

2. Affordability of Liability Insurance Premiums to Maternity Care Providers

Fact Sheet for Stakeholders from *Maternity Care and Liability Report* *

Problem: The cost of obstetrician-gynecologists' liability insurance premiums tends to be higher than premiums for most other specialties. High premium levels and the potential for steep increases trouble many obstetrician-gynecologists. As a result, many have strongly advocated for tort reforms with the hope of reducing premium levels.

Report findings: The report examines the cost of liability insurance premiums in the context of typical obstetrician-gynecologist payments and expenses. While liability premiums are an especially salient practice expense, studies have found that premium costs amount to a relatively small and declining portion of total obstetrician-gynecologist practice expenses. In addition to premium increases, premium costs are also impacted by less salient premium declines or stability in soft phases of liability cycles, premium discounts, and inflation. Further, large group practices, hospitals, and health systems generally provide liability insurance for the clinicians they employ. The increasing proportion of clinicians working within these models likely does not pay for liability insurance premiums.

Moreover, obstetrician-gynecologists have above-average incomes among medical specialties. The incorporation of liability premium costs into physician payments may be a factor. The Resource-Based Relative Value Scale, which sets a national standard for physician payment through its fee schedule, includes for each service code components for liability premiums and for other practice expenses, which are calibrated by specialty and geographic area and are periodically adjusted.

Despite strong interest in limiting payouts to plaintiffs as a way to keep malpractice premiums in check, the relationship between the two is weak at best. Tort reforms that aim to limit payouts, including much-advocated caps on non-economic damages, have not been found to be an effective strategy for keeping maternity care provider premium levels in check. They also raise concerns about unfairness to those who are injured, supported by about one-fifth of states that have struck down caps on non-economic damages as unconstitutional (see fact sheet 6).

Takeaways: Liability insurance is generally affordable and available to obstetrician-gynecologists. Tort reforms have limited potential to reduce premium costs and have not been shown to benefit childbearing women and newborns and those who pay for their care. By contrast, a series of recent reports clarify that rigorous quality improvement programs are effective in bringing liability premium levels down. This win-win-win strategy reduces liability for maternity care professionals, improves care and outcomes in childbearing women and newborns, and increases value for those who pay for this care (see fact sheet 9).

* **Learn more:** Sakala C, Yang YT, Corry MP. *Maternity Care and Liability: Pressing Problems, Substantive Solutions*. New York: Childbirth Connection, January 2013. Available at <http://transform.childbirthconnection.org/reports/liability/>. See also open access "Maternity Care and Liability" articles in *Women's Health Issues* 2013;23(1) at <http://www.whijournal.com/issues>.

