 12 hours of notification  
40 of need. If equipment is not available within 12 hours of  
41 notification of need, the hospital service corporation shall reimburse  
42 all out-of-pocket rental expenses incurred by an enrollee, including  
43 any balance billing amounts, until the enrollee receives  
44 breastfeeding equipment.

45 c. Coverage of comprehensive lactation counseling <sup>1</sup>and  
46 lactation consultation<sup>1</sup> shall include:

- 1 (1) In-person, one-on-one lactation counseling <sup>1</sup>【with a】 and<sup>1</sup>  
2 lactation <sup>1</sup>【provider】 consultation<sup>1</sup>, subject to the following  
3 conditions:
- 4 (a) Coverage shall include visits that occur inside and outside a  
5 hospital or office setting. In-person lactation counseling <sup>1</sup>and  
6 lactation consultation<sup>1</sup> shall be covered regardless of location of  
7 service provision and shall include home visits.
- 8 (b) Lactation counseling <sup>1</sup>and lactation consultation<sup>1</sup> shall be  
9 made available within 24 hours of notification of need.
- 10 (2) Telephonic lactation assistance shall be covered in addition  
11 to, and not as a substitute for, in-person, one-on-one lactation  
12 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, when an enrollee requests  
13 one-on-one, in-person lactation counseling <sup>1</sup>or lactation  
14 consultation<sup>1</sup>. The telephonic lactation assistance shall be provided  
15 within 12 hours of notification of need.
- 16 (3) Group lactation counseling shall be covered in addition to,  
17 and not as a substitute for, one-on-one, in-person lactation  
18 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, if an enrollee requests one-  
19 on-one, in-person lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>.  
20 Group counseling shall include educational classes and support  
21 groups.
- 22 (4) A contract shall not require prior authorization, prescription  
23 or referral for any lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>,  
24 regardless of provider type or setting.
- 25 (5) A hospital service corporation shall not impose medical  
26 management techniques not described in this section.
- 27 d. Except as otherwise authorized pursuant to this section, a  
28 hospital service corporation shall not impose restrictions on the  
29 coverage provided pursuant to this section, including, but not  
30 limited to, limitations on reimbursement to allowable amounts or  
31 reasonable and customary charges, documentation requests, or  
32 delays on the coverage provided.
- 33 e. As used in this section:
- 34 “Cost-sharing” means deductible, co-insurance or co-payments,  
35 or similar charges.
- 36 “Breast pump kit” means a collection of tubing, valves, flanges,  
37 collection bottles, <sup>1</sup>【nipple shields,】<sup>1</sup> or other parts required to  
38 extract human milk using a breast pump.
- 39 <sup>1</sup>【“Lactation provider” means an individual who is a licensed or  
40 certified provider with specialty training in breastfeeding and  
41 lactation.】
- 42 “Lactation consultant” means an individual who is an  
43 International Board Certified Lactation Consultant.
- 44 “Lactation consultation” means the clinical application by a  
45 lactation consultant or other licensed health care provider of  
46 scientific principles and a multidisciplinary body of evidence for

1 evaluation, problem identification, treatment, education, and  
2 consultation to child-bearing families utilizing lactation care and  
3 services.

4 Lactation care and services shall include, but not be limited to:

5 (1) lactation assessment through the systematic collection of  
6 subjective and objective data;

7 (2) analysis of data and creation of a plan of care;

8 (3) implementation of a lactation care plan with demonstration  
9 and instruction to parents and communication to the primary health  
10 care provider;

11 (4) evaluation of outcomes;

12 (5) provision of lactation education to parents and health care  
13 providers; and

14 (6) the recommendation and use of assistive devices.<sup>1</sup>

15 "Lactation counseling" means breastfeeding education and  
16 support services provided by a lactation <sup>1</sup>**[provider]** counselor<sup>1</sup>,  
17 such as:

18 (1) educating women, families, health <sup>1</sup>care<sup>1</sup> professionals, and  
19 the community about the impact of breastfeeding and human  
20 lactation on health and what to expect in the normal course of  
21 breastfeeding;

22 (2) acting as an advocate for breastfeeding as the norm for  
23 feeding infants and young children;

24 (3) providing breastfeeding support, encouragement, and care  
25 from preconception to weaning in order to help women and their  
26 families meet their breastfeeding goals;

27 (4) using principles of adult education when teaching clients,  
28 health care providers, and others in the community; and

29 (5) identifying and referring high-risk mothers and babies and  
30 those requiring clinical treatment appropriately.

31 <sup>1</sup>"Lactation counselor" means an individual, other than an  
32 International Board Certified Lactation Consultant or a licensed  
33 health care provider, who is:

34 (1) licensed or certified to practice lactation counseling under  
35 any law, or who is an accredited member belonging to another  
36 profession or occupation, who provides breastfeeding education and  
37 support services for which that person is licensed, regulated,  
38 accredited, or certified; or

39 (2) a community-based lactation supporter who has received at  
40 least 40 hours of specialty education in breastfeeding and lactation,  
41 and who works within a lactation counselor's scope of practice.<sup>1</sup>

42 "Telephonic lactation assistance" means lactation counseling <sup>1</sup>or  
43 consultation<sup>1</sup> with a lactation <sup>1</sup>**[provider]** counselor or lactation  
44 consultant<sup>1</sup> conducted remotely through live voice communication.

1 f. This section shall apply to those contracts in which the  
2 hospital service corporation has reserved the right to change the  
3 premium.

4  
5 2. a. A medical service corporation contract that provides  
6 hospital or medical expense benefits and is delivered, issued,  
7 executed or renewed in this State, or approved for issuance or  
8 renewal in this State by the Commissioner of Banking and  
9 Insurance, on or after the effective date of P.L. , c. (C.  
10 )(pending before the Legislature as this bill), shall provide coverage  
11 for comprehensive lactation support <sup>1</sup>**and** <sup>1</sup> counseling <sup>1</sup>**by a**  
12 **trained provider** <sup>1</sup>, and consultation<sup>1</sup>, and the costs for renting or  
13 purchasing breastfeeding equipment, in conjunction with each birth,  
14 for the duration of breastfeeding for health plan enrollees, with no  
15 cost-sharing.

16 b. Coverage of breastfeeding equipment shall include:

17 (1) Purchase of a single-user breast pump, subject to the  
18 following conditions:

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20 breast pump. If an enrollee requests a manual pump in lieu of the  
21 double electric breast pump, the health plan shall cover the  
22 purchase of a manual pump.

23 (b) A double electric breast pump provided pursuant to this  
24 paragraph shall be of sufficient power and durability to establish  
25 and maintain milk supply for the duration of breastfeeding.

26 (c) A contract shall not require documentation of medical  
27 necessity, prior authorization, or a prescription for a breast pump  
28 provided pursuant to this paragraph.

29 (d) Coverage shall be available at any time during pregnancy  
30 and the postpartum period, and shall continue for the duration of  
31 breastfeeding as defined by the plan enrollee.

32 (e) Coverage for breast pumps shall include repair or  
33 replacement if necessary.

34 (2) Rental or purchase of a multi-user breast pump, on the  
35 recommendation of a licensed health care provider, subject to the  
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46 health care provider for coverage of a multi-user pump. The letter  
47 shall not interfere with the timely acquisition of a multi-user pump.

1 (3) Coverage of breastfeeding equipment pursuant to this  
2 section shall include two breast pump kits per birth event, as well as  
3 appropriate size breast pump flanges, <sup>1</sup>["nipple shields, breast  
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21 any balance billing amounts, until the enrollee receives  
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44 Group counseling shall include educational classes and support  
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1 c. Coverage of comprehensive lactation counseling <sup>1</sup>and  
2 lactation consultation<sup>1</sup> shall include:

3 (1) In-person, one-on-one lactation counseling <sup>1</sup>**【with a】** and<sup>1</sup>  
4 lactation <sup>1</sup>**【provider】** consultation<sup>1</sup>, subject to the following  
5 conditions:

6 (a) Coverage shall include visits that occur inside and outside a  
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29 families meet their breastfeeding goals;

30 (4) using principles of adult education when teaching clients,  
31 health care providers, and others in the community; and

32 (5) identifying and referring high-risk mothers and babies and  
33 those requiring clinical treatment appropriately.

34 <sup>1</sup>“Lactation counselor” means an individual, other than an  
35 International Board Certified Lactation Consultant or a licensed  
36 health care provider, who is:

37 (1) licensed or certified to practice lactation counseling under  
38 any law, or who is an accredited member belonging to another  
39 profession or occupation, who provides breastfeeding education and  
40 support services for which that person is licensed, regulated,  
41 accredited, or certified; or

42 (2) a community-based lactation supporter who has received at  
43 least 40 hours of specialty education in breastfeeding and lactation,  
44 and who works within a lactation counselor’s scope of practice.<sup>1</sup>

1 "Telephonic lactation assistance" means lactation counseling <sup>1</sup>or  
2 consultation<sup>1</sup> with a lactation <sup>1</sup>**[provider]** counselor or lactation  
3 consultant<sup>1</sup> conducted remotely through live voice communication.

4 f. This section shall apply to those contracts in which the  
5 health service corporation has reserved the right to change the  
6 premium.

7  
8 4. a. An individual health insurer policy that provides hospital  
9 or medical expense benefits and is delivered, issued, executed or  
10 renewed in this State, or approved for issuance or renewal in this  
11 State by the Commissioner of Banking and Insurance, on or after  
12 the effective date of P.L. , c. (C. )(pending before the  
13 Legislature as this bill), shall provide coverage for comprehensive  
14 lactation support <sup>1</sup>**[and]** <sup>1</sup>counseling <sup>1</sup>**[by a trained provider]** ,  
15 and consultation<sup>1</sup>, and the costs for renting or purchasing  
16 breastfeeding equipment, in conjunction with each birth, for the  
17 duration of breastfeeding for health plan enrollees, with no cost-  
18 sharing.

19 b. Coverage of breastfeeding equipment shall include:

20 (1) Purchase of a single-user breast pump, subject to the  
21 following conditions:

22 (a) A policy shall cover the purchase of a double electric breast  
23 pump. If an enrollee requests a manual pump in lieu of the double  
24 electric breast pump, the health plan shall cover the purchase of a  
25 manual pump.

26 (b) A double electric breast pump provided pursuant to this  
27 paragraph shall be of sufficient power and durability to establish  
28 and maintain milk supply for the duration of breastfeeding.

29 (c) A policy shall not require documentation of medical  
30 necessity, prior authorization, or a prescription for a breast pump  
31 provided pursuant to this paragraph.

32 (d) Coverage shall be available at any time during pregnancy  
33 and the postpartum period, and shall continue for the duration of  
34 breastfeeding as defined by the plan enrollee.

35 (e) Coverage for breast pumps shall include repair or  
36 replacement if necessary.

37 (2) Rental or purchase of a multi-user breast pump, on the  
38 recommendation of a licensed health care provider, subject to the  
39 following conditions:

40 (a) When recommended by a licensed health care provider, a  
41 policy shall provide coverage for a multi-user breast pump.

42 (b) An individual health insurer may determine whether a rental  
43 or purchase is covered.

44 (c) Coverage for a multi-user breast pump shall be covered  
45 without regard to coverage or acquisition of a single-user breast  
46 pump.

1 (d) An individual health insurer may require a letter of medical  
2 necessity from a lactation <sup>1</sup>**[provider] consultant<sup>1</sup>** or other health  
3 care provider for coverage of a multi-user pump. The letter shall  
4 not interfere with the timely acquisition of a multi-user pump.

5 (3) Coverage of breastfeeding equipment pursuant to this  
6 section shall include two breast pump kits per birth event, as well as  
7 appropriate size breast pump flanges, <sup>1</sup>**[nipple shields, breast  
8 shells,]<sup>1</sup>** or other lactation accessories recommended by a health  
9 <sup>1</sup>**care<sup>1</sup>** provider.

10 (4) Breastfeeding equipment specified in paragraphs (1) and (3)  
11 of this subsection shall be furnished: within 48 hours of notification  
12 of need, if requested after the birth of the child; or by the later of  
13 two weeks before the enrollee's expected due date or 72 hours after  
14 notification, if requested prior to the birth of the child. If the  
15 individual health insurer cannot ensure an enrollee receives  
16 breastfeeding equipment within 48 hours, an enrollee may purchase  
17 the equipment and the health plan shall reimburse all out-of-pocket  
18 expenses incurred by the enrollee, including any balance billing  
19 amounts.

20 (5) Breastfeeding equipment specified in paragraph (2) of this  
21 subsection shall be made available within 12 hours of notification  
22 of need. If equipment is not available within 12 hours of  
23 notification of need, the individual health insurer shall reimburse all  
24 out-of-pocket rental expenses incurred by an enrollee, including any  
25 balance billing amounts, until the enrollee receives breastfeeding  
26 equipment.

27 c. Coverage of comprehensive lactation counseling <sup>1</sup>**and**  
28 **lactation consultation<sup>1</sup>** shall include:

29 (1) In-person, one-on-one lactation counseling <sup>1</sup>**[with a] and<sup>1</sup>**  
30 lactation <sup>1</sup>**[provider] consultation<sup>1</sup>**, subject to the following  
31 conditions:

32 (a) Coverage shall include visits that occur inside and outside a  
33 hospital or office setting. In-person lactation counseling <sup>1</sup>**and**  
34 **lactation consultation<sup>1</sup>** shall be covered regardless of location of  
35 service provision and shall include home visits.

36 (b) Lactation counseling <sup>1</sup>**and lactation consultation<sup>1</sup>** shall be  
37 made available within 24 hours of notification of need.

38 (2) Telephonic lactation assistance shall be covered in addition  
39 to, and not as a substitute for, in-person, one-on-one lactation  
40 counseling <sup>1</sup>**or lactation consultation<sup>1</sup>**, when an enrollee requests  
41 one-on-one, in-person lactation counseling <sup>1</sup>**or lactation**  
42 **consultation<sup>1</sup>**. The telephonic lactation assistance shall be provided  
43 within 12 hours of notification of need.

44 (3) Group lactation counseling shall be covered in addition to,  
45 and not as a substitute for, one-on-one, in-person lactation  
46 counseling <sup>1</sup>**or lactation consultation<sup>1</sup>**, if an enrollee requests one-

1 on-one, in-person lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>.  
2 Group counseling shall include educational classes and support  
3 groups.

4 (4) A policy shall not require prior authorization, prescription or  
5 referral for any lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>,  
6 regardless of provider type or setting.

7 (5) An individual health insurer shall not impose medical  
8 management techniques not described in this section.

9 d. Except as otherwise authorized pursuant to this section, an  
10 individual health insurer shall not impose restrictions on the  
11 coverage provided pursuant to this section, including, but not  
12 limited to, limitations on reimbursement to allowable amounts or  
13 reasonable and customary charges, documentation requests, or  
14 delays on the coverage provided.

15 e. As used in this section:

16 "Cost-sharing" means deductible, co-insurance or co-payments,  
17 or similar charges.

18 "Breast pump kit" means a collection of tubing, valves, flanges,  
19 collection bottles, <sup>1</sup>**["nipple shields,"]**<sup>1</sup> or other parts required to  
20 extract human milk using a breast pump.

21 <sup>1</sup>**["Lactation provider" means an individual who is a licensed or  
22 certified provider with specialty training in breastfeeding and  
23 lactation.]**

24 "Lactation consultant" means an individual who is an  
25 International Board Certified Lactation Consultant.

26 "Lactation consultation" means the clinical application by a  
27 lactation consultant or other licensed health care provider of  
28 scientific principles and a multidisciplinary body of evidence for  
29 evaluation, problem identification, treatment, education, and  
30 consultation to child-bearing families utilizing lactation care and  
31 services.

32 Lactation care and services shall include, but not be limited to:

33 (1) lactation assessment through the systematic collection of  
34 subjective and objective data;

35 (2) analysis of data and creation of a plan of care;

36 (3) implementation of a lactation care plan with demonstration  
37 and instruction to parents and communication to the primary health  
38 care provider;

39 (4) evaluation of outcomes;

40 (5) provision of lactation education to parents and health care  
41 providers; and

42 (6) the recommendation and use of assistive devices.<sup>1</sup>

43 "Lactation counseling" means breastfeeding education and  
44 support services provided by a lactation <sup>1</sup>**["provider"]** counselor<sup>1</sup>,  
45 such as:



- 1 (1) educating women, families, health <sup>1</sup>care<sup>1</sup> professionals, and  
2 the community about the impact of breastfeeding and human  
3 lactation on health and what to expect in the normal course of  
4 breastfeeding;
- 5 (2) acting as an advocate for breastfeeding as the norm for  
6 feeding infants and young children;
- 7 (3) providing breastfeeding support, encouragement, and care  
8 from preconception to weaning in order to help women and their  
9 families meet their breastfeeding goals;
- 10 (4) using principles of adult education when teaching clients,  
11 health care providers, and others in the community; and
- 12 (5) identifying and referring high-risk mothers and babies and  
13 those requiring clinical treatment appropriately.

14 <sup>1</sup>“Lactation counselor” means an individual, other than an  
15 International Board Certified Lactation Consultant or a licensed  
16 health care provider, who is:

- 17 (1) licensed or certified to practice lactation counseling under  
18 any law, or who is an accredited member belonging to another  
19 profession or occupation, who provides breastfeeding education and  
20 support services for which that person is licensed, regulated,  
21 accredited, or certified; or
- 22 (2) a community-based lactation supporter who has received at  
23 least 40 hours of specialty education in breastfeeding and lactation,  
24 and who works within a lactation counselor’s scope of practice.<sup>1</sup>

25 "Telephonic lactation assistance" means lactation counseling <sup>1</sup>or  
26 consultation<sup>1</sup> with a lactation <sup>1</sup>**[provider]** counselor or lactation  
27 consultant<sup>1</sup> conducted remotely through live voice communication.

28 f. This section shall apply to those policies in which the  
29 individual health insurer has reserved the right to change the  
30 premium.

31

32 5. a. A group health insurer policy that provides hospital or  
33 medical expense benefits and is delivered, issued, executed or  
34 renewed in this State, or approved for issuance or renewal in this  
35 State by the Commissioner of Banking and Insurance, on or after  
36 the effective date of P.L. , c. (C. )(pending before the  
37 Legislature as this bill), shall provide coverage for comprehensive  
38 lactation support <sup>1</sup>**[and]** <sup>1</sup> counseling <sup>1</sup>**[by a trained provider]** ,  
39 and consultation<sup>1</sup>, and the costs for renting or purchasing  
40 breastfeeding equipment, in conjunction with each birth, for the  
41 duration of breastfeeding for health plan enrollees, with no cost-  
42 sharing.

43 b. Coverage of breastfeeding equipment shall include:

- 44 (1) Purchase of a single-user breast pump, subject to the  
45 following conditions:

- 1 (a) A policy shall cover the purchase of a double electric breast  
2 pump. If an enrollee requests a manual pump in lieu of the double  
3 electric breast pump, the health plan shall cover the purchase of a  
4 manual pump.
- 5 (b) A double electric breast pump provided pursuant to this  
6 paragraph shall be of sufficient power and durability to establish  
7 and maintain milk supply for the duration of breastfeeding.
- 8 (c) A policy shall not require documentation of medical  
9 necessity, prior authorization, or a prescription for a breast pump  
10 provided pursuant to this paragraph.
- 11 (d) Coverage shall be available at any time during pregnancy  
12 and the postpartum period, and shall continue for the duration of  
13 breastfeeding as defined by the plan enrollee.
- 14 (e) Coverage for breast pumps shall include repair or  
15 replacement if necessary.
- 16 (2) Rental or purchase of a multi-user breast pump, on the  
17 recommendation of a licensed health care provider, subject to the  
18 following conditions:
- 19 (a) When recommended by a licensed health care provider, a  
20 policy shall provide coverage for a multi-user breast pump.
- 21 (b) A group health insurer may determine whether a rental or  
22 purchase is covered.
- 23 (c) Coverage for a multi-user breast pump shall be covered  
24 without regard to coverage or acquisition of a single-user breast  
25 pump.
- 26 (d) A group health insurer may require a letter of medical  
27 necessity from a lactation <sup>1</sup>**[provider]** consultant<sup>1</sup> or other health  
28 care provider for coverage of a multi-user pump. The letter shall  
29 not interfere with the timely acquisition of a multi-user pump.
- 30 (3) Coverage of breastfeeding equipment pursuant to this  
31 section shall include two breast pump kits per birth event, as well as  
32 appropriate size breast pump flanges, <sup>1</sup>**[nipple shields, breast**  
33 **shells,]**<sup>1</sup> or other lactation accessories recommended by a health  
34 <sup>1</sup>care<sup>1</sup> provider.
- 35 (4) Breastfeeding equipment specified in paragraphs (1) and (3)  
36 of this subsection shall be furnished: within 48 hours of notification  
37 of need, if requested after the birth of the child; or by the later of  
38 two weeks before the enrollee's expected due date or 72 hours after  
39 notification, if requested prior to the birth of the child. If the group  
40 health insurer cannot ensure an enrollee receives breastfeeding  
41 equipment within 48 hours, an enrollee may purchase the equipment  
42 and the health plan shall reimburse all out-of-pocket expenses  
43 incurred by the enrollee, including any balance billing amounts.
- 44 (5) Breastfeeding equipment specified in paragraph (2) of this  
45 subsection shall be made available within 12 hours of notification  
46 of need. If equipment is not available within 12 hours of  
47 notification of need, the group health insurer shall reimburse all

1 out-of-pocket rental expenses incurred by an enrollee, including any  
2 balance billing amounts, until the enrollee receives breastfeeding  
3 equipment.

4 c. Coverage of comprehensive lactation counseling <sup>1</sup>and  
5 lactation consultation<sup>1</sup> shall include:

6 (1) In-person, one-on-one lactation counseling <sup>1</sup>[with a] and<sup>1</sup>  
7 lactation <sup>1</sup>[provider] consultation<sup>1</sup>, subject to the following  
8 conditions:

9 (a) Coverage shall include visits that occur inside and outside a  
10 hospital or office setting. In-person lactation counseling <sup>1</sup>and  
11 lactation consultation<sup>1</sup> shall be covered regardless of location of  
12 service provision and shall include home visits.

13 (b) Lactation counseling <sup>1</sup>and lactation consultation<sup>1</sup> shall be  
14 made available within 24 hours of notification of need.

15 (2) Telephonic lactation assistance shall be covered in addition  
16 to, and not as a substitute for, in-person, one-on-one lactation  
17 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, when an enrollee requests  
18 one-on-one, in-person lactation counseling <sup>1</sup>or lactation  
19 consultation<sup>1</sup>. The telephonic lactation assistance shall be provided  
20 within 12 hours of notification of need.

21 (3) Group lactation counseling shall be covered in addition to,  
22 and not as a substitute for, one-on-one, in-person lactation  
23 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, if an enrollee requests one-  
24 on-one, in-person lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>.  
25 Group counseling shall include educational classes and support  
26 groups.

27 (4) A policy shall not require prior authorization, prescription or  
28 referral for any lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>,  
29 regardless of provider type or setting.

30 (5) A group health insurer shall not impose medical  
31 management techniques not described in this section.

32 d. Except as otherwise authorized pursuant to this section, a  
33 group health insurer shall not impose restrictions on the coverage  
34 provided pursuant to this section, including, but not limited to,  
35 limitations on reimbursement to allowable amounts or reasonable  
36 and customary charges, documentation requests, or delays on the  
37 coverage provided.

38 e. As used in this section:

39 "Cost-sharing" means deductible, co-insurance or co-payments,  
40 or similar charges.

41 "Breast pump kit" means a collection of tubing, valves, flanges,  
42 collection bottles, <sup>1</sup>[nipple shields,]<sup>1</sup> or other parts required to  
43 extract human milk using a breast pump.

1 <sup>1</sup>["Lactation provider" means an individual who is a licensed or  
2 certified provider with specialty training in breastfeeding and  
3 lactation.]

4 "Lactation consultant" means an individual who is an  
5 International Board Certified Lactation Consultant.

6 "Lactation consultation" means the clinical application by a  
7 lactation consultant or other licensed health care provider of  
8 scientific principles and a multidisciplinary body of evidence for  
9 evaluation, problem identification, treatment, education, and  
10 consultation to child-bearing families utilizing lactation care and  
11 services.

12 Lactation care and services shall include, but not be limited to:

13 (1) lactation assessment through the systematic collection of  
14 subjective and objective data;

15 (2) analysis of data and creation of a plan of care;

16 (3) implementation of a lactation care plan with demonstration  
17 and instruction to parents and communication to the primary health  
18 care provider;

19 (4) evaluation of outcomes;

20 (5) provision of lactation education to parents and health care  
21 providers; and

22 (6) the recommendation and use of assistive devices.<sup>1</sup>

23 "Lactation counseling" means breastfeeding education and  
24 support services provided by a lactation <sup>1</sup>["provider"] counselor<sup>1</sup>,  
25 such as:

26 (1) educating women, families, health <sup>1</sup>care<sup>1</sup> professionals, and  
27 the community about the impact of breastfeeding and human  
28 lactation on health and what to expect in the normal course of  
29 breastfeeding;

30 (2) acting as an advocate for breastfeeding as the norm for  
31 feeding infants and young children;

32 (3) providing breastfeeding support, encouragement, and care  
33 from preconception to weaning in order to help women and their  
34 families meet their breastfeeding goals;

35 (4) using principles of adult education when teaching clients,  
36 health care providers, and others in the community; and

37 (5) identifying and referring high-risk mothers and babies and  
38 those requiring clinical treatment appropriately.

39 <sup>1</sup>"Lactation counselor" means an individual, other than an  
40 International Board Certified Lactation Consultant or a licensed  
41 health care provider, who is:

42 (1) licensed or certified to practice lactation counseling under  
43 any law, or who is an accredited member belonging to another  
44 profession or occupation, who provides breastfeeding education and  
45 support services for which that person is licensed, regulated,  
46 accredited, or certified; or

1       (2) a community-based lactation supporter who has received at  
2 least 40 hours of specialty education in breastfeeding and lactation,  
3 and who works within a lactation counselor's scope of practice.<sup>1</sup>

4       "Telephonic lactation assistance" means lactation counseling <sup>1</sup>or  
5 consultation<sup>1</sup> with a lactation <sup>1</sup>**[provider]** counselor or lactation  
6 consultant<sup>1</sup> conducted remotely through live voice communication.

7       f. This section shall apply to those policies in which the group  
8 health insurer has reserved the right to change the premium.

9  
10       6. a. An individual health benefits plan that provides hospital  
11 or medical expense benefits and is delivered, issued, executed or  
12 renewed in this State, or approved for issuance or renewal in this  
13 State by the Commissioner of Banking and Insurance, on or after  
14 the effective date of P.L.     , c.     (C.     )(pending before the  
15 Legislature as this bill), shall provide coverage for comprehensive  
16 lactation support <sup>1</sup>**[and]** <sup>1</sup> counseling <sup>1</sup>**[by a trained provider]** <sup>2</sup>  
17 and consultation<sup>1</sup>, and the costs for renting or purchasing  
18 breastfeeding equipment, in conjunction with each birth, for the  
19 duration of breastfeeding for health plan enrollees, with no cost-  
20 sharing.

21       b. Coverage of breastfeeding equipment shall include:

22       (1) Purchase of a single-user breast pump, subject to the  
23 following conditions:

24       (a) A plan shall cover the purchase of a double electric breast  
25 pump. If an enrollee requests a manual pump in lieu of the double  
26 electric breast pump, the health plan shall cover the purchase of a  
27 manual pump.

28       (b) A double electric breast pump provided pursuant to this  
29 paragraph shall be of sufficient power and durability to establish  
30 and maintain milk supply for the duration of breastfeeding.

31       (c) A plan shall not require documentation of medical necessity,  
32 prior authorization, or a prescription for a breast pump provided  
33 pursuant to this paragraph.

34       (d) Coverage shall be available at any time during pregnancy  
35 and the postpartum period, and shall continue for the duration of  
36 breastfeeding as defined by the plan enrollee.

37       (e) Coverage for breast pumps shall include repair or  
38 replacement if necessary.

39       (2) Rental or purchase of a multi-user breast pump, on the  
40 recommendation of a licensed health care provider, subject to the  
41 following conditions:

42       (a) When recommended by a licensed health care provider, a  
43 plan shall provide coverage for a multi-user breast pump.

44       (b) An individual health benefits plan may determine whether a  
45 rental or purchase is covered.

1 (c) Coverage for a multi-user breast pump shall be covered  
2 without regard to coverage or acquisition of a single-user breast  
3 pump.

4 (d) An individual health benefits plan may require a letter of  
5 medical necessity from a lactation <sup>1</sup>provider consultant<sup>1</sup> or other  
6 health care provider for coverage of a multi-user pump. The letter  
7 shall not interfere with the timely acquisition of a multi-user pump.

8 (3) Coverage of breastfeeding equipment pursuant to this  
9 section shall include two breast pump kits per birth event, as well as  
10 appropriate size breast pump flanges, <sup>1</sup>nipple shields, breast  
11 shells,<sup>1</sup> or other lactation accessories recommended by a health  
12 <sup>1</sup>care<sup>1</sup> provider.

13 (4) Breastfeeding equipment specified in paragraphs (1) and (3)  
14 of this subsection shall be furnished: within 48 hours of notification  
15 of need, if requested after the birth of the child; or by the later of  
16 two weeks before the enrollee's expected due date or 72 hours after  
17 notification, if requested prior to the birth of the child. If the  
18 individual health benefits plan cannot ensure an enrollee receives  
19 breastfeeding equipment within 48 hours, an enrollee may purchase  
20 the equipment and the health plan shall reimburse all out-of-pocket  
21 expenses incurred by the enrollee, including any balance billing  
22 amounts.

23 (5) Breastfeeding equipment specified in paragraph (2) of this  
24 subsection shall be made available within 12 hours of notification  
25 of need. If equipment is not available within 12 hours of  
26 notification of need, the individual health benefits plan shall  
27 reimburse all out-of-pocket rental expenses incurred by an enrollee,  
28 including any balance billing amounts, until the enrollee receives  
29 breastfeeding equipment.

30 c. Coverage of comprehensive lactation counseling <sup>1</sup>and  
31 lactation consultation<sup>1</sup> shall include:

32 (1) In-person, one-on-one lactation counseling <sup>1</sup>[with a] and<sup>1</sup>  
33 lactation <sup>1</sup>provider consultation<sup>1</sup>, subject to the following  
34 conditions:

35 (a) Coverage shall include visits that occur inside and outside a  
36 hospital or office setting. In-person lactation counseling <sup>1</sup>and  
37 lactation consultation<sup>1</sup> shall be covered regardless of location of  
38 service provision and shall include home visits.

39 (b) Lactation counseling <sup>1</sup>and lactation consultation<sup>1</sup> shall be  
40 made available within 24 hours of notification of need.

41 (2) Telephonic lactation assistance shall be covered in addition  
42 to, and not as a substitute for, in-person, one-on-one lactation  
43 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, when an enrollee requests  
44 one-on-one, in-person lactation counseling <sup>1</sup>or lactation  
45 consultation<sup>1</sup>. The telephonic lactation assistance shall be provided  
46 within 12 hours of notification of need.

1 (3) Group lactation counseling shall be covered in addition to,  
2 and not as a substitute for, one-on-one, in-person lactation  
3 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, if an enrollee requests one-  
4 on-one, in-person lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>.  
5 Group counseling shall include educational classes and support  
6 groups.

7 (4) A plan shall not require prior authorization, prescription or  
8 referral for any lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>,  
9 regardless of provider type or setting.

10 (5) An individual health benefits plan shall not impose medical  
11 management techniques not described in this section.

12 d. Except as otherwise authorized pursuant to this section, an  
13 individual health benefits plan shall not impose restrictions on the  
14 coverage provided pursuant to this section, including, but not  
15 limited to, limitations on reimbursement to allowable amounts or  
16 reasonable and customary charges, documentation requests, or  
17 delays on the coverage provided.

18 e. As used in this section:

19 "Cost-sharing" means deductible, co-insurance or co-payments,  
20 or similar charges.

21 "Breast pump kit" means a collection of tubing, valves, flanges,  
22 collection bottles, <sup>1</sup>[nipple shields,]<sup>1</sup> or other parts required to  
23 extract human milk using a breast pump.

24 <sup>1</sup>["Lactation provider" means an individual who is a licensed or  
25 certified provider with specialty training in breastfeeding and  
26 lactation.]

27 "Lactation consultant" means an individual who is an  
28 International Board Certified Lactation Consultant.

29 "Lactation consultation" means the clinical application by a  
30 lactation consultant or other licensed health care provider of  
31 scientific principles and a multidisciplinary body of evidence for  
32 evaluation, problem identification, treatment, education, and  
33 consultation to child-bearing families utilizing lactation care and  
34 services.

35 Lactation care and services shall include, but not be limited to:

36 (1) lactation assessment through the systematic collection of  
37 subjective and objective data;

38 (2) analysis of data and creation of a plan of care;

39 (3) implementation of a lactation care plan with demonstration  
40 and instruction to parents and communication to the primary health  
41 care provider;

42 (4) evaluation of outcomes;

43 (5) provision of lactation education to parents and health care  
44 providers; and

45 (6) the recommendation and use of assistive devices.<sup>1</sup>

1 "Lactation counseling" means breastfeeding education and  
2 support services provided by a lactation <sup>1</sup>**[provider]** counselor<sup>1</sup>,  
3 such as:

4 (1) educating women, families, health <sup>1</sup>care<sup>1</sup> professionals, and  
5 the community about the impact of breastfeeding and human  
6 lactation on health and what to expect in the normal course of  
7 breastfeeding;

8 (2) acting as an advocate for breastfeeding as the norm for  
9 feeding infants and young children;

10 (3) providing breastfeeding support, encouragement, and care  
11 from preconception to weaning in order to help women and their  
12 families meet their breastfeeding goals;

13 (4) using principles of adult education when teaching clients,  
14 health care providers, and others in the community; and

15 (5) identifying and referring high-risk mothers and babies and  
16 those requiring clinical treatment appropriately.

17 <sup>1</sup>"Lactation counselor" means an individual, other than an  
18 International Board Certified Lactation Consultant or a licensed  
19 health care provider, who is:

20 (1) licensed or certified to practice lactation counseling under  
21 any law, or who is an accredited member belonging to another  
22 profession or occupation, who provides breastfeeding education and  
23 support services for which that person is licensed, regulated,  
24 accredited, or certified; or

25 (2) a community-based lactation supporter who has received at  
26 least 40 hours of specialty education in breastfeeding and lactation,  
27 and who works within a lactation counselor's scope of practice.<sup>1</sup>

28 "Telephonic lactation assistance" means lactation counseling <sup>1</sup>or  
29 consultation<sup>1</sup> with a lactation <sup>1</sup>**[provider]** counselor or lactation  
30 consultant<sup>1</sup> conducted remotely through live voice communication.

31 f. This section shall apply to those plans in which the  
32 individual health benefits plan has reserved the right to change the  
33 premium.

34  
35 7. a. A small employer health benefits plan that provides  
36 hospital or medical expense benefits and is delivered, issued,  
37 executed or renewed in this State, or approved for issuance or  
38 renewal in this State by the Commissioner of Banking and  
39 Insurance, on or after the effective date of P.L. ,

40 c. (C. )(pending before the Legislature as this bill), shall  
41 provide coverage for comprehensive lactation support <sup>1</sup>**[and]** <sup>1</sup>,  
42 counseling <sup>1</sup>**[by a trained provider]** , and consultation<sup>1</sup>, and the  
43 costs for renting or purchasing breastfeeding equipment, in  
44 conjunction with each birth, for the duration of breastfeeding for  
45 health plan enrollees, with no cost-sharing.

46 b. Coverage of breastfeeding equipment shall include:



- 1 (1) Purchase of a single-user breast pump, subject to the  
2 following conditions:
- 3 (a) A plan shall cover the purchase of a double electric breast  
4 pump. If an enrollee requests a manual pump in lieu of the double  
5 electric breast pump, the health plan shall cover the purchase of a  
6 manual pump.
- 7 (b) A double electric breast pump provided pursuant to this  
8 paragraph shall be of sufficient power and durability to establish  
9 and maintain milk supply for the duration of breastfeeding.
- 10 (c) A plan shall not require documentation of medical necessity,  
11 prior authorization, or a prescription for a breast pump provided  
12 pursuant to this paragraph.
- 13 (d) Coverage shall be available at any time during pregnancy  
14 and the postpartum period, and shall continue for the duration of  
15 breastfeeding as defined by the plan enrollee.
- 16 (e) Coverage for breast pumps shall include repair or  
17 replacement if necessary.
- 18 (2) Rental or purchase of a multi-user breast pump, on the  
19 recommendation of a licensed health care provider, subject to the  
20 following conditions:
- 21 (a) When recommended by a licensed health care provider, a  
22 plan shall provide coverage for a multi-user breast pump.
- 23 (b) A small employer health benefits plan may determine  
24 whether a rental or purchase is covered.
- 25 (c) Coverage for a multi-user breast pump shall be covered  
26 without regard to coverage or acquisition of a single-user breast  
27 pump.
- 28 (d) A small employer health benefits plan may require a letter of  
29 medical necessity from a lactation <sup>1</sup>provider consultant<sup>1</sup> or other  
30 health care provider for coverage of a multi-user pump. The letter  
31 shall not interfere with the timely acquisition of a multi-user pump.
- 32 (3) Coverage of breastfeeding equipment pursuant to this  
33 section shall include two breast pump kits per birth event, as well as  
34 appropriate size breast pump flanges, <sup>1</sup>nipple shields, breast  
35 shells,<sup>1</sup> or other lactation accessories recommended by a health  
36 <sup>1</sup>care<sup>1</sup> provider.
- 37 (4) Breastfeeding equipment specified in paragraphs (1) and (3)  
38 of this subsection shall be furnished: within 48 hours of notification  
39 of need, if requested after the birth of the child; or by the later of  
40 two weeks before the enrollee's expected due date or 72 hours after  
41 notification, if requested prior to the birth of the child. If the small  
42 employer health benefits plan cannot ensure an enrollee receives  
43 breastfeeding equipment within 48 hours, an enrollee may purchase  
44 the equipment and the health plan shall reimburse all out-of-pocket  
45 expenses incurred by the enrollee, including any balance billing  
46 amounts.

1 (5) Breastfeeding equipment specified in paragraph (2) of this  
2 subsection shall be made available within 12 hours of notification  
3 of need. If equipment is not available within 12 hours of  
4 notification of need, the small employer health benefits plan shall  
5 reimburse all out-of-pocket rental expenses incurred by an enrollee,  
6 including any balance billing amounts, until the enrollee receives  
7 breastfeeding equipment.

8 c. Coverage of comprehensive lactation counseling <sup>1</sup>and  
9 lactation consultation<sup>1</sup> shall include:

10 (1) In-person, one-on-one lactation counseling <sup>1</sup>[with a] and<sup>1</sup>  
11 lactation [provider] consultation<sup>1</sup>, subject to the following  
12 conditions:

13 (a) Coverage shall include visits that occur inside and outside a  
14 hospital or office setting. In-person lactation counseling <sup>1</sup>and  
15 lactation consultation<sup>1</sup> shall be covered regardless of location of  
16 service provision and shall include home visits.

17 (b) Lactation counseling <sup>1</sup>and lactation consultation<sup>1</sup> shall be  
18 made available within 24 hours of notification of need.

19 (2) Telephonic lactation assistance shall be covered in addition  
20 to, and not as a substitute for, in-person, one-on-one lactation  
21 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, when an enrollee requests  
22 one-on-one, in-person lactation counseling <sup>1</sup>or lactation  
23 consultation<sup>1</sup>. The telephonic lactation assistance shall be provided  
24 within 12 hours of notification of need.

25 (3) Group lactation counseling shall be covered in addition to,  
26 and not as a substitute for, one-on-one, in-person lactation  
27 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, if an enrollee requests one-  
28 on-one, in-person lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>.  
29 Group counseling shall include educational classes and support  
30 groups.

31 (4) A plan shall not require prior authorization, prescription or  
32 referral for any lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>,  
33 regardless of provider type or setting.

34 (5) A small employer health benefits plan shall not impose  
35 medical management techniques not described in this section.

36 d. Except as otherwise authorized pursuant to this section, a  
37 small employer health benefits plan shall not impose restrictions on  
38 the coverage provided pursuant to this section, including, but not  
39 limited to, limitations on reimbursement to allowable amounts or  
40 reasonable and customary charges, documentation requests, or  
41 delays on the coverage provided.

42 e. As used in this section:

43 “Cost-sharing” means deductible, co-insurance or co-payments,  
44 or similar charges.

1 "Breast pump kit" means a collection of tubing, valves, flanges,  
2 collection bottles, <sup>1</sup>[nipple shields,]<sup>1</sup> or other parts required to  
3 extract human milk using a breast pump.

4 <sup>1</sup>["Lactation provider" means an individual who is a licensed or  
5 certified provider with specialty training in breastfeeding and  
6 lactation.]

7 "Lactation consultant" means an individual who is an  
8 International Board Certified Lactation Consultant.

9 "Lactation consultation" means the clinical application by a  
10 lactation consultant or other licensed health care provider of  
11 scientific principles and a multidisciplinary body of evidence for  
12 evaluation, problem identification, treatment, education, and  
13 consultation to child-bearing families utilizing lactation care and  
14 services.

15 Lactation care and services shall include, but not be limited to:

16 (1) lactation assessment through the systematic collection of  
17 subjective and objective data;

18 (2) analysis of data and creation of a plan of care;

19 (3) implementation of a lactation care plan with demonstration  
20 and instruction to parents and communication to the primary health  
21 care provider;

22 (4) evaluation of outcomes;

23 (5) provision of lactation education to parents and health care  
24 providers; and

25 (6) the recommendation and use of assistive devices.<sup>1</sup>

26 "Lactation counseling" means breastfeeding education and  
27 support services provided by a lactation <sup>1</sup>[provider] counselor<sup>1</sup>,  
28 such as:

29 (1) educating women, families, health <sup>1</sup>care<sup>1</sup> professionals, and  
30 the community about the impact of breastfeeding and human  
31 lactation on health and what to expect in the normal course of  
32 breastfeeding;

33 (2) acting as an advocate for breastfeeding as the norm for  
34 feeding infants and young children;

35 (3) providing breastfeeding support, encouragement, and care  
36 from preconception to weaning in order to help women and their  
37 families meet their breastfeeding goals;

38 (4) using principles of adult education when teaching clients,  
39 health care providers, and others in the community; and

40 (5) identifying and referring high-risk mothers and babies and  
41 those requiring clinical treatment appropriately.

42 <sup>1</sup>"Lactation counselor" means an individual, other than an  
43 International Board Certified Lactation Consultant or a licensed  
44 health care provider, who is:

45 (1) licensed or certified to practice lactation counseling under  
46 any law, or who is an accredited member belonging to another

1 profession or occupation, who provides breastfeeding education and  
2 support services for which that person is licensed, regulated,  
3 accredited, or certified; or

4 (2) a community-based lactation supporter who has received at  
5 least 40 hours of specialty education in breastfeeding and lactation,  
6 and who works within a lactation counselor's scope of practice.<sup>1</sup>

7 "Telephonic lactation assistance" means lactation counseling <sup>1</sup>or  
8 consultation<sup>1</sup> with a lactation <sup>1</sup>**[provider]** counselor or lactation  
9 consultant<sup>1</sup> conducted remotely through live voice communication.

10 f. This section shall apply to those plans in which the small  
11 employer health benefits plan has reserved the right to change the  
12 premium.

13  
14 8. a. A health maintenance organization contract that provides  
15 hospital or medical expense benefits and is delivered, issued,  
16 executed or renewed in this State, or approved for issuance or  
17 renewal in this State by the Commissioner of Banking and  
18 Insurance, on or after the effective date of P.L. ,

19 c. (C. )(pending before the Legislature as this bill), shall  
20 provide coverage for comprehensive lactation support <sup>1</sup>**[and]** ,<sup>1</sup>  
21 counseling <sup>1</sup>**[by a trained provider]** , and consultation<sup>1</sup>, and the  
22 costs for renting or purchasing breastfeeding equipment, in  
23 conjunction with each birth, for the duration of breastfeeding for  
24 contract enrollees, with no cost-sharing.

25 b. Coverage of breastfeeding equipment shall include:

26 (1) Purchase of a single-user breast pump, subject to the  
27 following conditions:

28 (a) A contract shall cover the purchase of a double electric  
29 breast pump. If an enrollee requests a manual pump in lieu of the  
30 double electric breast pump, the contract shall cover the purchase of  
31 a manual pump.

32 (b) A double electric breast pump provided pursuant to this  
33 paragraph shall be of sufficient power and durability to establish  
34 and maintain milk supply for the duration of breastfeeding.

35 (c) A contract shall not require documentation of medical  
36 necessity, prior authorization, or a prescription for a breast pump  
37 provided pursuant to this paragraph.

38 (d) Coverage shall be available at any time during pregnancy  
39 and the postpartum period, and shall continue for the duration of  
40 breastfeeding as defined by the contract enrollee.

41 (e) Coverage for breast pumps shall include repair or  
42 replacement if necessary.

43 (2) Rental or purchase of a multi-user breast pump, on the  
44 recommendation of a licensed health care provider, subject to the  
45 following conditions:

- 1 (a) When recommended by a licensed health care provider, a  
2 contract shall provide coverage for a multi-user breast pump.
- 3 (b) A health maintenance organization may determine whether a  
4 rental or purchase is covered.
- 5 (c) Coverage for a multi-user breast pump shall be covered  
6 without regard to coverage or acquisition of a single-user breast  
7 pump.
- 8 (d) A health maintenance organization may require a letter of  
9 medical necessity from a lactation <sup>1</sup> **provider** consultant<sup>1</sup> or other  
10 health care provider for coverage of a multi-user pump. The letter  
11 shall not interfere with the timely acquisition of a multi-user pump.
- 12 (3) Coverage of breastfeeding equipment pursuant to this  
13 section shall include two breast pump kits per birth event, as well as  
14 appropriate size breast pump flanges, <sup>1</sup> **nipple shields, breast**  
15 **shells,**<sup>1</sup> or other lactation accessories recommended by a health  
16 care<sup>1</sup> provider.
- 17 (4) Breastfeeding equipment specified in paragraphs (1) and (3)  
18 of this subsection shall be furnished: within 48 hours of notification  
19 of need, if requested after the birth of the child; or by the later of  
20 two weeks before the enrollee's expected due date or 72 hours after  
21 notification, if requested prior to the birth of the child. If the health  
22 maintenance organization cannot ensure an enrollee receives  
23 breastfeeding equipment within 48 hours, an enrollee may purchase  
24 the equipment and the contract shall reimburse all out-of-pocket  
25 expenses incurred by the enrollee, including any balance billing  
26 amounts.
- 27 (5) Breastfeeding equipment specified in paragraph (2) of this  
28 subsection shall be made available within 12 hours of notification  
29 of need. If equipment is not available within 12 hours of  
30 notification of need, the health maintenance organization shall  
31 reimburse all out-of-pocket rental expenses incurred by an enrollee,  
32 including any balance billing amounts, until the enrollee receives  
33 breastfeeding equipment.
- 34 c. Coverage of comprehensive lactation counseling <sup>1</sup> and  
35 lactation consultation<sup>1</sup> shall include:
- 36 (1) In-person, one-on-one lactation counseling <sup>1</sup> **with a** and<sup>1</sup>  
37 **lactation** <sup>1</sup> **provider** consultation<sup>1</sup>, subject to the following  
38 conditions:
- 39 (a) Coverage shall include visits that occur inside and outside a  
40 hospital or office setting. In-person lactation counseling <sup>1</sup> and  
41 lactation consultation<sup>1</sup> shall be covered regardless of location of  
42 service provision and shall include home visits.
- 43 (b) Lactation counseling <sup>1</sup> and lactation consultation<sup>1</sup> shall be  
44 made available within 24 hours of notification of need.
- 45 (2) Telephonic lactation assistance shall be covered in addition  
46 to, and not as a substitute for, in-person, one-on-one lactation

1 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, when an enrollee requests  
2 one-on-one, in-person lactation counseling <sup>1</sup>or lactation  
3 consultation<sup>1</sup>. The telephonic lactation assistance shall be provided  
4 within 12 hours of notification of need.

5 (3) Group lactation counseling shall be covered in addition to,  
6 and not as a substitute for, one-on-one, in-person lactation  
7 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, if an enrollee requests one-  
8 on-one, in-person lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>.  
9 Group counseling shall include educational classes and support  
10 groups.

11 (4) A contract shall not require prior authorization, prescription  
12 or referral for any lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>,  
13 regardless of provider type or setting.

14 (5) A health maintenance organization shall not impose medical  
15 management techniques not described in this section.

16 d. Except as otherwise authorized pursuant to this section, a  
17 health maintenance organization shall not impose restrictions on the  
18 coverage provided pursuant to this section, including, but not  
19 limited to, limitations on reimbursement to allowable amounts or  
20 reasonable and customary charges, documentation requests, or  
21 delays on the coverage provided.

22 e. As used in this section:

23 “Cost-sharing” means deductible, co-insurance or co-payments,  
24 or similar charges.

25 “Breast pump kit” means a collection of tubing, valves, flanges,  
26 collection bottles, <sup>1</sup>**[nipple shields,]**<sup>1</sup> or other parts required to  
27 extract human milk using a breast pump.

28 <sup>1</sup>**[“Lactation provider” means an individual who is a licensed or**  
29 **certified provider with specialty training in breastfeeding and**  
30 **lactation.]**

31 “Lactation consultant” means an individual who is an  
32 International Board Certified Lactation Consultant.

33 “Lactation consultation” means the clinical application by a  
34 lactation consultant or other licensed health care provider of  
35 scientific principles and a multidisciplinary body of evidence for  
36 evaluation, problem identification, treatment, education, and  
37 consultation to child-bearing families utilizing lactation care and  
38 services.

39 Lactation care and services shall include, but not be limited to:

40 (1) lactation assessment through the systematic collection of  
41 subjective and objective data;

42 (2) analysis of data and creation of a plan of care;

43 (3) implementation of a lactation care plan with demonstration  
44 and instruction to parents and communication to the primary health  
45 care provider;

46 (4) evaluation of outcomes;

1       (5) provision of lactation education to parents and health care  
2 providers; and

3       (6) the recommendation and use of assistive devices.<sup>1</sup>

4       "Lactation counseling" means breastfeeding education and  
5 support services provided by a lactation <sup>1</sup>**[provider]** counselor<sup>1</sup>,  
6 such as:

7       (1) educating women, families, health <sup>1</sup>care<sup>1</sup> professionals, and  
8 the community about the impact of breastfeeding and human  
9 lactation on health and what to expect in the normal course of  
10 breastfeeding;

11       (2) acting as an advocate for breastfeeding as the norm for  
12 feeding infants and young children;

13       (3) providing breastfeeding support, encouragement, and care  
14 from preconception to weaning in order to help women and their  
15 families meet their breastfeeding goals;

16       (4) using principles of adult education when teaching clients,  
17 health care providers, and others in the community; and

18       (5) identifying and referring high-risk mothers and babies and  
19 those requiring clinical treatment appropriately.

20       <sup>1</sup>"Lactation counselor" means an individual, other than an  
21 International Board Certified Lactation Consultant or a licensed  
22 health care provider, who is:

23       (1) licensed or certified to practice lactation counseling under  
24 any law, or who is an accredited member belonging to another  
25 profession or occupation, who provides breastfeeding education and  
26 support services for which that person is licensed, regulated,  
27 accredited, or certified; or

28       (2) a community-based lactation supporter who has received at  
29 least 40 hours of specialty education in breastfeeding and lactation,  
30 and who works within a lactation counselor's scope of practice.<sup>1</sup>

31       "Telephonic lactation assistance" means lactation counseling <sup>1</sup>or  
32 consultation<sup>1</sup> with a lactation <sup>1</sup>**[provider]** counselor or lactation  
33 consultant<sup>1</sup> conducted remotely through live voice communication.

34       f. The provisions of this section shall apply to those contracts  
35 for health care services by health maintenance organizations under  
36 which the right to change the schedule of charges for enrollee  
37 coverage is reserved.

38  
39       9. a. The State Health Benefits Commission shall ensure that  
40 every contract purchased by the commission on or after the  
41 effective date of this act that provides hospital or medical expense  
42 benefits shall provide coverage for comprehensive lactation support  
43 <sup>1</sup>**[and]** <sup>1</sup> counseling <sup>1</sup>**[by a trained provider]** , and consultation<sup>1</sup>,  
44 and the costs for renting or purchasing breastfeeding equipment, in  
45 conjunction with each birth, for the duration of breastfeeding for  
46 contract enrollees, with no cost-sharing.

- 1       b. Coverage of breastfeeding equipment shall include:
- 2       (1) Purchase of a single-user breast pump, subject to the  
3 following conditions:
- 4       (a) A contract shall cover the purchase of a double electric  
5 breast pump. If an enrollee requests a manual pump in lieu of the  
6 double electric breast pump, the contract shall cover the purchase of  
7 a manual pump.
- 8       (b) A double electric breast pump provided pursuant to this  
9 paragraph shall be of sufficient power and durability to establish  
10 and maintain milk supply for the duration of breastfeeding.
- 11       (c) A contract shall not require documentation of medical  
12 necessity, prior authorization, or a prescription for a breast pump  
13 provided pursuant to this paragraph.
- 14       (d) Coverage shall be available at any time during pregnancy  
15 and the postpartum period, and shall continue for the duration of  
16 breastfeeding as defined by the contract enrollee.
- 17       (e) Coverage for breast pumps shall include repair or  
18 replacement if necessary.
- 19       (2) Rental or purchase of a multi-user breast pump, on the  
20 recommendation of a licensed health care provider, subject to the  
21 following conditions:
- 22       (a) When recommended by a licensed health care provider, a  
23 contract shall provide coverage for a multi-user breast pump.
- 24       (b) A contract may provide for a determination as to whether a  
25 rental or purchase is covered.
- 26       (c) Coverage for a multi-user breast pump shall be covered  
27 without regard to coverage or acquisition of a single-user breast  
28 pump.
- 29       (d) A contract may provide for requirement of a letter of  
30 medical necessity from a lactation <sup>1</sup>【provider】 consultant<sup>1</sup> or other  
31 health care provider for coverage of a multi-user pump. The letter  
32 shall not interfere with the timely acquisition of a multi-user pump.
- 33       (3) Coverage of breastfeeding equipment pursuant to this  
34 section shall include two breast pump kits per birth event, as well as  
35 appropriate size breast pump flanges, <sup>1</sup>【nipple shields, breast  
36 shells,】<sup>1</sup> or other lactation accessories recommended by a health  
37 <sup>1</sup>care<sup>1</sup> provider.
- 38       (4) Breastfeeding equipment specified in paragraphs (1) and (3)  
39 of this subsection shall be furnished: within 48 hours of notification  
40 of need, if requested after the birth of the child; or by the later of  
41 two weeks before the enrollee's expected due date or 72 hours after  
42 notification, if requested prior to the birth of the child. If the  
43 enrollee does not receive breastfeeding equipment within 48 hours,  
44 the enrollee may purchase the equipment and the contract shall  
45 provide for reimbursement of all out-of-pocket expenses incurred  
46 by the enrollee, including any balance billing amounts.



1 (5) Breastfeeding equipment specified in paragraph (2) of this  
2 subsection shall be made available within 12 hours of notification  
3 of need. If equipment is not available within 12 hours of  
4 notification of need, the contract shall provide for reimbursement of  
5 all out-of-pocket rental expenses incurred by the enrollee, including  
6 any balance billing amounts, until the enrollee receives  
7 breastfeeding equipment.

8 c. Coverage of comprehensive lactation counseling <sup>1</sup>and  
9 lactation consultation<sup>1</sup> shall include:

10 (1) In-person, one-on-one lactation counseling <sup>1</sup>[with a] and<sup>1</sup>  
11 lactation [provider] consultation<sup>1</sup>, subject to the following  
12 conditions:

13 (a) Coverage shall include visits that occur inside and outside a  
14 hospital or office setting. In-person lactation counseling <sup>1</sup>and  
15 lactation consultation<sup>1</sup> shall be covered regardless of location of  
16 service provision and shall include home visits.

17 (b) Lactation counseling <sup>1</sup>and lactation consultation<sup>1</sup> shall be  
18 made available within 24 hours of notification of need.

19 (2) Telephonic lactation assistance shall be covered in addition  
20 to, and not as a substitute for, in-person, one-on-one lactation  
21 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, when an enrollee requests  
22 one-on-one, in-person lactation counseling <sup>1</sup>or lactation  
23 consultation<sup>1</sup>. The telephonic lactation assistance shall be provided  
24 within 12 hours of notification of need.

25 (3) Group lactation counseling shall be covered in addition to,  
26 and not as a substitute for, one-on-one, in-person lactation  
27 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, if an enrollee requests one-  
28 on-one, in-person lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>.  
29 Group counseling shall include educational classes and support  
30 groups.

31 (4) A contract shall not require prior authorization, prescription  
32 or referral for any lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>,  
33 regardless of provider type or setting.

34 (5) A contract shall not impose medical management techniques  
35 not described in this section.

36 d. Except as otherwise authorized pursuant to this section, a  
37 contract shall not impose restrictions on the coverage provided  
38 pursuant to this section, including, but not limited to, limitations on  
39 reimbursement to allowable amounts or reasonable and customary  
40 charges, documentation requests, or delays on the coverage  
41 provided.

42 e. As used in this section:

43 “Cost-sharing” means deductible, co-insurance or co-payments,  
44 or similar charges.

1 "Breast pump kit" means a collection of tubing, valves, flanges,  
2 collection bottles, <sup>1</sup>[nipple shields,]<sup>1</sup> or other parts required to  
3 extract human milk using a breast pump.

4 <sup>1</sup>["Lactation provider" means an individual who is a licensed or  
5 certified provider with specialty training in breastfeeding and  
6 lactation.]

7 "Lactation consultant" means an individual who is an  
8 International Board Certified Lactation Consultant.

9 "Lactation consultation" means the clinical application by a  
10 lactation consultant or other licensed health care provider of  
11 scientific principles and a multidisciplinary body of evidence for  
12 evaluation, problem identification, treatment, education, and  
13 consultation to child-bearing families utilizing lactation care and  
14 services.

15 Lactation care and services shall include, but not be limited to:

16 (1) lactation assessment through the systematic collection of  
17 subjective and objective data;

18 (2) analysis of data and creation of a plan of care;

19 (3) implementation of a lactation care plan with demonstration  
20 and instruction to parents and communication to the primary health  
21 care provider;

22 (4) evaluation of outcomes;

23 (5) provision of lactation education to parents and health care  
24 providers; and

25 (6) the recommendation and use of assistive devices.<sup>1</sup>

26 "Lactation counseling" means breastfeeding education and  
27 support services provided by a lactation <sup>1</sup>[provider] counselor<sup>1</sup>,  
28 such as:

29 (1) educating women, families, health <sup>1</sup>care<sup>1</sup> professionals, and  
30 the community about the impact of breastfeeding and human  
31 lactation on health and what to expect in the normal course of  
32 breastfeeding;

33 (2) acting as an advocate for breastfeeding as the norm for  
34 feeding infants and young children;

35 (3) providing breastfeeding support, encouragement, and care  
36 from preconception to weaning in order to help women and their  
37 families meet their breastfeeding goals;

38 (4) using principles of adult education when teaching clients,  
39 health care providers, and others in the community; and

40 (5) identifying and referring high-risk mothers and babies and  
41 those requiring clinical treatment appropriately.

42 <sup>1</sup>"Lactation counselor" means an individual, other than an  
43 International Board Certified Lactation Consultant or a licensed  
44 health care provider, who is:

45 (1) licensed or certified to practice lactation counseling under  
46 any law, or who is an accredited member belonging to another

1 profession or occupation, who provides breastfeeding education and  
2 support services for which that person is licensed, regulated,  
3 accredited, or certified; or

4 (2) a community-based lactation supporter who has received at  
5 least 40 hours of specialty education in breastfeeding and lactation,  
6 and who works within a lactation counselor's scope of practice.<sup>1</sup>

7 "Telephonic lactation assistance" means lactation counseling <sup>1</sup>or  
8 consultation<sup>1</sup> with a lactation <sup>1</sup>**[provider]** counselor or lactation  
9 consultant<sup>1</sup> conducted remotely through live voice communication.

10

11 10. a. The School Employees' Health Benefits Commission  
12 shall ensure that every contract purchased by the commission on or  
13 after the effective date of this act that provides hospital or medical  
14 expense benefits shall provide coverage for comprehensive lactation  
15 support <sup>1</sup>**[and]** <sup>1</sup> counseling <sup>1</sup>**[by a trained provider]** , and  
16 consultation<sup>1</sup>, and the costs for renting or purchasing breastfeeding  
17 equipment, in conjunction with each birth, for the duration of  
18 breastfeeding for contract enrollees, with no cost-sharing.

19 b. Coverage of breastfeeding equipment shall include:

20 (1) Purchase of a single-user breast pump, subject to the  
21 following conditions:

22 (a) A contract shall cover the purchase of a double electric  
23 breast pump. If an enrollee requests a manual pump in lieu of the  
24 double electric breast pump, the contract shall cover the purchase of  
25 a manual pump.

26 (b) A double electric breast pump provided pursuant to this  
27 paragraph shall be of sufficient power and durability to establish  
28 and maintain milk supply for the duration of breastfeeding.

29 (c) A contract shall not require documentation of medical  
30 necessity, prior authorization, or a prescription for a breast pump  
31 provided pursuant to this paragraph.

32 (d) Coverage shall be available at any time during pregnancy  
33 and the postpartum period, and shall continue for the duration of  
34 breastfeeding as defined by the contract enrollee.

35 (e) Coverage for breast pumps shall include repair or  
36 replacement if necessary.

37 (2) Rental or purchase of a multi-user breast pump, on the  
38 recommendation of a licensed health care provider, subject to the  
39 following conditions:

40 (a) When recommended by a licensed health care provider, a  
41 contract shall provide coverage for a multi-user breast pump.

42 (b) A contract may provide for a determination as to whether a  
43 rental or purchase is covered.

44 (c) Coverage for a multi-user breast pump shall be covered  
45 without regard to coverage or acquisition of a single-user breast  
46 pump.

1 (d) A contract may provide for requirement of a letter of  
2 medical necessity from a lactation <sup>1</sup>provider consultant<sup>1</sup> or other  
3 health care provider for coverage of a multi-user pump. The letter  
4 shall not interfere with the timely acquisition of a multi-user pump.

5 (3) Coverage of breastfeeding equipment pursuant to this  
6 section shall include two breast pump kits per birth event, as well as  
7 appropriate size breast pump flanges, <sup>1</sup>nipple shields, breast  
8 shells,<sup>1</sup> or other lactation accessories recommended by a health  
9 care<sup>1</sup> provider.

10 (4) Breastfeeding equipment specified in paragraphs (1) and (3)  
11 of this subsection shall be furnished: within 48 hours of notification  
12 of need, if requested after the birth of the child; or by the later of  
13 two weeks before the enrollee's expected due date or 72 hours after  
14 notification, if requested prior to the birth of the child. If the  
15 enrollee does not receive breastfeeding equipment within 48 hours,  
16 the enrollee may purchase the equipment and the contract shall  
17 provide for reimbursement of all out-of-pocket expenses incurred  
18 by the enrollee, including any balance billing amounts.

19 (5) Breastfeeding equipment specified in paragraph (2) of this  
20 subsection shall be made available within 12 hours of notification  
21 of need. If equipment is not available within 12 hours of  
22 notification of need, the contract shall provide for reimbursement of  
23 all out-of-pocket rental expenses incurred by the enrollee, including  
24 any balance billing amounts, until the enrollee receives  
25 breastfeeding equipment.

26 c. Coverage of comprehensive lactation counseling <sup>1</sup>and  
27 lactation consultation<sup>1</sup> shall include:

28 (1) In-person, one-on-one lactation counseling <sup>1</sup>with a and<sup>1</sup>  
29 lactation <sup>1</sup>provider consultation<sup>1</sup>, subject to the following  
30 conditions:

31 (a) Coverage shall include visits that occur inside and outside a  
32 hospital or office setting. In-person lactation counseling <sup>1</sup>and  
33 lactation consultation<sup>1</sup> shall be covered regardless of location of  
34 service provision and shall include home visits.

35 (b) Lactation counseling <sup>1</sup>and lactation consultation<sup>1</sup> shall be  
36 made available within 24 hours of notification of need.

37 (2) Telephonic lactation assistance shall be covered in addition  
38 to, and not as a substitute for, in-person, one-on-one lactation  
39 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, when an enrollee requests  
40 one-on-one, in-person lactation counseling <sup>1</sup>or lactation  
41 consultation<sup>1</sup>. The telephonic lactation assistance shall be provided  
42 within 12 hours of notification of need.

43 (3) Group lactation counseling shall be covered in addition to,  
44 and not as a substitute for, one-on-one, in-person lactation  
45 counseling <sup>1</sup>or lactation consultation<sup>1</sup>, if an enrollee requests one-

1 on-one, in-person lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>.  
2 Group counseling shall include educational classes and support  
3 groups.

4 (4) A contract shall not require prior authorization, prescription  
5 or referral for any lactation counseling <sup>1</sup>or lactation consultation<sup>1</sup>,  
6 regardless of provider type or setting.

7 (5) A contract shall not impose medical management techniques  
8 not described in this section.

9 d. Except as otherwise authorized pursuant to this section, a  
10 contract shall not impose restrictions on the coverage provided  
11 pursuant to this section, including, but not limited to, limitations on  
12 reimbursement to allowable amounts or reasonable and customary  
13 charges, documentation requests, or delays on the coverage  
14 provided.

15 e. As used in this section:

16 "Cost-sharing" means deductible, co-insurance or co-payments,  
17 or similar charges.

18 "Breast pump kit" means a collection of tubing, valves, flanges,  
19 collection bottles, <sup>1</sup>**["nipple shields,"]**<sup>1</sup> or other parts required to  
20 extract human milk using a breast pump.

21 <sup>1</sup>**["Lactation provider" means an individual who is a licensed or  
22 certified provider with specialty training in breastfeeding and  
23 lactation.]**

24 "Lactation consultant" means an individual who is an  
25 International Board Certified Lactation Consultant.

26 "Lactation consultation" means the clinical application by a  
27 lactation consultant or other licensed health care provider of  
28 scientific principles and a multidisciplinary body of evidence for  
29 evaluation, problem identification, treatment, education, and  
30 consultation to child-bearing families utilizing lactation care and  
31 services.

32 Lactation care and services shall include, but not be limited to:

33 (1) lactation assessment through the systematic collection of  
34 subjective and objective data;

35 (2) analysis of data and creation of a plan of care;

36 (3) implementation of a lactation care plan with demonstration  
37 and instruction to parents and communication to the primary health  
38 care provider;

39 (4) evaluation of outcomes;

40 (5) provision of lactation education to parents and health care  
41 providers; and

42 (6) the recommendation and use of assistive devices.<sup>1</sup>

43 "Lactation counseling" means breastfeeding education and  
44 support services provided by a lactation <sup>1</sup>**["provider"]** counselor<sup>1</sup>,  
45 such as:

- 1 (1) educating women, families, health <sup>1</sup>care<sup>1</sup> professionals, and  
2 the community about the impact of breastfeeding and human  
3 lactation on health and what to expect in the normal course of  
4 breastfeeding;
- 5 (2) acting as an advocate for breastfeeding as the norm for  
6 feeding infants and young children;
- 7 (3) providing breastfeeding support, encouragement, and care  
8 from preconception to weaning in order to help women and their  
9 families meet their breastfeeding goals;
- 10 (4) using principles of adult education when teaching clients,  
11 health care providers, and others in the community; and
- 12 (5) identifying and referring high-risk mothers and babies and  
13 those requiring clinical treatment appropriately.

14 <sup>1</sup>“Lactation counselor” means an individual, other than an  
15 International Board Certified Lactation Consultant or a licensed  
16 health care provider, who is:

- 17 (1) licensed or certified to practice lactation counseling under  
18 any law, or who is an accredited member belonging to another  
19 profession or occupation, who provides breastfeeding education and  
20 support services for which that person is licensed, regulated,  
21 accredited, or certified; or
- 22 (2) a community-based lactation supporter who has received at  
23 least 40 hours of specialty education in breastfeeding and lactation,  
24 and who works within a lactation counselor’s scope of practice.<sup>1</sup>

25 "Telephonic lactation assistance" means lactation counseling <sup>1</sup>or  
26 consultation<sup>1</sup> with a lactation <sup>1</sup>【provider】 counselor or lactation  
27 consultant<sup>1</sup> conducted remotely through live voice communication.

28

29 <sup>1</sup>11. a. Notwithstanding any State law or regulation to the  
30 contrary, the Department of Human Services shall, contingent on  
31 maintaining or receiving necessary federal approvals, ensure that  
32 benefits for comprehensive lactation support, counseling, and  
33 consultation, and the costs for renting or purchasing breastfeeding  
34 equipment, in conjunction with each birth, for the duration of  
35 breastfeeding shall be provided with no cost-sharing to eligible  
36 persons under the Medicaid program, established pursuant to  
37 P.L.1968, c.413 (C.30:4D-1 et seq.).

38 b. Benefits for breastfeeding equipment shall include:

39 (1) Purchase of a single-user breast pump, subject to the  
40 following conditions:

41 (a) Benefits for the purchase of a double electric breast pump.  
42 If an individual requests a manual pump in lieu of the double  
43 electric breast pump, benefits shall be provided for the purchase of  
44 a manual pump.

- 1     (b) A double electric breast pump provided pursuant to this  
2 paragraph shall be of sufficient power and durability to establish  
3 and maintain milk supply for the duration of breastfeeding.
- 4     (c) The department shall not require documentation of medical  
5 necessity, prior authorization, or a prescription for a breast pump  
6 provided pursuant to this paragraph.
- 7     (d) Benefits shall be available at any time during pregnancy and  
8 the postpartum period, and shall continue for the duration of  
9 breastfeeding as defined by the individual.
- 10    (e) Benefits for breast pumps shall include repair or replacement  
11 if necessary.
- 12    (2) Rental or purchase of a multi-user breast pump, on the  
13 recommendation of a licensed health care provider, subject to the  
14 following conditions:
- 15    (a) When recommended by a licensed health care provider,  
16 benefits shall be provided for a multi-user breast pump.
- 17    (b) The department may determine whether a rental or purchase  
18 is covered.
- 19    (c) Benefits for a multi-user breast pump shall be provided  
20 without regard to the provision or acquisition of a single-user breast  
21 pump.
- 22    (d) The department may require a letter of medical necessity  
23 from a lactation consultant or other health care provider for benefits  
24 of a multi-user pump. The letter shall not interfere with the timely  
25 acquisition of a multi-user pump.
- 26    (3) Benefits of breastfeeding equipment pursuant to this section  
27 shall include two breast pump kits per birth event, as well as  
28 appropriate size breast pump flanges, or other lactation accessories  
29 recommended by a health care provider.
- 30    (4) Breastfeeding equipment specified in paragraphs (1) and (3)  
31 of this subsection shall be furnished: within 48 hours of notification  
32 of need, if requested after the birth of the child; or by the later of  
33 two weeks before the enrollee's expected due date or 72 hours after  
34 notification, if requested prior to the birth of the child. If the  
35 department cannot ensure an individual shall receive breastfeeding  
36 equipment within 48 hours, an individual may purchase the  
37 equipment and the department shall reimburse all out-of-pocket  
38 expenses incurred by the individual, including any balance billing  
39 amounts.
- 40    (5) Breastfeeding equipment specified in paragraph (2) of this  
41 subsection shall be made available within 12 hours of notification  
42 of need. If equipment is not available within 12 hours of  
43 notification of need, the department shall reimburse all out-of-  
44 pocket rental expenses incurred by an individual, including any  
45 balance billing amounts, until the individual receives breastfeeding  
46 equipment.

- 1 c. Benefits for comprehensive lactation counseling and  
2 lactation consultation shall include:
- 3 (1) In-person, one-on-one lactation counseling and lactation  
4 consultation, subject to the following conditions:
- 5 (a) Benefits shall include visits that occur inside and outside a  
6 hospital or office setting. In-person lactation counseling and  
7 lactation consultation shall be covered regardless of location of  
8 service provision and shall include home visits.
- 9 (b) Lactation counseling and lactation consultation shall be  
10 made available within 24 hours of notification of need.
- 11 (2) Telephonic lactation assistance shall be covered in addition  
12 to, and not as a substitute for, in-person, one-on-one lactation  
13 counseling or lactation consultation, when an individual requests  
14 one-on-one, in-person lactation counseling or lactation consultation.  
15 The telephonic lactation assistance shall be provided within 12  
16 hours of notification of need.
- 17 (3) Group lactation counseling shall be covered in addition to,  
18 and not as a substitute for, one-on-one, in-person lactation  
19 counseling or lactation consultation, if an individual requests one-  
20 on-one, in-person lactation counseling or lactation consultation.  
21 Group counseling shall include educational classes and support  
22 groups.
- 23 (4) The department shall not require prior authorization,  
24 prescription or referral for any lactation counseling or lactation  
25 consultation, regardless of provider type or setting.
- 26 (5) The department shall not impose medical management  
27 techniques not described in this section.
- 28 d. Except as otherwise authorized pursuant to this section, the  
29 department shall not impose restrictions on the benefits provided  
30 pursuant to this section, including, but not limited to, limitations on  
31 reimbursement to allowable amounts or reasonable and customary  
32 charges, documentation requests, or delays on the benefits provided.
- 33 e. As used in this section:
- 34 “Cost-sharing” means deductible, co-insurance or co-payments,  
35 or similar charges.
- 36 “Breast pump kit” means a collection of tubing, valves, flanges,  
37 collection bottles, or other parts required to extract human milk  
38 using a breast pump.
- 39 “Lactation consultant” means an individual who is an  
40 International Board Certified Lactation Consultant.
- 41 “Lactation consultation” means the clinical application by a  
42 lactation consultant or other licensed health care provider of  
43 scientific principles and a multidisciplinary body of evidence for  
44 evaluation, problem identification, treatment, education, and  
45 consultation to child-bearing families utilizing lactation care and  
46 services.
- 47 Lactation care and services shall include, but not be limited to:



- 1 (1) lactation assessment through the systematic collection of
- 2 subjective and objective data;
- 3 (2) analysis of data and creation of a plan of care;
- 4 (3) implementation of a lactation care plan with demonstration
- 5 and instruction to parents and communication to the primary health
- 6 care provider;
- 7 (4) evaluation of outcomes;
- 8 (5) provision of lactation education to parents and health care
- 9 providers; and
- 10 (6) the recommendation and use of assistive devices.
- 11 "Lactation counseling" means breastfeeding education and
- 12 support services provided by a lactation counselor, such as:
- 13 (1) educating women, families, health care professionals, and
- 14 the community about the impact of breastfeeding and human
- 15 lactation on health and what to expect in the normal course of
- 16 breastfeeding;
- 17 (2) acting as an advocate for breastfeeding as the norm for
- 18 feeding infants and young children;
- 19 (3) providing breastfeeding support, encouragement, and care
- 20 from preconception to weaning in order to help women and their
- 21 families meet their breastfeeding goals;
- 22 (4) using principles of adult education when teaching clients,
- 23 health care providers, and others in the community; and
- 24 (5) identifying and referring high-risk mothers and babies and
- 25 those requiring clinical treatment appropriately.
- 26 "Lactation counselor" means an individual, other than an
- 27 International Board Certified Lactation Consultant or a licensed
- 28 health care provider, who is:
- 29 (1) licensed or certified to practice lactation counseling under
- 30 any law, or who is an accredited member belonging to another
- 31 profession or occupation, who provides breastfeeding education and
- 32 support services for which that person is licensed, regulated,
- 33 accredited, or certified; or
- 34 (2) a community-based lactation supporter who has received at
- 35 least 40 hours of specialty education in breastfeeding and lactation,
- 36 and who works within a lactation counselor's scope of practice.
- 37 "Telephonic lactation assistance" means lactation counseling or
- 38 consultation with a lactation counselor or lactation consultant
- 39 conducted remotely through live voice communication.
- 40 f. The Commissioner of Human Services shall apply for such
- 41 State plan amendments or waivers as may be necessary to
- 42 implement the provisions of this section and to secure federal
- 43 financial participation for State Medicaid expenditures under the
- 44 federal Medicaid program.<sup>1</sup>

45

46 <sup>1</sup>[11.] 12.<sup>1</sup> This act shall take effect on the <sup>1</sup>[90th] 180th<sup>1</sup> day

47 next following enactment.

1

---

2

3 Requires health benefits and Medicaid coverage for

4 breastfeeding support.

# ASSEMBLY, No. 5509

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 6, 2019

**Sponsored by:**

**Assemblywoman GABRIELA M. MOSQUERA**

**District 4 (Camden and Gloucester)**

**Assemblywoman BRITNEE N. TIMBERLAKE**

**District 34 (Essex and Passaic)**

**Assemblyman RAJ MUKHERJI**

**District 33 (Hudson)**

**Co-Sponsored by:**

**Assemblywomen Vainieri Huttle, Murphy, Pinkin, Lampitt and  
Assemblyman Spearman**

**SYNOPSIS**

Requires health benefits coverage for breastfeeding support.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/11/2019)**

1 AN ACT concerning health benefits coverage for breastfeeding  
2 support and supplementing various parts of the statutory law.

3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6

7 1. a. A hospital service corporation contract that provides  
8 hospital or medical expense benefits and is delivered, issued,  
9 executed or renewed in this State, or approved for issuance or  
10 renewal in this State by the Commissioner of Banking and  
11 Insurance, on or after the effective date of P.L. , c.  
12 (C. )(pending before the Legislature as this bill), shall provide  
13 coverage without requiring any cost sharing, for expenses incurred  
14 in the provision of breastfeeding support and counseling before or  
15 after the birth of an infant and the provision of a breast pump.

16 b. This section shall apply to those contracts in which the  
17 hospital service corporation has reserved the right to change the  
18 premium.

19

20 2. a. A medical service corporation contract that provides  
21 hospital or medical expense benefits and is delivered, issued,  
22 executed or renewed in this State, or approved for issuance or  
23 renewal in this State by the Commissioner of Banking and  
24 Insurance, on or after the effective date of P.L. , c.  
25 (C. )(pending before the Legislature as this bill), shall provide  
26 coverage without requiring any cost sharing, for expenses incurred  
27 in the provision of breastfeeding support and counseling before or  
28 after the birth of an infant and the provision of a breast pump.

29 b. This section shall apply to those contracts in which the  
30 medical service corporation has reserved the right to change the  
31 premium.

32

33 3. a. A health service corporation contract that provides  
34 hospital or medical expense benefits and is delivered, issued,  
35 executed or renewed in this State, or approved for issuance or  
36 renewal in this State by the Commissioner of Banking and  
37 Insurance, on or after the effective date of P.L. , c.  
38 (C. )(pending before the Legislature as this bill), shall provide  
39 coverage without requiring any cost sharing, for expenses incurred  
40 in the provision of breastfeeding support and counseling before or  
41 after the birth of an infant and the provision of a breast pump.

42 b. This section shall apply to those contracts in which the  
43 health service corporation has reserved the right to change the  
44 premium.

45

46 4. a. An individual health insurer policy that provides hospital  
47 or medical expense benefits and is delivered, issued, executed or  
48 renewed in this State, or approved for issuance or renewal in this

A5509 MOSQUERA, TIMBERLAKE

1 State by the Commissioner of Banking and Insurance, on or after  
2 the effective date of P.L. , c. (C. )(pending before the  
3 Legislature as this bill), shall provide coverage without requiring  
4 any cost sharing, for expenses incurred in the provision of  
5 breastfeeding support and counseling before or after the birth of an  
6 infant and the provision of a breast pump.

7 b. This section shall apply to those policies in which the insurer  
8 has reserved the right to change the premium.

9

10 5. a. A group health insurer policy that provides hospital or  
11 medical expense benefits and is delivered, issued, executed or  
12 renewed in this State, or approved for issuance or renewal in this  
13 State by the Commissioner of Banking and Insurance, on or after  
14 the effective date of P.L. , c. (C. )(pending before the  
15 Legislature as this bill), shall provide coverage without requiring  
16 any cost sharing, for expenses incurred in the provision of  
17 breastfeeding support and counseling before or after the birth of an  
18 infant and the provision of a breast pump.

19 b. This section shall apply to those policies in which the insurer  
20 has reserved the right to change the premium.

21

22 6. a. An individual health benefits plan that provides hospital  
23 or medical expense benefits and is delivered, issued, executed or  
24 renewed in this State, or approved for issuance or renewal in this  
25 State by the Commissioner of Banking and Insurance, on or after  
26 the effective date of P.L. , c. (C. )(pending before the  
27 Legislature as this bill), shall provide coverage without requiring  
28 any cost sharing, for expenses incurred in the provision of  
29 breastfeeding support and counseling before or after the birth of an  
30 infant and the provision of a breast pump.

31 b. This section shall apply to all individual health benefits  
32 plans in which the carrier has reserved the right to change the  
33 premium.

34

35 7. a. A small employer health benefits plan that provides  
36 hospital or medical expense benefits and is delivered, issued,  
37 executed or renewed in this State, or approved for issuance or  
38 renewal in this State by the Commissioner of Banking and  
39 Insurance, on or after the effective date of P.L. , c. (C.  
40 )(pending before the Legislature as this bill), shall provide coverage  
41 without requiring any cost sharing, for expenses incurred in the  
42 provision of breastfeeding support and counseling before or after  
43 the birth of an infant and the provision of a breast pump.

44 b. This section shall apply to all small employer health benefits  
45 plans in which the carrier has reserved the right to change the  
46 premium.

1       8. a. A health maintenance organization contract that provides  
2 hospital or medical expense benefits and is delivered, issued,  
3 executed or renewed in this State, or approved for issuance or  
4 renewal in this State by the Commissioner of Banking and  
5 Insurance, on or after the effective date of P.L.       , c.  
6 (C.     )(pending before the Legislature as this bill), shall provide  
7 coverage without requiring any cost sharing, for expenses incurred  
8 in the provision of breastfeeding support and counseling before or  
9 after the birth of an infant and the provision of a breast pump.

10       b. The provisions of this section shall apply to those contracts  
11 for health care services by health maintenance organizations under  
12 which the right to change the schedule of charges for enrollee  
13 coverage is reserved.

14

15       9. The State Health Benefits Commission shall ensure that  
16 every contract purchased by the commission on or after the  
17 effective date of this act that provides hospital or medical expense  
18 benefits shall provide coverage without requiring any cost sharing,  
19 for expenses incurred in the provision of breastfeeding support and  
20 counseling before or after the birth of an infant and the provision of  
21 a breast pump.

22

23       10. The School Employees' Health Benefits Commission shall  
24 ensure that every contract purchased by the commission on or after  
25 the effective date of this act that provides hospital or medical  
26 expense benefits shall provide coverage without requiring any cost  
27 sharing, for expenses incurred in the provision of breastfeeding  
28 support and counseling before or after the birth of an infant and the  
29 provision of a breast pump.

30

31       11. This act shall take effect on the 90th day next following  
32 enactment.

33

34

35

STATEMENT

36

37       This bill requires health insurers (health, hospital and medical  
38 service corporations, commercial individual and group health  
39 insurers; health maintenance organizations, health benefits plans  
40 issued pursuant to the New Jersey Individual Health Coverage and  
41 Small Employer Health Benefits Programs, the State Health  
42 Benefits Program, and the School Employees' Health Benefits  
43 Program) to provide coverage without requiring any cost sharing,  
44 for expenses incurred in the provision of breastfeeding support and  
45 counseling before or after the birth of an infant and the provision of  
46 a breast pump.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE

STATEMENT TO

**ASSEMBLY, No. 5509**

**STATE OF NEW JERSEY**

DATED: JUNE 6, 2019

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 5509.

This bill requires health insurers (health, hospital and medical service corporations, commercial individual and group health insurers; health maintenance organizations, health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs, the State Health Benefits Program, and the School Employees' Health Benefits Program) to provide coverage without requiring any cost sharing, for expenses incurred in the provision of breastfeeding support and counseling before or after the birth of an infant and the provision of a breast pump.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, No. 5509

**STATE OF NEW JERSEY**

DATED: JUNE 13, 2019

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 5509.

This substitute requires health insurers (health, hospital and medical service corporations, commercial individual and group health insurers; health maintenance organizations, health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs, the State Health Benefits Program, and the School Employees' Health Benefits Program) to provide coverage without requiring any cost sharing, for comprehensive lactation support and counseling by a trained provider, and the costs for renting or purchasing electric or manual breastfeeding equipment, in conjunction with each birth, for the duration of breastfeeding for health plan enrollees, with no cost-sharing.

Under the bill, coverage of breastfeeding equipment is required to include:

(1) Purchase of a single-user breast pump, subject to certain conditions; and

(2) Rental or purchase of a multi-user breast pump, on the recommendation of a licensed health care provider, subject to certain conditions.

Under the bill, coverage of breastfeeding equipment includes two breast pump kits per birth event, as well as appropriate size breast pump flanges, nipple shields, breast shells, or other lactation accessories recommended by a health provider.

The bill provides that breastfeeding equipment must be available within certain timeframes. If the health insurer cannot ensure an enrollee receives breastfeeding equipment within a specified time period, an enrollee may purchase or rent the equipment and the health plan must reimburse all out-of-pocket expenses incurred by the enrollee.

The bill provides that coverage of comprehensive lactation counseling includes:

(1) In-person, one-on-one lactation counseling with a lactation provider, subject to certain conditions.

(2) Telephonic lactation assistance covered in addition to, and not as a substitute for, in-person, one-on-one lactation counseling, when an



enrollee requests one-on-one, in-person lactation counseling. The telephonic lactation assistance must be provided within 12 hours of notification of need.

(3) Group lactation counseling covered in addition to, and not as a substitute for, one-on-one, in-person lactation counseling, if an enrollee requests one-on-one, in-person lactation counseling. Group counseling must include educational classes and support groups.

The bill prohibits a health insurer from requiring prior authorization, prescription or referral for any lactation counseling, regardless of provider type or setting.

A health insurer may not impose medical management techniques not described in the bill or impose restrictions on the coverage provided, including, but not limited to, limitations on reimbursement to allowable amounts or reasonable and customary charges, documentation requests, or delays on the coverage provided.

**FISCAL IMPACT:**

The Office of Legislative Services (OLS) estimates that this bill will result in an indeterminate increase expenditures incurred by the State Health Benefits Plan (SHBP) and School Employees Health Benefits Plan (SEHBP).

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 5509**

with committee amendments

# STATE OF NEW JERSEY

DATED: NOVEMBER 14, 2019

The Senate Commerce Committee reports favorably and with committee amendments the Assembly Committee Substitute for Assembly Bill No. 5509.

As amended by the committee, this substitute requires health insurers (health, hospital and medical service corporations, commercial individual and group health insurers; health maintenance organizations, health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs, the State Health Benefits Program, and the School Employees' Health Benefits Program) and the State Medicaid Program to provide coverage without requiring any cost sharing, for comprehensive lactation support and counseling and consultation, and the costs for renting or purchasing electric or manual breastfeeding equipment, in conjunction with each birth, for the duration of breastfeeding for health plan enrollees, with no cost-sharing.

Under the bill, coverage of breastfeeding equipment is required to include:

(1) Purchase of a single-user breast pump, subject to certain conditions; and

(2) Rental or purchase of a multi-user breast pump, on the recommendation of a licensed health care provider, subject to certain conditions.

Under the bill, coverage of breastfeeding equipment includes two breast pump kits per birth event, as well as appropriate size breast pump flanges, or other lactation accessories recommended by a health care provider.

The bill provides that breastfeeding equipment must be available within certain timeframes. If the health insurer cannot ensure an enrollee receives breastfeeding equipment within a specified time period, an enrollee may purchase or rent the equipment and the health plan must reimburse all out-of-pocket expenses incurred by the enrollee.

The bill provides that coverage of comprehensive lactation counseling and lactation consultation includes:

(1) In-person, one-on-one lactation counseling and lactation consultation with a lactation provider, subject to certain conditions.

(2) Telephonic lactation assistance covered in addition to, and not as a substitute for, in-person, one-on-one lactation counseling or lactation consultation, when an enrollee requests one-on-one, in-person lactation counseling or lactation consultation. The telephonic lactation assistance must be provided within 12 hours of notification of need.

(3) Group lactation counseling covered in addition to, and not as a substitute for, one-on-one, in-person lactation counseling or lactation consultation, if an enrollee requests one-on-one, in-person lactation counseling or lactation consultation. Group counseling must include educational classes and support groups.

The bill prohibits a health insurer from requiring prior authorization, prescription or referral for any lactation counseling or lactation consultation, regardless of provider type or setting.

A health insurer may not impose medical management techniques not described in the bill or impose restrictions on the coverage provided, including, but not limited to, limitations on reimbursement to allowable amounts or reasonable and customary charges, documentation requests, or delays on the coverage provided.

The bill defines “lactation consultation” to mean the clinical application by a lactation consultant or other licensed health care provider of scientific principles and a multidisciplinary body of evidence for evaluation, problem identification, treatment, education, and consultation to child-bearing families utilizing lactation care and services.

The bill provides that lactation care and services include, but are not limited to:

(1) lactation assessment through the systematic collection of subjective and objective data;

(2) analysis of data and creation of a plan of care;

(3) implementation of a lactation care plan with demonstration and instruction to parents and communication to the primary health care provider;

(4) evaluation of outcomes;

(5) provision of lactation education to parents and health care providers; and

(6) the recommendation and use of assistive devices.

The bill defines lactation counselor to mean an individual, other than an International Board Certified Lactation Consultant or a licensed health care provider, who is:

(1) licensed to practice lactation counseling under any law, or who is an accredited member belonging to another profession or occupation, who provides breastfeeding education and support services for which that person is licensed, regulated, accredited, or certified; or

(2) a community-based lactation supporter who has received at least 40 hours of specialty education in breastfeeding and lactation, and who works within a lactation counselor's scope of practice.

As amended and reported by the committee, the Assembly Committee Substitute for Assembly Bill No. 5509 is identical to the Senate Substitute for Senate Bill No. 3805, as that bill was amended and reported by the committee.

Committee Amendments:

The committee amended the bill to add lactation consultation to the breastfeeding support services for which health insurers must provide coverage without cost sharing under the bill. The amendments provide that "lactation consultation" means the clinical application by a lactation consultant or other licensed healthcare provider of scientific principles and a multidisciplinary body of evidence for evaluation, problem identification, treatment, education, and consultation to child-bearing families utilizing lactation care and services.

The amendments define "lactation consultant" to mean an individual who is an International Board Certified Lactation Consultant.

The amendments define "lactation counselor" to mean an individual, other than an International Board Certified Lactation Consultant or a licensed health care provider, who is:

(1) licensed to practice lactation counseling under any law, or who is an accredited member belonging to another profession or occupation, who provides breastfeeding education and support services for which that person is licensed, regulated, accredited, or certified; or

(2) a community-based lactation supporter who has received at least 40 hours of specialty education in breastfeeding and lactation, and who works within a lactation counselor's scope of practice.

The amendments delete references to "nipple shields" and "breast shells" throughout the bill, as these items are encompassed in the more general term, "other lactation accessories."

The amendments expand the scope of the bill to ensure that individuals who are eligible for the State Medicaid program will receive benefits for comprehensive lactation support, counseling, and consultation, and for the costs for renting or purchasing breastfeeding equipment, in conjunction with each birth, for the duration of breastfeeding to any individual eligible for medical assistance.

The amendments also provide that the bill's effective date is the 180th day next following enactment.

**LEGISLATIVE FISCAL ESTIMATE**  
**ASSEMBLY COMMITTEE SUBSTITUTE FOR**  
**ASSEMBLY, No. 5509**  
**STATE OF NEW JERSEY**  
**218th LEGISLATURE**

DATED: JUNE 21, 2019

**SUMMARY**

**Synopsis:** Requires health benefits coverage for breastfeeding support.

**Type of Impact:** Annual increases in State General Fund and local government expenditures.

**Agencies Affected:** Department of the Treasury; local government entities; local boards of education.

**Office of Legislative Services Estimate**

<b>Fiscal Impact</b>	<u><b>Year 1</b></u>	<u><b>Year 2</b></u>	<u><b>Year 3</b></u>
<b>State Cost Increase</b>		Indeterminate	
<b>Local Cost Increase</b>		Indeterminate	

- The Office of Legislative Services (OLS) estimates that this bill will cause an indeterminate annual expenditure increase to the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP) for the coverage of breastfeeding support and counseling before or after the birth of an infant and the provision of a breast pump and breast pump equipment at no cost to the member.
- The Affordable Care Act requires non-grandfathered group health plans, such as the SHBP and the SEHBP, to provide pregnant and postpartum women access to comprehensive lactation support and counseling from trained providers, and plans must cover the cost of a breast pump, either a rental unit or a new breast pump.
- According to Horizon, the plans currently cover the cost of two lactation consultations and one breast pump per pregnancy, but not the cost of ancillary equipment or the repair and replacement of equipment. Thus, costs to the SHBP and the SEHBP would increase if they were required to expand coverage for more than two lactation consultations per pregnancy and for more ancillary equipment and supplies as specified in the bill.

## **BILL DESCRIPTION**

This bill requires health insurers (health, hospital and medical service corporations, commercial individual and group health insurers; health maintenance organizations, health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs, the SHBP, and the SEHBP) to provide coverage without requiring any cost sharing, for expenses incurred in the provision of breastfeeding support and counseling before or after the birth of an infant and the provision of breastfeeding equipment and supplies.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

None received.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS estimates that this bill will cause an indeterminate annual expenditure increase to the SHBP and the SEHBP for the coverage of breastfeeding support and counseling before or after the birth of an infant and the provision of a breast pump and breast pump equipment at no cost to the member. The plans currently provide coverage at no cost to the member for in-network, medically appropriate breastfeeding support, supplies, and counseling as required by federal law, but do not provide coverage to the extent that this bill requires. The Affordable Care Act requires non-grandfathered group health plans such as the SHBP and the SEHBP to provide pregnant and postpartum women access to comprehensive lactation support and counseling from trained providers, and plans must cover the cost of a breast pump, either a rental unit or a new breast pump. Nevertheless, consistent with federal law and its implementing regulations, plans and issuers may use reasonable medical management techniques to determine the frequency, method, treatment, or setting for a recommended preventative item or service, such as breastfeeding, to the extent not specified in the recommendation or guideline. According to Horizon, the plans currently cover two lactation consultations per pregnancy, thus any increase in the number of lactation consultations would increase costs accordingly. In addition, with regard to equipment costs, the plans currently cover the cost of one breast pump per pregnancy, but may not cover all the required equipment costs specified in the bill. For example, the plans currently do not cover the cost of repair or replacement of a purchased unit or ancillary breastfeeding equipment such as flanges, nipple shields, breast shells, or other lactation accessories. Coverage for equipment as specified under the bill will increase costs to the SHBP and the SEHBP.

*Section:* State Government

*Analyst:* Kimberly M. Clemmensen  
Lead Fiscal Analyst

*Approved:* Frank W. Haines III  
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

# LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY COMMITTEE SUBSTITUTE FOR

**ASSEMBLY, No. 5509**

**STATE OF NEW JERSEY  
218th LEGISLATURE**

DATED: DECEMBER 27, 2019

## SUMMARY

- Synopsis:** Requires health benefits and Medicaid coverage for breastfeeding support.
- Types of Impact:** Annual expenditure and revenue increases to the State General Fund, local government entities, and local boards of education.
- Agencies Affected:** Department of the Treasury, Department of Human Services, Department of Health, local government entities, and local boards of education.

### Office of Legislative Services Estimate

Fiscal Impact	
<b>Annual State Expenditure Increase</b>	Indeterminate
<b>Annual State Revenue Increase</b>	Indeterminate
<b>Annual Local Expenditure Increase</b>	Indeterminate
<b>Annual Local Revenue Increase</b>	Indeterminate

- The Office of Legislative Services (OLS) expects considerably higher, indeterminate annual State, local government, and school district expenditures for employee health benefits as a result of the bill's mandated unlimited insurance coverage of comprehensive lactation support, counseling, and consultation services, as well as breastfeeding equipment and supplies.
- The plans in the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP) currently cover lactation services, equipment, and supplies, as required by federal law, but fall short of bill requirements. The OLS has no information on the extent to which local governments and school districts that purchase employee health benefits coverage from private insurance carriers would have to add to their employee health benefits coverage to comply with the provisions of this bill.
- The bill may increase annual State, local government, and school district revenue whenever health insurance premiums are a factor in determining cost-sharing contributions employees pay to their employers. If so, then employee contributions will rise with premiums.

- The State will incur potentially significant annual costs to provide unlimited lactation services, equipment, and supplies to Medicaid enrollees. Because the federal government reimburses 50 percent of eligible State Medicaid expenditures, State revenues will grow by an amount equal to half of the increase in State Medicaid expenditures. These fiscal impacts assume federal approval to provide the Medicaid benefits as required under the bill.
- The OLS expects the fiscal impacts of the bill to be significant because of the prohibition on health insurers and the State Medicaid program to apply common cost control techniques to the provision of lactation services, equipment, and supplies to health plan enrollees.

## **BILL DESCRIPTION**

This bill requires health insurers (health, hospital and medical service corporations; commercial individual and group health insurers; health maintenance organizations; health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs; the SHBP; and the SEHBP) to cover all health plan enrollee expenses for comprehensive lactation support, counseling, and consultation services, as well as breastfeeding equipment and supplies for the duration of breastfeeding. The bill requires the same coverage under the State Medicaid program but conditioned on federal approval and financial participation under the federal Medicaid program.

In addition, the bill prohibits health insurers and the State Medicaid program from applying cost control techniques to the provision of lactation services, equipment, and supplies, such as: cost-sharing with plan members; limits on allowable reimbursement amounts; documentation requests; coverage delays; prior authorization, prescription, and referral requirements; and restrictions on the provider type or location of service provision, including home visits.

The bill's effective date is the 180th day next following the date of enactment.

## **FISCAL ANALYSIS**

### ***EXECUTIVE BRANCH***

The Executive has not submitted a formal, written fiscal note for this bill. However, the Department of Human Services (DHS) estimated informally that the bill would not significantly increase the annual expenditures of the State Medicaid program, since the program already covers most of the benefits included in the bill, such as breast pumps and lactation counseling services.

### ***OFFICE OF LEGISLATIVE SERVICES***

The OLS anticipates that the bill will cause a potentially considerable, indeterminate increase in annual employee health benefits expenditures of the State, local government entities, and school districts. The expenditure growth may be partially offset by higher annual revenue collections whenever health insurance premiums are a factor in determining cost-sharing contributions employees pay to their employers. If so, then employee contributions will rise with premiums.

Assuming federal approval of the coverage requirements of the bill with regard to the State Medicaid program, the OLS projects that the bill will raise annual State Medicaid expenditures by



a potentially significant, indeterminate amount, partially offset by annual increases in federal reimbursements under the Medicaid program.

Employee Health Benefits: The OLS estimates that the bill will cause a potentially considerable, indeterminate annual increase in employee health benefits expenditures of the State, local government entities, and school districts for the unlimited coverage of breastfeeding support, counseling, and consultation before and after the birth of an infant and the provision of a breast pump equipment and supplies at no cost to the member.

The plans in the SHBP and SEHBP, for example, currently provide coverage at no cost to the member for in-network, medically appropriate breastfeeding support, supplies, and counseling, as required by federal law, but fall short of bill requirements. According to Horizon, the plans currently cover two lactation consultations per pregnancy and provide equipment and accessories for each pregnancy.

The federal Affordable Care Act requires non-grandfathered group health plans, such as the SHBP and the SEHBP, to provide pregnant and postpartum women access to comprehensive lactation support and counseling from trained providers, and plans must cover the cost of a breast pump, either a rental unit or a new breast pump. Nevertheless, consistent with federal law and its implementing regulations, plans and insurers may use reasonable medical management techniques to determine the frequency, method, treatment, or setting for a recommended preventative item or service to the extent not specified in the recommendation or guideline. The SHBP and SEHBP use medical management techniques to control costs.

The expansion of the coverage provided for in this bill and the prohibition on common cost control mechanisms will have a considerable cost impact on the plans. For example, home visits by lactation consultants and counselors will raise the costs of counseling sessions and consultations by increasing the number of hours a consultant or counselor will charge the plans because of travel time. The bill also prohibits the treatment of member expenses for lactation services, equipment, and supplies as out-of-network costs because the bill prohibits limitations on reimbursement amounts. Currently, the SHBP and SEHBP provide coverage at no cost as long as the services are provided in-network unless, in accordance with federal guidelines, there is no provider in-network that can provide the service. In that latter case, if an insurance company does not have a network of providers for women to receive lactation counseling, then the plan must allow them to obtain lactation counseling from an out-of-network provider, at no cost-sharing.

In addition, the cost of lactation counseling differs greatly depending on the professional who provides the counseling. In New Jersey, International Board Certified Lactation Consultants (IBCLC) earn up to \$102,437 per year, or \$38.26 per hour. In comparison, lactation counselors earn \$14.93 per hour, or \$39,997 per year. Unlimited consultations will increase costs measurably, especially if consultations are provided by IBCLCs instead of counselors.

With regard to equipment costs, the plans currently cover the cost of one breast pump per pregnancy, but may not cover all the required equipment costs specified in the bill. For example, the plans currently do not cover the cost of repair or replacement of a purchased unit or ancillary breastfeeding equipment, such as flanges or other lactation accessories. Coverage for equipment as specified under the bill will increase the medical equipment costs associated with breastfeeding coverage.

Lastly, the bill may increase annual revenue collections of the State, local governments, and school districts to the extent that health insurance premiums are a factor in determining cost-sharing contributions employees pay to their public employers. If so, then employee contributions would be higher as a function of growth in premiums. Conversely, the bill would have no effect on annual public employer revenues if the formula for determining employee contributions does not consider health insurance premiums, such as formulas that are exclusively based on an

employee's salary. The OLS, however, has insufficient information on the terms of collective bargaining agreements in effect in the State to quantify any increase in annual employee premium-sharing revenue that the State, local governments, and school districts may collect.

Medicaid: According to the DHS, the New Jersey Medicaid program currently covers lactation counseling and breast pumps. However, the extent of the coverage is unclear. The informal DHS response to an OLS inquiry did not provide any coverage-related specifics. Moreover, most Medicaid beneficiaries are enrolled in Medicaid managed care plans, but the State contract with the Medicaid managed care organizations also does not specify coverage requirements.

The OLS notes that New Jersey's Medicaid program has a cooperative agreement with the federal Special Supplemental Food Program for Women, Infants, and Children (WIC) to provide low-income women with lactation counseling services, breast pumps, and other breastfeeding supplies. In New Jersey, the Department of Health administers the federal WIC program, which is a public health nutrition program that provides grants to states for healthy food, nutrition education, and community support for income-eligible women who are pregnant and post-partum, infants, and children up to five years old.

To the extent that the bill expands the State Medicaid program's current lactation counseling and equipment benefits, the OLS anticipates that annual Medicaid expenditures may increase by an indeterminate amount. Since the majority of the State's Medicaid population is enrolled in managed care, any expansion of lactation benefits would be reimbursed as part of the capitation rate negotiated between the DHS and the contracted Medicaid managed care organizations. However, this change in the scope of covered lactation benefits may exert upward pressure on Medicaid managed care capitation rates in future years. Without additional information on the scope of the lactation services currently covered under the State's Medicaid program, the number of Medicaid enrollees who may choose to access these services provided under the bill, and enrollees' consumption thereof, the OLS is unable to estimate the extent to which the bill will increase annual State Medicaid program expenditures.

Similarly, since the federal government reimburses 50 percent of eligible State Medicaid expenditures, State revenues will grow by an amount equal to half of the increase in State Medicaid expenditures for any newly-covered lactation services, equipment, and supplies.

The OLS expects the fiscal impacts of the bill on the State Medicaid program to be potentially significant because of the prohibition on the program to apply common cost control techniques to the provision of lactation services, equipment, and supplies to Medicaid enrollees.

Lastly, the above discussion of fiscal impacts of the bill on the State Medicaid program assumes federal approval to provide expanded lactation services, equipment, and supplies under Medicaid, as required under the bill. Without federal approval and financial participation, however, the breastfeeding benefits would not be made available to Medicaid enrollees. Although the federal Centers for Medicare and Medicaid Services routinely approves the addition of breastfeeding benefits to state programs, the OLS cannot ascertain whether it would approve benefits without cost controls.

*Section:* State Government

*Analyst:* Kimberly M. Clemmensen  
Lead Fiscal Analyst  
Anne Hunt Cappabianca  
Assistant Fiscal Analyst

*Approved:* Frank W. Haines III  
Legislative Budget and Finance Officer

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.)

# SENATE, No. 3805

## STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED MAY 30, 2019

**Sponsored by:**

**Senator M. TERESA RUIZ**

**District 29 (Essex)**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**Co-Sponsored by:**

**Senator Greenstein**

**SYNOPSIS**

Requires health benefits coverage for breastfeeding support.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 6/28/2019)**

1 AN ACT concerning health benefits coverage for breastfeeding  
2 support and supplementing various parts of the statutory law.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. a. A hospital service corporation contract that provides  
8 hospital or medical expense benefits and is delivered, issued,  
9 executed or renewed in this State, or approved for issuance or  
10 renewal in this State by the Commissioner of Banking and  
11 Insurance, on or after the effective date of P.L. ,  
12 c. (C. )(pending before the Legislature as this bill), shall  
13 provide coverage without requiring any cost sharing, for expenses  
14 incurred in the provision of breastfeeding support and counseling  
15 before or after the birth of an infant and the provision of a breast  
16 pump.

17 b. This section shall apply to those contracts in which the  
18 hospital service corporation has reserved the right to change the  
19 premium.

20

21 2. a. A medical service corporation contract that provides  
22 hospital or medical expense benefits and is delivered, issued,  
23 executed or renewed in this State, or approved for issuance or  
24 renewal in this State by the Commissioner of Banking and  
25 Insurance, on or after the effective date of P.L. ,  
26 c. (C. )(pending before the Legislature as this bill), shall  
27 provide coverage without requiring any cost sharing, for expenses  
28 incurred in the provision of breastfeeding support and counseling  
29 before or after the birth of an infant and the provision of a breast  
30 pump.

31 b. This section shall apply to those contracts in which the  
32 medical service corporation has reserved the right to change the  
33 premium.

34

35 3. a. A health service corporation contract that provides  
36 hospital or medical expense benefits and is delivered, issued,  
37 executed or renewed in this State, or approved for issuance or  
38 renewal in this State by the Commissioner of Banking and  
39 Insurance, on or after the effective date of P.L. ,  
40 c. (C. )(pending before the Legislature as this bill), shall  
41 provide coverage without requiring any cost sharing, for expenses  
42 incurred in the provision of breastfeeding support and counseling  
43 before or after the birth of an infant and the provision of a breast  
44 pump.

45 b. This section shall apply to those contracts in which the  
46 health service corporation has reserved the right to change the  
47 premium.

48

49 4. a. An individual health insurer policy that provides hospital

1 or medical expense benefits and is delivered, issued, executed or  
2 renewed in this State, or approved for issuance or renewal in this  
3 State by the Commissioner of Banking and Insurance, on or after  
4 the effective date of P.L. , c. (C. )(pending before the  
5 Legislature as this bill), shall provide coverage without requiring  
6 any cost sharing, for expenses incurred in the provision of  
7 breastfeeding support and counseling before or after the birth of an  
8 infant and the provision of a breast pump.

9 b. This section shall apply to those policies in which the insurer  
10 has reserved the right to change the premium.

11

12 5. a. A group health insurer policy that provides hospital or  
13 medical expense benefits and is delivered, issued, executed or  
14 renewed in this State, or approved for issuance or renewal in this  
15 State by the Commissioner of Banking and Insurance, on or after  
16 the effective date of P.L. , c. (C. )(pending before the  
17 Legislature as this bill), shall provide coverage without requiring  
18 any cost sharing, for expenses incurred in the provision of  
19 breastfeeding support and counseling before or after the birth of an  
20 infant and the provision of a breast pump.

21 b. This section shall apply to those policies in which the insurer  
22 has reserved the right to change the premium.

23

24 6. a. An individual health benefits plan that provides hospital  
25 or medical expense benefits and is delivered, issued, executed or  
26 renewed in this State, or approved for issuance or renewal in this  
27 State by the Commissioner of Banking and Insurance, on or after  
28 the effective date of P.L. , c. (C. )(pending before the  
29 Legislature as this bill), shall provide coverage without requiring  
30 any cost sharing, for expenses incurred in the provision of  
31 breastfeeding support and counseling before or after the birth of an  
32 infant and the provision of a breast pump.

33 b. This section shall apply to all individual health benefits  
34 plans in which the carrier has reserved the right to change the  
35 premium.

36

37 7. a. A small employer health benefits plan that provides  
38 hospital or medical expense benefits and is delivered, issued,  
39 executed or renewed in this State, or approved for issuance or  
40 renewal in this State by the Commissioner of Banking and  
41 Insurance, on or after the effective date of P.L. ,  
42 c. (C. )(pending before the Legislature as this bill), shall  
43 provide coverage without requiring any cost sharing, for expenses  
44 incurred in the provision of breastfeeding support and counseling  
45 before or after the birth of an infant and the provision of a breast  
46 pump.

47 b. This section shall apply to all small employer health benefits  
48 plans in which the carrier has reserved the right to change the  
49 premium.

1       8. a. A health maintenance organization contract that provides  
2 hospital or medical expense benefits and is delivered, issued,  
3 executed or renewed in this State, or approved for issuance or  
4 renewal in this State by the Commissioner of Banking and  
5 Insurance, on or after the effective date of P.L. \_\_\_\_\_,

6 c. (C. \_\_\_\_\_)(pending before the Legislature as this bill), shall  
7 provide coverage without requiring any cost sharing, for expenses  
8 incurred in the provision of breastfeeding support and counseling  
9 before or after the birth of an infant and the provision of a breast  
10 pump.

11       b. The provisions of this section shall apply to those contracts  
12 for health care services by health maintenance organizations under  
13 which the right to change the schedule of charges for enrollee  
14 coverage is reserved.

15

16       9. The State Health Benefits Commission shall ensure that  
17 every contract purchased by the commission on or after the  
18 effective date of this act that provides hospital or medical expense  
19 benefits shall provide coverage without requiring any cost sharing,  
20 for expenses incurred in the provision of breastfeeding support and  
21 counseling before or after the birth of an infant and the provision of  
22 a breast pump.

23

24       10. The School Employees' Health Benefits Commission shall  
25 ensure that every contract purchased by the commission on or after  
26 the effective date of this act that provides hospital or medical  
27 expense benefits shall provide coverage without requiring any cost  
28 sharing, for expenses incurred in the provision of breastfeeding  
29 support and counseling before or after the birth of an infant and the  
30 provision of a breast pump.

31

32       11. This act shall take effect on the 90th day next following  
33 enactment.

34

35

36

STATEMENT

37

38       This bill requires health insurers (health, hospital and medical  
39 service corporations, commercial individual and group health  
40 insurers; health maintenance organizations, health benefits plans  
41 issued pursuant to the New Jersey Individual Health Coverage and  
42 Small Employer Health Benefits Programs, the State Health  
43 Benefits Program, and the School Employees' Health Benefits  
44 Program) to provide coverage without requiring any cost sharing,  
45 for expenses incurred in the provision of breastfeeding support and  
46 counseling before or after the birth of an infant and the provision of  
47 a breast pump.

SENATE COMMERCE COMMITTEE

STATEMENT TO

**SENATE, No. 3805**

**STATE OF NEW JERSEY**

DATED: JUNE 3, 2019

The Senate Commerce Committee reports favorably Senate Bill No. 3805.

This bill requires health insurers (health, hospital and medical service corporations, commercial individual and group health insurers; health maintenance organizations, health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs, the State Health Benefits Program, and the School Employees' Health Benefits Program) to provide coverage without requiring any cost sharing, for expenses incurred in the provision of breastfeeding support and counseling before or after the birth of an infant and the provision of a breast pump.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### SENATE SUBSTITUTE FOR **SENATE, No. 3805**

with committee amendments

# STATE OF NEW JERSEY

DATED: NOVEMBER 14, 2019

The Senate Commerce Committee reports favorably and with committee amendments the Senate Substitute for Senate Bill No. 3805.

As amended by the committee, this substitute requires health insurers (health, hospital and medical service corporations, commercial individual and group health insurers; health maintenance organizations, health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs, the State Health Benefits Program, and the School Employees' Health Benefits Program) and the State Medicaid Program to provide coverage without requiring any cost sharing, for comprehensive lactation support and counseling and consultation, and the costs for renting or purchasing electric or manual breastfeeding equipment, in conjunction with each birth, for the duration of breastfeeding for health plan enrollees, with no cost-sharing.

Under the bill, coverage of breastfeeding equipment is required to include:

(1) Purchase of a single-user breast pump, subject to certain conditions; and

(2) Rental or purchase of a multi-user breast pump, on the recommendation of a licensed health care provider, subject to certain conditions.

Under the bill, coverage of breastfeeding equipment includes two breast pump kits per birth event, as well as appropriate size breast pump flanges, or other lactation accessories recommended by a health care provider.

The bill provides that breastfeeding equipment must be available within certain timeframes. If the health insurer cannot ensure an enrollee receives breastfeeding equipment within a specified time period, an enrollee may purchase or rent the equipment and the health plan must reimburse all out-of-pocket expenses incurred by the enrollee.

The bill provides that coverage of comprehensive lactation counseling and lactation consultation includes:



(1) In-person, one-on-one lactation counseling and lactation consultation with a lactation provider, subject to certain conditions.

(2) Telephonic lactation assistance covered in addition to, and not as a substitute for, in-person, one-on-one lactation counseling or lactation consultation, when an enrollee requests one-on-one, in-person lactation counseling or lactation consultation. The telephonic lactation assistance must be provided within 12 hours of notification of need.

(3) Group lactation counseling covered in addition to, and not as a substitute for, one-on-one, in-person lactation counseling or lactation consultation, if an enrollee requests one-on-one, in-person lactation counseling or lactation consultation. Group counseling must include educational classes and support groups.

The bill prohibits a health insurer from requiring prior authorization, prescription or referral for any lactation counseling or lactation consultation, regardless of provider type or setting.

A health insurer may not impose medical management techniques not described in the bill or impose restrictions on the coverage provided, including, but not limited to, limitations on reimbursement to allowable amounts or reasonable and customary charges, documentation requests, or delays on the coverage provided.

The bill defines “lactation consultation” to mean the clinical application by a lactation consultant or other licensed health care provider of scientific principles and a multidisciplinary body of evidence for evaluation, problem identification, treatment, education, and consultation to child-bearing families utilizing lactation care and services.

The bill provides that lactation care and services include, but are not limited to:

- (1) lactation assessment through the systematic collection of subjective and objective data;
- (2) analysis of data and creation of a plan of care;
- (3) implementation of a lactation care plan with demonstration and instruction to parents and communication to the primary health care provider;
- (4) evaluation of outcomes;
- (5) provision of lactation education to parents and health care providers; and
- (6) the recommendation and use of assistive devices.

The bill defines lactation counselor to mean an individual, other than an International Board Certified Lactation Consultant or a licensed health care provider, who is:

- (1) licensed to practice lactation counseling under any law, or who is an accredited member belonging to another profession or occupation, who provides breastfeeding education and support services for which that person is licensed, regulated, accredited, or certified; or

(2) a community-based lactation supporter who has received at least 40 hours of specialty education in breastfeeding and lactation, and who works within a lactation counselor's scope of practice.

As amended and reported by the committee, the Senate Substitute for Senate Bill No. 3805 is identical to the Assembly Committee Substitute for Assembly Bill No. 5509, as that bill was amended and reported by the committee.

#### COMMITTEE AMENDMENTS:

The committee amended the bill to add lactation consultation to the breastfeeding support services for which health insurers must provide coverage without cost sharing under the bill. The amendments provide that "lactation consultation" means the clinical application by a lactation consultant or other licensed healthcare provider of scientific principles and a multidisciplinary body of evidence for evaluation, problem identification, treatment, education, and consultation to child-bearing families utilizing lactation care and services.

The amendments define "lactation consultant" to mean an individual who is an International Board Certified Lactation Consultant.

The amendments define "lactation counselor" to mean an individual, other than an International Board Certified Lactation Consultant or a licensed health care provider, who is:

(1) licensed to practice lactation counseling under any law, or who is an accredited member belonging to another profession or occupation, who provides breastfeeding education and support services for which that person is licensed, regulated, accredited, or certified; or

(2) a community-based lactation supporter who has received at least 40 hours of specialty education in breastfeeding and lactation, and who works within a lactation counselor's scope of practice.

The amendments delete references to "nipple shields" and "breast shells" throughout the bill, as these items are encompassed in the more general term, "other lactation accessories."

The amendments expand the scope of the bill to ensure that individuals who are eligible for the State Medicaid program will receive benefits for comprehensive lactation support, counseling, and consultation, and for the costs for renting or purchasing breastfeeding equipment, in conjunction with each birth, for the duration of breastfeeding to any individual eligible for medical assistance.

The amendments also provide that the bill's effective date is the 180th day next following enactment.

# Governor Murphy Signs Legislative Package to Fight New Jersey's Maternal and Infant Health Crisis

01/13/2020

**TRENTON** - Governor Phil Murphy today signed a legislative package into law to combat New Jersey's maternal and infant health crisis and provide health benefits coverage for fertility preservation services. The series of bills aims to improve health outcomes for New Jersey's mothers and babies and address the racial inequities in maternal and infant health care. The legislation will support the efforts of the Administration's Nurture NJ campaign, which is led by First Lady Tammy Murphy.

"In New Jersey, we are committed to improving the health and safety of every mother and child," **said Governor Murphy**. "By signing today's bills, we are taking another step forward in our effort to eliminate the racial disparities in maternal and infant care. I am proud to sign these bills into law and commend my colleagues in the Legislature for their commitment to improve health outcomes for New Jersey's mothers, babies, and families."

"Our mission is to make New Jersey the safest place in the nation to give birth," **said First Lady Tammy Murphy**. "To achieve this, it is absolutely essential that mothers across all races, ethnicities, social and economic backgrounds are listened to and supported by federal, state and community resources. Today's legislation provides better care and support for our mothers and babies, and moves us closer to improving health outcomes for all of New Jersey's families."

The Governor signed the following four bills into law:

- **A5509 (Mosquera, Timberlake, Mukherji/Ruiz, Pou)** – Requires health benefits and Medicaid coverage for breastfeeding support.
- **S3159 (Weinberg, Greenstein/Vainieri Huttle, Reynolds-Jackson, Mukherji)** - Requires Medicaid coverage for pasteurized donated human breast milk under certain circumstances.
- **S484 (Vitale, Gill/ McKeon, Speight, Vainieri Huttle)** - Revises Newborn Screening program in the Department of Health.
- **S2133 (Cruz-Perez, Ruiz/Lampitt, Timberlake, Mosquera, Sumter, Tucker, Reynolds-Jackson)** - Mandates health benefits coverage for fertility preservation services under certain health insurance plans.

## **A5509**

"As parents of young children, each of us knows first-hand the challenges of raising a child and just how important it is to be able to receive the support you need. Under the ACA, Medicaid currently provides coverage for breastfeeding equipment and services. This new mandate would not only guarantee continued coverage for Medicaid recipients even if the ACA is dismantled at the federal level, but would also require all New Jersey insurers to provide coverage for comprehensive lactation support. We are ensuring the health and well-being of mothers and their babies, while giving New Jersey parents one less expense to worry about as they care for their children," **said Assemblymembers Mosquera, Timberlake, and Mukherji**.

## **S3159**

"The American Academy of Pediatrics recommends breast milk as the exclusive source of nutrition for a child in their first six months of life," **said Assemblywoman Valerie Vainieri Huttle**. "In extending health coverage for donated breast milk, we can ensure it is available and affordable for all mothers seeking to breastfeed and boost positive health outcomes for their babies."

"Low-income families under Medicaid will now have the same access to breast milk as those under all other health coverage policies," **said Assemblywoman Verlina Reynolds-Jackson**. "With breastfeeding shown to have a protective effect against respiratory illnesses, ear infections, allergy development and other diseases, it is important to remove barriers and guarantee quality health care to all mothers and babies in need."

"As my wife and I recently experienced, milk production is not always as seamless post-delivery as you'd hope or expect, nor does it always last as long as desired," **Assemblyman Raj Mukherji**. "The coverage extended under this new law will be particularly important for parents with prematurely born babies or those babies who may

need human breast milk for certain conditions for which formula is insufficient. As outcomes have shown, fortified breast milk can better provide the necessary nutrients for those in the Neonatal Intensive Care Unit to greatly increase healthy growth and development. Income should not determine which New Jersey families can ensure the health of their babies.”

#### **S484**

“The importance of this type of advisory committee cannot be emphasized enough,” **said Assemblyman McKeon**. “Its members would have both the experience and authority necessary to make recommendations to the Department of Health on screening technologies, treatment options, follow-up procedures and more. Their advice would help promote the well-being of newborns throughout the state.”

“We must prioritize our children’s health by utilizing the expertise of scientists, doctors and other educated professionals when it comes to congenital disorders,” **said Assemblywoman Speight**. “Maintaining updated methods of screening for a wide array of biochemical disorders can help reduce the amount of morbidity, mortality and disability that would otherwise be caused by undetected health problems.”

“Early diagnosis of a potential congenital disorder and access to early medical interventions can save parents and their children a lifetime of pain,” **said Assemblywoman Vainieri Huttle**. “It’s important for our state to do everything we can to make sure medical practitioners and parents are educated with standardized, up-to-date information on these disorders and how they can be both identified and treated.”

#### **S2133**

“Being diagnosed with a serious health condition and deciding to undergo major medical treatment is stressful enough without having to worry about potential infertility as a result of the treatment,” **said Assemblywoman Lampitt**. “Having the option to utilize fertility services helps to provide patients with peace of mind and makes the decision to seek medical treatment a little easier.”

“When someone requires a life-saving treatment, they shouldn’t have to choose between daunting medical bills or never having a family,” **said Assemblywoman Timberlake**. “Guaranteeing insurance coverage is one way we can help alleviate patients’ financial concerns and allow them to make their decision based on what they want rather than what they can afford.”

“As a mother, there is nothing in the world I value more than my children. Raising a child is such a rewarding experience,” **said Assemblywoman Mosquera**. “This law will ensure that no one who dreams of being a parent will be denied that opportunity if there is any way for them to do so, regardless of their current health problems.”

“Advancements in medical technology are providing patients with incredible alternatives they never would have had in the past,” **said Assemblywoman Sumter**. “If someone wants to start a family of their own someday but may soon face infertility, it’s important we help them achieve their dream by guaranteeing coverage of these beneficial fertility preservation services.”

“Everyone deserves the chance to form a family of their own,” **said Assemblywoman Tucker**. “In the past, the kinds of treatment cancer patients receive would have severely limited their ability to do so – but that is no longer the case thanks to modern fertility preservation services. We must ensure their ability to use those services whenever necessary and desired.”

“At a time when patients are coping with serious illnesses that can be both challenging and discouraging, knowing they can still have a family someday gives them hope,” **said Assemblywoman Reynolds-Jackson**. “That kind of hope during such a difficult time is more powerful than many people can comprehend. This law will help patients focus on the possibilities of life.”

# Governor Murphy Takes Action on Legislation

01/13/2020

**TRENTON** – Today, Governor Phil Murphy signed the following bills into law:

**A268 (Kean, Egan, Holley/Singer, Gopal)** - "P.I.C.K. Awareness Act"; authorizes issuance of special support recovery license plates.

**A790 (Andrzejczak, Land, Mosquera, Mukherji, Downey, Zwicker, Mazzeo/Connors, Singleton)** - "Combat to College Act"; grants priority course registration to military service members and veterans attending public institutions of higher education.

**A791 (Andrzejczak, Land, Mosquera, Danielsen, Mukherji, Downey, Zwicker/Van Drew, Brown)** - Requires institution of higher education to award appropriate credit for student's military service.

**A1212 (McKeon, Gusciora, Vainieri Huttle/Sweeney, Smith, Bateman, Greenstein)** - Clarifies intent of P.L.2007, c.340 regarding NJ's required participation in Regional Greenhouse Gas Initiative.

**A1305 (Greenwald/Rice)** - Renames Mountainview Youth Correctional Facility as "William H. Fauver Youth Correctional Facility."

**A1576 (Conaway, Giblin/Vitale)** - Requires certain health care facilities to provide, and employees to receive, annual influenza vaccination.

**A1582 (Conaway, Moriarty, Mosquera, Benson, Pinkin, Giblin, Quijano/Weinberg, Ruiz)** - Establishes "Dietetics and Nutrition Licensing Act".

**A1991 (Sumter, Munoz, Mukherji/Singer, Gordon)** - Requires students at institutions of higher education to receive immunization for meningitis in accordance with recommendations of Advisory Committee on Immunization Practices.

**A3101 (Egan Jones, Benson, Land/Singleton)** - Increases minimum annual amounts for appropriation for certain arts, historical heritage, and tourism purposes from hotel and motel occupancy fee revenues.

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**A3160 (Lampitt, Giblin, Murphy/Beach)** - Permits cosmetology and hairstyling school clinics to charge certain fees for services rendered to general public.

**A3832 (Mukherji, McKnight, Chiaravalloti/Cryan, Stack)** - Authorizes municipal tax levy through public question for certain purposes; clarifies ability of local government entities to issue non-recourse bonds; appropriates \$100,000.

**A4493 (Pinkin, Conaway, Vainieri Huttle/Vitale)** - Authorizes expedited partner therapy, under which sexual partners or patients diagnosed with sexually transmitted disease are treated without prior clinical examination.

**A4608 (Zwicker, Downey/Weinberg, Kean)** - " Applied Behavior Analyst Licensing Act."

**A4710 (Lampitt, Zwicker, Vainieri Huttle/Beach,Turner)** - "Strengthening Gifted and Talented Education Act"; establishes school district responsibilities in educating gifted and talented students.

**A5037 (Pintor Marin, Speight, Vainieri Huttle/Andrzejczak, Greenstein)** - Enhances penalties related to counterfeit drugs.

**A5091 (McKeon, Vainieri Huttle, Pinkin/Pou, Singleton)** - Establishes "Safeguarding Against Financial Exploitation Act."

**A5263 (Tully, Armato/Corrado)** - Requires four-year public institution of higher education to award college credits to firefighters for certain courses completed at county fire academies.

**A5277 (DeAngelo, Houghtaling/Greenstein)** - Eliminates term limits for members of State Board of Examiners of Master Plumbers and State Board of Examiners of Heating, Ventilating, Air Conditioning and Refrigeration Contractors.

**A5624 (Pintor Marin, Munoz, Lampitt/Weinberg, Corrado)** - Requires that State employee serve as Equal Employment Opportunity and Affirmative Action officer for gubernatorial transitions.

**A5625 (Pintor Marin, Munoz, Lampitt/Weinberg, Corrado)** - Requires payment of expenses related to background investigations for certain gubernatorial transition positions.

**A5628 (Pintor Marin, Munoz, McKnight/Weinberg, Corrado)** - Requires Civil Service Commission establish standardize recordkeeping and retention requirements with regard to unclassified State employees.

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**A5631 (Pintor Marin, Munoz, Pinkin/Weinberg, Corrado)** - Specifies certain requirements for State agency review of complaint of workplace discrimination.

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**A5632 (Pintor Marin, Munoz, Reynolds-Jackson/Weinberg)** - Requires certain public employees receive additional training to manage harassment or discrimination complaints.

**A5917 (Chiaravalloti, McKnight/Cunningham, Weinberg)** - Expands DOH oversight of hospital finances.

**A6007 (McKeon/Pou)** - Requires insurers and insurance groups to submit corporate governance annual disclosure to DOBI Commissioner.

**S463 (Singer, Greenstein/Dancer, Calabrese, DeAngelo)** - Provides for voluntary contributions by taxpayers on gross income tax returns for Meals on Wheels.

**S538 (Oroho, Stack/Wirths, Vaineri Huttie, Bucco)** - Allows long term tax exemption extension for certain low-income housing.

**S775 (Cunningham, Sacco/Sumter, Caride, Vainieri Huttie)** - Establishes Tuition Aid Grant Study Commission to examine New Jersey's Tuition Aid Grant Program and make recommendations regarding improvements to program.

**S778 (Cunningham, Kean/Quijano, Jasey, Pintor Marin)** - Establishes Campus Sexual Assault Commission.

**S1493 (Stack, Singleton/Quijano, Chaparro, Timberlake)** - Prohibits landlords from requiring residential tenants to pay rent and other related charges through electronic funds transfer; requires landlords to provide receipts for cash payments.

**S1508 (Turner, Singleton/Reynolds-Jackson, Sumter, Wimberly)** - Eliminates motor vehicle surcharges following retirement of bonds and debts tied to surcharges.

**S1834 (Ruiz, Cunningham/Quijano, Murphy)** - Requires each public institution of higher education to post its budget on the institution's website.

**S1953 (Oroho, Cruz-Perez/Space, Andrzejcack, Wirths)** - Directs Dept. of Agriculture to authorize and advise food hubs.

**S1966 (Sweeney, Singleton/Taliaferro)** - Increases death benefit of active member of PFRS and SPRS to 50 percent of final compensation for surviving child or children.

**S2527 (Ruiz, Turner/Lampitt, Quijano, Timberlake)** - Requires Department of Agriculture to promote school meal programs.

**S2533 (Greenstein, Cruz-Perez/Vainieri Huttie, Lopez, Timberlake)** - Requires Office of Victim-Witness Advocacy to provide services to certain inmates.

**S2898 (Madden, Sarlo/Murphy, Mosquera, Vainieri Huttie)** - Establishes "New Jersey Fire and EMS Crisis Intervention Services" telephone hotline; provides funding for hotline through fire inspection fees and penalties.

**S2980 (Ruiz/Lampitt, McKnight)** - Provides that school district may not condition student enrollment in district on fact that MVC does not have name or address of parent or guardian on file.

**S2982 (Ruiz/Lampitt, Mukherji, Lopez)** - Clarifies that child may not be excluded from public school based on membership in protected category under "Law Against Discrimination" or immigration status.

**S2998 (Ruiz/Freiman, Downey)** - Requires creditors to make certain disclosures regarding collateral protection insurance to consumer debtors.

**S3064 (Ruiz, Singleton/Armato, Conaway, Swain)** - Establishes task force to develop State-wide plan to diversify apprenticeships.

**S3066 (Ruiz, Singleton/Lampitt, Mukherji, Benson)** - Creates five year High-Growth Industry Regional Apprenticeship Development Grant Pilot Program.

**S3118 (Ruiz/Speight, Munoz, Tucker)** - Establishes public awareness campaign to promote early conversations about advance care planning and end-of-life care.

**S3124 (Stack/Mukherji)** - Requires landlords to allow tenants to pay rent up to three business days after eviction order or lockout is executed and accept rent payments by any means.

**S3206 (Pou, Cruz-Perez/Lopez, McKeon, Murphy)** - Establishes "Unbanked and Underbanked Consumers Study Commission."

**S3215 (Greenstein, Singleton/Zwicker, Mukherji, Swain)** - Requires State to use 20-year time horizon and most recent Intergovernmental Panel on Climate Change Assessment Report when calculating global warming potential to measure global warming impact of greenhouse gases.

**S3246 (Sarlo, Singleton, Oroho, Bucco/Benson, Bucco, Freiman)** - Establishes elective pass-through entity business alternative income tax and allows corresponding refundable gross income tax and corporation business tax credit.

**S3327 (Ruiz, Cruz-Perez/Lopez, Timberlake)** - Establishes Commission on Latino and Hispanic Heritage in DOE.

**S3348 (Weinberg/Vainieri Huttle, McKnight)** - Requires home health agencies and specialty pharmacies providing services related to bleeding episodes associated with hemophilia to comply with certain minimum practice standards.

**S3528 (Scutari, Codey/Vainieri Huttle, Quijano, Kennedy)** - Establishes process to obtain judgement of adoption for civil union partner or spouse of natural or legal parent of child when that person is named as parent on child's birth certificate.

**S3574 (Scutari, Kean, Cryan/Carter, Kennedy, Freiman)** - Requires NJT to conduct feasibility study on restoring one-seat ride to Manhattan on Raritan Valley Line.

Governor Murphy conditionally vetoed the following bills:

**A2431 (Benson, Jimenez, DeCroce, Eustace/Weinberg, Kean)** – Requires health insurers to provide plans that limit patient cost-sharing concerning certain prescription drug coverage.

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**A4978 (Timberlake, Zwicker, Vainieri Huttle/Greenstein, Cryan)** – Prohibits online education services from using and disclosing certain information, engaging in targeted advertising, and requires deletion of certain information in certain circumstances.

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**S3920 (Pou/Wimberly, Sumter)** – Concerns provision of energy to certain manufacturing facilities by providing exemptions to certain energy related taxes.

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Governor Murphy absolute vetoed the following bill:

**S4139 (Greenstein/Benson)** - Makes Fiscal Year 2020 supplemental appropriation of \$250,000 to Rutgers University - New Brunswick for School of Dental Medicine - Special Care Treatment Center.

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