MICHIGAN

Legislative Barriers

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Preface

Birth justice advocates across the state, especially those serving families in urban and rural areas, are working to address structural inequities and improve maternal health in Michigan. Licensing birth centers and reimbursing midwifery care across birth settings are two important strategies. This document outlines the barriers limiting the reach of this crucial work and identifies legislative solutions.

This document was made possible through a collaboration between Birth Detroit, Mothering Justice and Elephant Circle.

Birth Detroit's mission is to midwife safe, quality, loving care through pregnancy, birth and beyond.

Mothering Justice's mission is to empower mothers of color to influence policy on behalf of themselves and their families.

Inspired by elephants who give birth within a circle of support, **Elephant Circle** envisions a world where all people have a circle of support for the entire perinatal period.

Introduction

Inequity is the problem. In Michigan, the maternal mortality rate for Black women is more than four and a half times higher than that of non-Hispanic white women; and the infant mortality rate is three times higher for Black women than it is non-Hispanic white women. In 2019, Michigan ranked 30th in the nation for maternal mortality, 33rd for infant mortality, and 35th for neonatal mortality.

Community birth centers, especially those led by Black, Indigenous, people of color are part of the solution. Birth centers are freestanding homelike facilities where maternal health care is provided by midwives. Studies show that birth center care improves outcomes, enhances the birth experience and lowers costs. Community birth centers provide safe, culturally reverent midwifery-led maternal health care for all, and a 2021 study suggests that culturally affirming care provided by Black, Indigenous and people of color led birth centers benefits all birthing people – regardless of race.

We promote racially just and gender affirming policies to realize our human rights to bodily autonomy, to have or not have children, and to raise our children in safe and sustainable environments.

BECAUSE INEQUITY IS MULTIFACETED, SOLUTIONS MUST ALSO BE MULTIFACETED.

NOTE: Perinatal period is defined as pregnancy and the first year postpartum, including significant physiological and psychological changes, agency and decision making power. Perinatal and maternal health are closely linked as defined by the World Health Organization. For gender neutrality and inclusion, both terms are used throughout this report.

Barriers to Access, Racial & Gender Justice

The Affordable Care Act requires coverage for maternity-related care, but an analysis done by the Center of American Progress (CAP) highlights gaps in care provided state to state. These gaps in care that should be covered put pregnant and postpartum people at physical and financial risk.

The CAP analyzed the Affordable Care Act's (ACA) plan for maternal infant coverage in the U.S. at a federal and state level.

Variations were shown in pregnancy-related services covered in state benchmark plans that could put states in a position of violating federal law. Some examples of discrepancies of care were found in ultrasound coverage, birth center or home-based care, midwifery care, and pregnancy care.

All states are encouraged to comply with federal law and advance health equity by broadening pregnancy-related services covered under their benchmark plans.

FEDERAL LAW SUPPORTS REIMBURSEMENT FOR COMMUNITY BIRTH.

WHERE DOES MICHIGAN STAND?

Key findings from the analysis were:

- **Michigan is one of the six states that directly excludes home birth coverage.**
- **Michigan is the only state, 1/50, that excludes pregnancy care at birth centers.**

Michigan's state benchmark health insurance plan falls short.

WE NEED TO EXPAND COVERAGE.

Source: Seeberger, Shepherd, Parshall, Oduyeru, Ives-Rublee, DeGood, Bergmann, & Spitzer, 2021

Expand Coverage

1

Medicaid coverage should be extended to 12 months.

The most current level of Medicaid coverage postpartum extends 60 days from the date of birth. The American Rescue Plan Act of 2021 included the option to extend postpartum coverage from 60 days to 12 months for the next five years. This access to postpartum care for maternal infant health can help address racial disparities.

Source: Gomez, Ranji, & Salganicoff, 2021

At the state level:

- Michigan has adopted The Affordable Care Act Expansion.
- Senate Bill 252 was introduced to make the postpartum extension permanent.

Source: Kaiser Family Foundation, 2022

2

Certified Nurse Midwives (CNM) and Certified Professional Midwives (CPM) are not sufficiently reimbursed in community birth settings. Reimbursement should be equitable.

Birth centers in Michigan are not licensed; therefore Medicaid does not reimburse licensed midwives providing care in birth centers. Over half of births in Michigan are covered by Medicaid.

Source: Michigan Department of Health and Human Services, 2019

- **Equitable reimbursement is needed for all licensed midwives in all birth settings.** Equitable reimbursement would mean that all licensed midwives, CNMs and CPMs, in all birth settings, are compensated at a rate that sustains midwifery care, does not disadvantage midwifery care in contrast to other providers or modalities, and accounts for and solves for inequities.
- **More midwives of color serving communities of color are needed.** Lack of equitable reimbursement also impacts workforce development and retention.

3

Freestanding birth center licensure has not been established. Licensure supports equitable reimbursement.

Michigan is one of only nine states that do not license freestanding birth centers. Freestanding birth centers are licensed in 41 of 50 states, and there is expert guidance available on how to address birth center licensure.

- Only licensed birth centers are eligible for Medicaid and most private health plan reimbursement.
- Many consumers, payors and insurance companies expect birth centers to be licensed and covered by public and private insurance.

Source: American Association of Birth Centers (AABC), 2014

4

Doula reimbursement has not been established. Integration supports equity.

- Doulas are not covered by Medicaid or private insurance in Michigan.
- Doulas are especially impactful for high-risk pregnancies and improving maternal health outcomes in communities of color.

Source: Dwyer, 2021

Integrated Systems Support Equity

5

There is a general lack of tracking data during the perinatal period to address systemic racism and inequities. Integration supports equity.

Michigan requires licensed providers to receive implicit bias training - yet there is a lack of data available about about the diversity of patient experiences during the perinatal period.

- There is a lack of data about people with disabilities and their needs and experiences during the perinatal period.
- There is a lack of data about LGBTQI people and their needs and experiences during the perinatal period.

There is also a lack of data about where the systems in place to address care for people during the perinatal period fail to integrate evidence-based practices that could improve outcomes, quality and patient experience, and better support human rights.

- Birth certificate data could be better integrated into policy analysis and could be used to better inform policy makers.
- Data is needed on the number of providers of color graduating from Michigan health programs to improve perinatal workforce diversity.

Michigan lacks mechanisms that systematically collect feedback from community-based organizations and people with lived experience to incorporate their expertise in policy and clinical recommendations.

- Maternal Mortality Review Committees lack representation of people with lived experience relevant to disparities, inequities, discrimination, and violence during the perinatal period.

Despite the evidence base for midwifery care, birth centers, doulas and integrated health care systems, Michigan continues to lag behind the rest of the nation.

6

Providers need guidance with regard to transfers from levels of care and between specialists. Integration supports equity.

- Community birth providers are often required to transfer care, but the receiving providers do not have a corollary duty to receive.

- Some pregnant people are denied care by providers due to their decision-making with regard to labor and birth, and Michigan lacks a good process by which these patients are ensured care (EMTALA is insufficient).

Source: NASEM 2020

Barriers to Human Rights as a Health Outcome

7

Facilities lack requirements that ensure certain human rights are protected during the perinatal period.

Facilities are not required to have policies that prioritize newborn bonding, protect informed consent for interventions, and provide that people may have a support person present in addition to their family, partner or spouse.

8

Malpractice policies unduly restrict provider scope of practice and the decision-making of birthing people.

Existing insurance industry regulations are inadequate to address this.

Source: Roth, 2021

9

Michigan does not adequately protect pregnant people from violence.

Homicide is one of the leading causes of death during and after pregnancy in the US.

- Strengthening of domestic violence–related firearm regulations and their enforcement is shown to reduce homicide of pregnant and postpartum people.
- Michigan does not yet have a law prohibiting the possession and requiring relinquishment of firearms by people convicted of domestic violence-related misdemeanors or people under domestic violence protection orders.

Source: Wallace, 2021

Reproductive justice is the right to bodily autonomy, the right to have or not have children, and the right to parent those children in safe and sustainable environments.

10

Michigan lacks mechanisms for measuring and responding to violations of the civil and human rights of people in the perinatal period.

- It is not known how often people in Michigan experience mistreatment during the perinatal period.
- Data suggests that discrimination, mistreatment and harm regularly occur during the perinatal period contributing to poor birth and health outcomes for parent and child.
- 1 in 6 people surveyed reported experiencing one or more types of mistreatment during perinatal care, with the rate being higher in hospitals and for people of color.

Sources: Taylor, 2019, Vedam, 2019.

- Children of color are overrepresented in Michigan's foster care system, and reports required for indication of substance use during pregnancy could contribute to this overrepresentation.

Source: MDHHS, 2021.

Michigan's anti-discrimination law does not explicitly prohibit discrimination during pregnancy and childbirth and for related medical conditions.

- Pregnant people in Michigan have unequal rights to end-of-life decision making. A pregnant person in Michigan who experiences a debilitating illness or injury during pregnancy may have their advance directives overridden by State law.
- Despite there being no scientific basis for requiring someone who is brain dead to remain on life support in order to maintain a pregnancy, some families in Michigan could experience this devastating and unnecessary injustice.
- This erodes the authority of pregnant people's decision making even for those who are healthy and full-term.

Source: Aberegg, 2019.

Ensure Civil & Human Rights

11

Michigan standards related to care for incarcerated people during pregnancy and birth should go further.

- Though the shackling of incarcerated people during pregnancy and labor is limited in Michigan prisons it is not banned, and restraints may be used at the discretion of staff.
- The policy limiting use of restraints on pregnant and postpartum people does not include jails.
- Michigan does not track the frequency of the use of shackles on pregnant or laboring people who are incarcerated, nor does the state track how many births occur in facilities where people are incarcerated, or during transport from those facilities, or how many births take place to people who are incarcerated.

Source: Michigan DOC Directive, 2021

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Thank you for your interest in birth justice and perinatal health equity in the state of Michigan.

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