

# The Untapped Potential of Medicaid and Doulas: Increasing Reproductive Justice for Communities of Color

By Allyson Crays\*

## I. Introduction

The United States (U.S.) is experiencing a maternal mortality and morbidity crisis. Black pregnant and birthing people<sup>1</sup> are particularly vulnerable to adverse health risks and complications from pregnancy.<sup>2</sup> In 2021, over 1,200 women died of maternal causes in the U.S.<sup>3</sup> Although maternal mortality has been steadily rising over the last couple years, this is a sharp increase from 861 in 2020 and 754 in 2019.<sup>4</sup> Compared to other high income countries in 2021, the U.S. had a maternal death rate over ten times the rate of those countries, with 32.9 maternal deaths per 100,000 live births.<sup>5</sup> Compared to white women, Black, American Indian, and Alaska Native women in the U.S. are two to three times more likely to die from pregnancy-related causes.<sup>6</sup> Importantly, over 84% of pregnancy-related deaths are preventable.<sup>7</sup> Factors such as lack of quality healthcare, structural racism, and implicit racial bias contribute to this severe

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\* J.D. Candidate 2024, Northeastern School of Law.

<sup>1</sup> Birthing people is used as a gender-inclusive way to include all identities of people with reproductive capacity and will be used throughout this paper whenever possible. In referencing sources, the paper will use the typically gendered language of the authors.

<sup>2</sup> *About the Doula Medicaid Project*, DOULA MEDICAID PROJECT: NAT'L HEALTH L. PROGRAM, <https://healthlaw.org/doulamedicaidproject/> (last visited May 2, 2023).

<sup>3</sup> Donna L. Hoyert, *Maternal Mortality Rates in the United States, 2021*, CTRS. FOR DISEASE CONTROL & PREVENTION: NAT'L. CTR. FOR HEALTH STATS. HEALTH E-STATS. (last updated Mar. 16, 2023), <https://www.cdc.gov/nchs/data/hestat/maternal-mortality/2021/maternal-mortality-rates-2021.htm>.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*; Selena Simmons-Duffin & Carmel Wroth, *Maternal deaths in the U.S. spiked in 2021*, *CDC reports*, NPR: SHOTS (Mar. 16, 2023), <https://www.npr.org/sections/health-shots/2023/03/16/1163786037/maternal-deaths-in-the-u-s-spiked-in-2021-cdc-reports>.

<sup>6</sup> Hoyert, *supra* note 3; Press Release, Ctrs. For Disease Control & Prevention, *Racial and Ethnic Disparities Continue in Pregnancy-Related Deaths* (Sept. 6, 2019).

<sup>7</sup> *Working Together to Reduce Black Maternal Mortality*, HEALTH EQUITY: CTRS. FOR DISEASE CONTROL & PREVENTION (Apr. 3, 2023), <https://www.cdc.gov/healthequity/features/maternal-mortality/index.html>.

disparity in birth outcomes among Black, Indigenous, and other people of color (“BIPOC”) who give birth.<sup>8</sup>

Recently, state Medicaid<sup>9</sup> health systems have turned to doula care as a way to improve birth outcomes among BIPOC who give birth.<sup>10</sup> Doulas are non-medical professionals who “provide physical and emotional support to a birthing person during labor, birth, and the postpartum period.”<sup>11</sup> Doulas provide a wholistic approach to birth by advocating for and respecting the needs and desires of birthing people before, during, and after birth.<sup>12</sup> Additionally, doulas provide support for other reproductive health experiences such as miscarriage, abortion, and fertility treatment.<sup>13</sup> They often help to build a bridge between the birthing person and medical providers when planning and executing the birthing person’s desires as well as the reality of the pregnancy and birth.<sup>14</sup>

Doulas can offer culturally congruent and patient-centered care, and therefore, can help reduce implicit racial bias and break down structural racism present in the healthcare system.<sup>15</sup> Culturally congruent care reflects the “cultural values, beliefs, worldview, and practices” of the patient.<sup>16</sup> Many doula training programs include culturally-centered approaches, and discuss

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<sup>8</sup> *Id.*; Latoya Hill et al., *Racial Disparities in Maternal and Infant Health: Current Status and Efforts to Address Them*, KFF (Nov. 1, 2022) <https://www.kff.org/racial-equity-and-health-policy/issue-brief/racial-disparities-in-maternal-and-infant-health-current-status-and-efforts-to-address-them/>.

<sup>9</sup> Medicaid provides health insurance to eligible low-income people in the United States. Medicaid has a unique state and federal structure as it is jointly funded, but administered by states in accordance with federal requirements. *Medicaid*, MEDICAID.Gov, <https://www.medicaid.gov/medicaid/index.html> (last accessed June 20, 2023).

<sup>10</sup> NAT’L HEALTH L. PROGRAM, *supra* note 2.

<sup>11</sup> SHANIA GOODMAN & ASHI ARORA, NAT’L P’SHIP FOR WOMEN & FAMS., “OUR COMMUNITIES HOLD THE SOLUTIONS” THE IMPORTANCE OF FULL-SPECTRUM DOULAS TO REPRODUCTIVE HEALTH AND JUSTICE 2 (OCT. 2022).

<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> Kathryn Mishkin & Luisa Fernandes, *Doulas as Agents of Reproductive Justice Who Promote of Women’s International Human Rights: An Evidence-Based Review and Comparative Case Study Between Brazil and the United States*, in *REPRODUCTIVE ETHICS II* 161, 163 (Lisa Campo-Engelstein & Paul Burcher, eds., 2018).

<sup>15</sup> NAT’L HEALTH L. PROGRAM, *supra* note 2.

<sup>16</sup> Lucy Marion et al., *Implementing the New ANA Standard 8: Culturally Congruent Practice*, 22 *ONLINE J. OF ISSUES IN NURSING*, no. 1, at 5 (2016).

reproductive justice and systemic oppression.<sup>17</sup> Doulas help elevate the voices and desires of birthing people of color whose desires and experiences are often ignored or disrespected by medical professionals.<sup>18</sup> Additionally, people who receive doula care report higher rates of breastfeeding, fewer pre-term births (“PTB”), fewer low birth weight (“LBW”) babies, and, importantly, “lower rates of cesarean births.”<sup>19</sup> All of these benefits, plus others, increase the likelihood of birthing people having a more satisfying birth experience with positive associations.<sup>20</sup> For example, pregnant people with opioid use disorders report increased emotional support and self-advocacy during pregnancy when receiving doula care.<sup>21</sup> Importantly, some doula collectives place important emphasis on the background of the doula.<sup>22</sup> A birthing person can specifically search for a doula that is queer, BIPOC, etc. in order to have their experience better understood.<sup>23</sup> This is essential given that racial discrimination is linked to adverse pregnancy outcomes.<sup>24</sup> In summary, doula care offers tangible benefits like greater health outcomes for birthing people while also breaking down structural racism in the healthcare system.

## II. State Medicaid Coverage

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<sup>17</sup> GOODMAN & ARORA, *supra* note 11, at 12.

<sup>18</sup> See Nan Strauss et al., *How Doula Care Can Advance the Goals of the Affordable Care Act: A Snapshot From New York City*, 24 J. OF PERINATAL EDUC. 8, 12 (2015).

<sup>19</sup> NAT’L HEALTH L. PROGRAM, *supra* note 2; Alexis Robles-Fradet & Mara Greenwald, *Doula Care Improves Health Outcomes, Reduces Racial Disparities and Cuts Cost*, NAT’L HEALTH L. PROGRAM (Aug. 8, 2022) <https://healthlaw.org/doula-care-improves-health-outcomes-reduces-racial-disparities-and-cuts-cost/>.

<sup>20</sup> Strauss et al., *supra* note 18, at 10.

<sup>21</sup> Meghan Gannon et al., *Doula engagement and maternal opioid use disorder (OUD): Experiences of women in OUD recovery during the perinatal period*, 106 MIDWIFERY 103243, 1 (2022).

<sup>22</sup> See, e.g., NESTING DOULA COLLECTIVE, <https://www.nestingdoulacollective.com/> (last accessed June 23, 2023) (“The Nesting Doula Collective offers Birth Doula Training for Black, Indigenous, and people of colour (BIPOC) in order to build capacity within culturally diverse and racialized communities to support BIPOC pregnancy and birth”).

<sup>23</sup> Kim Robin van Daalen et al., *Racial discrimination and adverse pregnancy outcomes: a systematic review and meta-analysis*, 7 BMJ GLOB. HEALTH e009227, 22–23 (2022).

<sup>24</sup> *Id.*

Medicaid is a viable pathway for increasing coverage for doula care. For example, Medicaid paid for over 43% of U.S. births.<sup>25</sup> Recipients of Medicaid services are disproportionately BIPOC.<sup>26</sup> One in four Latina women and one in three Black women are insured through Medicaid.<sup>27</sup> Doula care can reasonably cost up to \$2,000, which is not a feasible out-of-pocket cost for many birthing people.<sup>28</sup> While some community organizations provide no-cost doula services,<sup>29</sup> state Medicaid programs are in a distinctive position to eliminate the high rates of BIPOC maternal mortality and lower unnecessary medical costs. By providing reimbursement for doula care under Medicaid, states can increase access to culturally congruent care leading to more favorable health outcomes.

Some states already include reimbursements for doula care under their state Medicaid programs. The following eleven states—California, Florida, Maryland, Michigan, Minnesota, New Jersey, Nevada, Oklahoma, Oregon, Rhode Island, Virginia—and Washington D.C. currently reimburse costs for doula services under Medicaid.<sup>30</sup> The programs vary regarding reimbursement rates and other restrictions placed on doulas. For example, as of 2019, Minnesota reimburses doula care at flat rates per prenatal and postpartum session and caps the number of sessions for a total reimbursement of \$770 including labor and delivery services.<sup>31</sup> Similarly,

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<sup>25</sup> MEDICAID AND CHIP PAYMENT AND ACCESS COMM'N, MEDICAID'S ROLE IN FINANCING MATERNITY CARE (Jan. 2020), <https://www.macpac.gov/publication/financing-maternity-care-medicaids-role/>.

<sup>26</sup>KFF, *Distribution of the Nonelderly with Medicaid by Race/Ethnicity* (2019), <https://www.kff.org/medicaid/state-indicator/medicaid-distribution-nonelderly-by-raceethnicity/?currentTimeframe=0&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D>.

<sup>27</sup> NAT'L P'SHIP FOR WOMEN & FAMILIES, *supra* note 11, at 16.

<sup>28</sup> Ashley Nguyen, *Behind the growing movement to include doulas under Medicaid*, WASH. POST: THE LILY (Mar. 1, 2021), <https://www.washingtonpost.com/graphics/2021/the-lily/covering-doulas-medicaid/>.

<sup>29</sup> See *Finding Affordable (or Free!) Doula Support*, CHOICES IN CHILDBIRTH: EVERY MOTHER COUNTS, <https://everymothercounts.org/choicesinchildbirth/resources/finding-affordable-or-free-doula-support/> (last visited June 20, 2023) (stating that some “nonprofit doula agencies such as HealthConnect One in Chicago, Illinois, and Ancient Song Doula Services in Brooklyn, New York, doula services are covered for low-income parents and families by grants and donations”).

<sup>30</sup> NAT'L HEALTH L. PROGRAM, *supra* note 2.

<sup>31</sup> *Id.*

New Jersey sets a cap of \$1,165 for up to eight visits, in addition to labor and delivery attendance.<sup>32</sup> Maryland takes a different approach and reimburses prenatal doula care at a rate of \$16.25 per fifteen minutes and a flat rate of \$350 for labor and delivery services.<sup>33</sup> Because Medicaid doula service reimbursement is implemented on a state-by-state basis, there is no clear trend of what these programs typically include or cover. While the lack of uniformity can be troublesome, advocates for doula care have the opportunity to craft legislation specific to their state's climate and needs.

### **III. Costs Avoided**

Not only can reimbursement for doulas help address the health disparities for BIPOC birthing people, but it can also decrease the costs endured by Medicaid programs and birthing people.<sup>34</sup> Doula care is identified as “an underused, evidence-based strategy to improve health outcomes and reduce spending on unnecessary medical procedures.”<sup>35</sup> Cesarean births happen in one out of three births and are approximately 50 percent more expensive than vaginal births.<sup>36</sup> Each avoided cesarean section saves an estimated \$4,459.<sup>37</sup> A study conducted using administrative data from California hospitals found that Black women were more likely to have a cesarean birth than women of other races.<sup>38</sup> Birth experiences that happen under doula care significantly decrease the likelihood of cesarean births, lowering the cost of the birth on the Medicaid system.<sup>39</sup>

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<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Katy Backes Kozhimannil et al., *Doula Care, Birth Outcomes, and Costs Among Medicaid Beneficiaries*, 103 AM. J. OF PUB. HEALTH 113, 113 (2013).

<sup>35</sup> Strauss et al., *supra* note 18, at 9.

<sup>36</sup> Nan Strauss et al., *Overdue: Medicaid and Private Insurance Coverage of Doula Care to Strengthen Maternal and Infant Health*, 25 J. OF PERINATAL EDUC. 145, 146 (2016).

<sup>37</sup> Mishkin & Fernandes, *supra* note 14, at 165.

<sup>38</sup> Marco Huesch & Jason N. Doctor, *Factors Associated with Increase Cesarean Risk Among African American Women: Evidence From California*, 105 AM. J. OF PUB. HEALTH 956, 956 (2015).

<sup>39</sup> Kozhimannil et al., *supra* note 34, at 118.

Additionally, many other factors are more common in doula births that lower healthcare costs, such as increased breastfeeding, reduced use of epidural for pain experienced during births, and reduced health complications that arise from non-doula births.<sup>40</sup> Each avoided epidural saves an estimated \$607.<sup>41</sup> Not only does access to doula care increase favorable health outcomes, but it is more financially efficient as well.

#### **IV. Doula Care as Reproductive Justice**

Doula reimbursement under Medicaid is an essential part of achieving reproductive justice in the U.S. SisterSong, a leader in the reproductive justice movement, defines reproductive justice as “the human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities.”<sup>42</sup> Increasing access to coverage of doula care is a reproductive justice issue because negative birth outcomes disproportionately impact BIPOC birthing people and their right to have children.<sup>43</sup> Doulas of color, in particular, are important agents of change to address power and privilege present in traditional medical settings.<sup>44</sup> They can help birthing people reclaim their “ancestral cultural knowledge and traditions around pregnancy, birth, abortion, and loss.”<sup>45</sup> While providing care to individual birthing people, doulas help dismantle the larger “colonization of pregnancy” present in current medical settings and approaches.<sup>46</sup>

Doula care allows birthing people to maintain their bodily autonomy, a key concept embedded in reproductive justice. By developing a birth plan that is tailored to the birthing person’s needs and desires before, during, and after birth, doulas help increase the safety of the

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<sup>40</sup> Mishkin & Fernandes, *supra* note 14, at 165.

<sup>41</sup> *Id.*

<sup>42</sup> *Reproductive Rights*, SISTERSONG, <https://www.sistersong.net/reproductive-justice> (last visited May 2, 2023).

<sup>43</sup> See CTRS. FOR DISEASE CONTROL & PREVENTION, *supra* note 7.

<sup>44</sup> NAT’L P’SHIP FOR WOMEN & FAMILIES, *supra* note 11, at 11.

<sup>45</sup> *Id.* at 13.

<sup>46</sup> *Id.* at 13.

birth and health of both the baby and birthing person.<sup>47</sup> Similar to the principles of reproductive justice, doulas recognize that a wholistic approach is necessary to simultaneously address both access to immediate resources and structural challenges that birthing people face.<sup>48</sup> Culturally congruent care for birthing people is the minimum expectation, and should be the customary practice, not an exception to the standard of care provided for birthing people. Increasing coverage of doula care improves birth outcomes, decreases the costs endured by the birthing person, and decreases the cost burden endured by the Medicaid program.<sup>49</sup> Increasing access to doula care makes logical sense, both in terms of health outcomes and economic value as well.

As more states begin to develop doula reimbursement programs to address the maternal mortality rate, the doula community must be included in this development. Doula involvement in the policymaking process is crucial to identify barriers they face when caring for clients and additional support they may need to complete their job successfully. For example, three years after passing Medicaid reimbursement for doula care, Minnesota raised the reimbursement rate because the reimbursement rate was too low to meaningfully encourage doulas to enroll in the program.<sup>50</sup> Many current reimbursement programs are “limited to labor, delivery, and a few prenatal and postpartum visits.”<sup>51</sup> Full spectrum doulas can provide many more services such as care during abortion, miscarriage, and stillbirth.<sup>52</sup> These other important reproductive health events should be covered in legislation moving forward. Including birthing people who have utilized doula services in the program development discussions is also crucial. Their perspective

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<sup>47</sup> See NAT’L P’SHIP FOR WOMEN & FAMILIES, *supra* note 11, at 2.

<sup>48</sup> *Id.* at 12.

<sup>49</sup> Kozhimannil et al., *supra* note 34, at 113.

<sup>50</sup> Tomás Guarnizo, *Doula Services in Medicaid: State Progress in 2022*, GEO. UNIV. HEALTH POL’Y INST. (June 2, 2022); Victoria Cooney, *Increased Rates for Doula Services Could Improve Access for Women in Need*, MINN. HOUSE OF REPRESENTATIVES, (Mar. 14, 2019), <https://www.house.mn.gov/SessionDaily/Story/13764>.

<sup>51</sup> NAT’L P’SHIP FOR WOMEN & FAMILIES, *supra* note 11, at 19.

<sup>52</sup> *Id.* at 5.

can help determine potential hurdles they faced in accessing doula care and provide recommendations for ensuring ease of access. A true reproductive approach to doula care coverage demands that lawyers and legislators follow activists' leads when creating new laws and policies.

## V. Potential Barriers

There are some potential roadblocks to increasing access to doula care. One potential issue is the lack of awareness about doula care and stigma associated with non-medical complex-based care.<sup>53</sup> Medicaid recipients are half as likely to have heard about doula care, compared to birthing people on private insurance.<sup>54</sup> Community education must accompany any proposal to make doula care reimbursable under Medicaid. The current uptick of anti-choice and anti-body autonomy legislation as well as general rhetoric have the potential to halt expansion of doula care. That being said, in the post-*Roe* environment,<sup>55</sup> doulas are in a unique position to provide compassionate and culturally congruent care. Lastly, some states are reluctant to expand Medicaid services due to the financial risks and increased costs.<sup>56</sup> None of these potential

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<sup>53</sup> KATHLEEN KNOCKE ET AL., OFF. OF HEALTH POL'Y., HP-2022-24, DOULA CARE AND MATERNAL HEALTH: AN EVIDENCE REVIEW (Dec. 13 2022) (discussing the lack of awareness about the role of doulas, friction between doulas and clinical providers, and the lack of medical provider respect for doulas); See Tennyson Donyéa, *The Racist Stigma of Midwifery, and How the Profession's Return Could Help Solve New Jersey's Maternal Health Care Crisis*, N.J. HEALTHCARE QUALITY INST. (Mar. 8, 2023), <https://www.njhqci.org/the-racist-stigma-of-midwifery-and-how-the-professions-return-could-help-solve-new-jerseys-maternal-health-care-crisis/> (discussing how midwives, who are licensed healthcare professionals, have been historically stigmatized as providing unsafe care or practicing witchcraft).

<sup>54</sup> Eugene R. Declercq et al., *Listening to Mothers III: Pregnancy and Birth*, NEW YORK: CHILDBIRTH CONNECTION 50 (May 2013), <https://www.nationalpartnership.org/our-work/resources/health-care/maternity/listening-to-mothers-iii-pregnancy-and-birth-2013.pdf>.

<sup>55</sup> Since the decision in *Dobbs v. Jackson Women's Health Organization*, twenty-five states have enacted laws to restrict or ban abortion access. This means that over 25 million women of reproductive age live in states with recent increased restrictions on abortion. Geoff Mulvihill et al., *A year after fall of Roe, 25 million women live in states with abortion bans or tighter restrictions*, ASSOCIATED PRESS (June 22, 2023), <https://apnews.com/article/abortion-dobbs-anniversary-state-laws-51c2a83899f133556e715342abcfce>.

<sup>56</sup> Michael Ollove, *The Politics of Medicaid Expansion Have Changed*, PEW CHARITABLE TRUSTS: STATELINE (Nov. 13, 2019), <https://www.pewtrusts.org/en/research-and-analysis/blogs/stateline/2019/11/13/the-politics-of-medicaid-expansion-have-changed> ("Nevertheless, some Republicans are holding fast against expansion, warning that it is a financial risk their states can't afford to take").



setbacks are new and have existed for generations prior. Advocates for reproductive justice will — and should — continue to push for increased access to doula care now more than ever.

## VI. Conclusion

Increasing access to doula care through state Medicaid programs is a crucial part of achieving reproductive justice. Doula care is essential to address racial bias in the medical system and increase birth outcomes for BIPOC birthing people.<sup>57</sup> Medicaid reimbursement for doula care will encourage and support birthing people in exercising their bodily autonomy while also in a practical sense, cutting monetary costs for all parties involved.<sup>58</sup> Given the post-*Roe* reproductive care environment, states should take advantage of the opportunity to support birthing people in a culturally compatible, compassionate way that respects body autonomy and increases the overall health of birthing people and their children. Advocates, lawmakers, and doulas must work collaboratively to ensure the state legislation is tailored to the needs and desires of people working in the field. Reproductive justice is multifaceted, and access to doula care is one small step in advocating for it.

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<sup>57</sup> NAT'L HEALTH L. PROGRAM, *supra* note 2.

<sup>58</sup> Kozhimannil et al., *supra* note 34, at 113; Alexandria Sobczak et al., *The Effect of Doulas on Maternal and Birth Outcomes: A Scoping Review*, 15 CUREUS e39451, 5 (2023) (“Women with a doula during childbirth helped raise their confidence and autonomy throughout labor.”).