

Provision in Health Care Reform Law Provides Time and Place to Pump at Work

What is provision § 4207?

Provision § 4207 of the health care reform package (*Reasonable Break Time for Nursing Mothers*) was successfully included by Senator Jeff Merkley as an amendment to the Senate HELP Committee health care legislation. The amendment was adopted unanimously by voice vote and was ultimately included in the final health care reform law signed by President Obama on March 23, 2010. The provision was taken from legislation Rep. Carolyn Maloney (D-NY), a long-time champion of breastfeeding workplace protections in Congress, reintroduced in the 111th Congress, the *Breastfeeding Promotion Act* (H.R. 2819). A companion bill was introduced by Senator Jeff Merkley (S.1244).

What protections does the provision provide?

The provision states that employers shall provide breastfeeding employees, who are hourly workers, with unpaid “reasonable break time” and a private, non-bathroom place to express breast milk during the workday, up until the child’s first birthday. The Department of Labor will soon issue guidance on the implementation of these protections.

What if state laws provide more protection?

State laws that provide more protection to nursing mothers are not affected by this law. It simply sets a federal standard that is a floor.

When does the law go into effect?

The law was effective immediately upon President Obama’s signing of the *Patient Protection and Affordable Care Act*, however, the guidance for enforcement has not yet been put in place. The Department of Labor is working to establish this guidance and should give employers time to comply once it’s in place.

Why is this provision important for mothers and babies?

A recent studyⁱ found that the U.S. could save \$13 billion per year in unnecessary medical expenses if 90 percent of new mothers nursed their children exclusively for six months. Diseases that would be significantly reduced include: sudden infant death syndrome, gastro intestinal disease related to low birth weight, ear infections, respiratory tract infections, leukemia, and childhood obesity. The study also found that 911 infant deaths per year could be prevented as a result.ⁱⁱ Returning to an unsupportive work environment has been identified as a major reason for the avoidance or early abandonment of breastfeeding. Workplace support can bridge this gap and help more women to balance working and breastfeeding.

ⁱ Melissa Bartick and Arnold Reinhold, “The Burden of Suboptimal Breastfeeding in the United States: A Pediatric Cost Analysis,” *Pediatrics*, April 2010.

ⁱⁱ Ibid.

Why is this provision important for businesses?

According to the U.S. Department of Labor, 56% of mothers with infants under 1 year of age work.ⁱⁱⁱ And according to the U.S. Census Bureau, one-third of mothers return to work within 3 months of giving birth, two-thirds within six months.^{iv} Benefits to employers include increased productivity through reduced missed workdays by parents with sick infants and significant savings through reduced health care costs. According to one study on maternal absenteeism, one-day absences to care for sick children occur more than twice as often for mothers of formula feeding infants.^v

The Department of Health and Human Services (HHS) provides *The Business Case for Breastfeeding* on its [website](#), which contains resources and support for employers in providing their employees with a lactation support program in the workplace. See *the Business Case for Breastfeeding* brochure highlighting the savings and benefits to business [here](#).

What types of employers are covered?

All employers are covered but employers of less than 50 employees are not required to provide the breaks if doing so would cause “undue hardship” to their business.

What types of employees are covered?

The law is part of our nation’s minimum wage and overtime laws, so it covers the workers subject to those laws, or “non-exempt workers.” Generally, the law covers hourly workers and other employees who are subject to overtime laws. These workers are those who have been found least likely to have access to the types of protections this provision provides.

The Joint Economic Committee, which Rep. Carolyn Maloney chairs, just released estimates that suggest *at least 26 million employed women will be covered* by these new protections.^{vi} That estimate is conservative, assuming that only hourly employees will be covered, and that all small employers will be exempt, while we expect many workers in both groups will experience the benefits of breastfeeding protections.

ⁱⁱⁱ U.S. Dept of Labor, Bureau of Labor Statistics. Employment characteristics of families in 2007. Available at: www.bls.gov/news.release/pdf/famee.pdf.

^{iv} US Census Bureau. Maternity leave and employment patterns of first-time mothers: 1961–2003. Available at: www.census.gov/prod/2008pubs/p70-113.pdf.

^v Cohen R, Mrtek MB & Mrtek RG (1995). Comparison of maternal absenteeism and infant illness rates among breastfeeding and formula-feeding women in two corporations. *American Journal of Health Promotion*, 10 (2), 148-153.

^{vi} JEC estimates based on employment from the March 2009 Current Population Survey, with percentages of women employed hourly in establishments with at least 50 employees estimated from the 2009 ASEC supplement to the CPS, both published by the BLS.