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Achieving Menstrual Equity in Michigan Requires More Than “Pink Tax” Repeal

In a Nutshell

- Many women struggle to afford the products that are necessary to manage their periods, with marginalized populations being more likely to lack access to necessary products.
- Lack of access to menstrual products leads to negative health, social, and financial outcomes for women.
- Menstrual equity policies make menstrual products more accessible and affordable and work to increase education and reduce stigma surrounding the topic of menstruation.

Introduction

It has been six months since voters adopted Proposal 3, known as the Reproductive Freedom Amendment, into the Michigan Constitution. While the public discourse on Proposal 3 was largely centered around abortion, the amendment pertains to reproductive health more broadly.

The Michigan Legislature is working to align Michigan law on abortion with the new constitutional text, but there are other reproductive health issues affected by the amendment. Menstrual health issues, including equitable access to necessary feminine hygiene products, are an integral component of reproductive care that are often put on the backburner in discussions regarding reproductive health and equality.

Menstrual Equity

Menstrual equity, or period equity, generally refers to the affordability, accessibility, and safety of menstrual products, but can also encompass access to menstrual health care and education. Women’s ability to safely and affordably manage their periods is necessary to provide women the same level of freedom and agency that men experience. Further, this is an issue that affects women of all socioeconomic backgrounds.

Various studies have found that significant percentages of women struggle to afford menstrual products (known as “period poverty”). One study found that among the 16.9 million women who live in poverty in the United States, two-thirds reported that they struggled to afford menstrual products within the last year. Further, research shows that low-income households, homeless, college students, the incarcerated, and transgender or nonbinary individuals struggle the most from lack of access to menstrual products. Another study showed that black and Hispanic women are more likely to experience period poverty than white women.

The lack of menstrual products can lead to a variety of negative health and social outcomes for women. Women who cannot afford these products sometimes resort to unsafe alternatives that can lead to bacterial infections. Other studies have found associations between period poverty and depression. Further, without appropriate products, women can face difficulties participating in work and social activities, leading to fewer

opportunities for networking and advancement.

Addressing menstrual equity through policy affects about half of the population in a way that can significantly impact the fairness of society. Women who can afford menstrual products still find themselves using resources on medically essential products that men of similar economic means do not need, and women who struggle to afford menstrual products face the same gender inequality while also finding themselves at risk for medical complications. While it may not be possible to develop policies that eliminate these disparities, there are steps policymakers can take to reduce their impact.

Policies for Promoting Access to Menstrual Products

Advocates of menstrual equity primarily focus on making feminine hygiene products more accessible and affordable for women. Two primary policy strategies have been implemented to help achieve menstrual equity. One strategy, eliminating the “pink tax,” has already been enacted in Michigan. The other strategy may be more difficult and costly to implement but can be scaled to match whatever resources are available.

Eliminating the “Pink Tax”

A pink tax generally refers to sales taxes levied on necessary feminine hygiene products, including tampons and pads. Other life necessities, like groceries and medicine, are generally exempted from the state sales tax. Currently, about half of the states, including Michigan, exempt period products from taxation. Legislation varies widely, as state tax policies differ – some states offer a tax rebate or a lower tax rate for feminine hygiene products, while other states provide a complete tax exemption for covered products, similar to other basic necessities (food, prescription drugs).

A 2021 Michigan law exempts feminine hygiene products from the six percent state sales tax. Prior to the enactment of the exemption, the sales tax on feminine hygiene products had been challenged by a class action lawsuit alleging that administration and enforcement of the sales and use tax on menstrual products were unconstitutional. Specifically, the enforcement was argued to constitute sex-based discrimination under both the federal and state constitutions (*Beggs v. Michigan*). The Michigan Court of Claims held the sales tax was not unconstitutional, as the raising of revenue is a legitimate state interest that justifies the tax, even if it creates a disparate impact on a protected class.

Despite the court ruling, the Michigan Legislature recognized the tax as inequitable. While the bill was receiving hearings, supporters argued that “a tax exemption for menstrual products gives parity to women and girls in Michigan as compared with other states, puts millions of dollars back into the pockets of women and families who purchase these products, and ends a discriminatory practice.” Opponents argued that the bill would reduce tax revenue for a benefit that is restricted to only one sex. Ultimately, the bill was passed with significant bipartisan majorities.

Eliminating the pink tax was a concrete step toward menstrual equity that brought Michigan’s tax treatment of menstrual products in line with a growing number of other states, but a sales tax exemption is a relatively limited way of addressing the problem. By definition, a sales tax exemption can only reduce consumer expenditures on menstrual products by six percent and it reduces those expenditures uniformly across all income brackets rather than targeting those resources and populations that experience more serious harms from a lack of access to menstrual products.

The Senate Fiscal Agency estimated the annual revenue impact of the exemption at approximately \$6.3 million, which is about 0.2 percent of state tax revenue and equivalent to about .08 percent of the state budget. If policymakers in the state wish to spend more on this issue or work to make sure the state is getting the best possible return on its investment toward menstrual equity solutions, they will need to consider policies beyond sales tax.

Providing Free Menstrual Products

Some states are enacting additional measures beyond repealing the pink tax to make menstrual products more accessible and affordable for women. Laws that require free menstrual products to be provided in certain locations or by specific entities have been gaining support across the country.

At least 10 states have enacted legislation in the past few years that require the provision of free menstrual products in prisons, schools, and/or homeless shelters, and several more states have introduced similar legislation in 2023. Further, a federal bill was introduced in 2021 to expand access to free menstrual products and to require Medicaid coverage of menstrual products. However, the bill died in committee and has not been reintroduced this session.

Two bills were introduced in the Michigan legislature that aimed to provide free menstrual products to certain populations. House Bill 5760 of 2022 proposed to require the Department of Corrections to provide a prisoner who menstruates with a one-month supply of menstrual products when the prisoner is released on parole or released after completing their sentence. In addition, a 2023 appropriations bill would allocate funding for a pilot program to provide pads and tampons for at-risk students in some public school districts.

In addition to state-level mandates, some cities across the country have begun to enact ordinances requiring public restrooms to provide free menstrual products. In November 2021, Ann Arbor became the first U.S. city to require all public restrooms to provide tampons, pads, soap, and toilet paper. In February 2022, East Lansing followed suit and passed an ordinance requiring all city-owned restrooms to provide free menstrual products. A handful of other cities around the country have enacted similar ordinances.

While many of the laws and ordinances establish some sort of mandate to provide menstrual products at certain locations, policy makers could also simply decide how much money they want to devote to this issue and allocate it to local governments via a formula or a grant process with the requirement that the funds be spent on providing menstrual products. In addition to establishing a fixed cost that the state could manage more easily, this type of process would likely lead to a variety of delivery models and implementation approaches that could be studied and lead to the development of best practices.

In addition to the state taking an active role in making menstrual products more available and affordable, the state could focus on policies that educate both men and women about the need for menstrual products and how to navigate and manage menstruation.

Menstrual Education Policies

Despite menstruation being an ordinary bodily function for about half of the population, the majority of women report feeling shame about menstruation and taking steps to hide menstrual products on the way to the bathroom. Ensuring that medically accurate menstrual education is provided as part of the normal health curriculum could destigmatize menstruation and, more importantly, ensure that the presence of the stigma is not leading young women to manage their periods incorrectly.

Michigan does not currently mandate sex education in schools and health education requirements do not cover menstruation in any meaningful way. Mandatory sex education is a highly contested topic and any efforts to include any education related to reproduction would certainly generate significant controversy, but even those who support abstinence-only education could see the value of teaching young women to manage their periods in a healthy and safe manner. There should be room for compromise on this issue.

If people are not educated about managing their periods, they are likely to suffer consequences even if they have access to the necessary products. Avoiding health complications because of improperly managed periods is crucial for women to be able to achieve the same level of educational, professional, and personal success as men, and the state taking a role in sharing medically accurate information would be a step in that direction.

Conclusion

While abortion has been at the forefront of policy discussions concerning reproductive care, there are many other important women's health issues, such as affordable access to menstrual products and education about menstruation. Michigan recently took action to address this issue by repealing its "pink tax," but if policy makers in Michigan want to do more to help women safely manage their periods, they should consider programs that provide free products and expand health education to cover issues related to menstruation.

ABOUT THE AUTHOR

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Karley Abramson joined the Research Council in 2022 as a Research Associate focusing on health policy. Previously, Karley was a nonpartisan Research Analyst at the Michigan Legislative Service Bureau where she specialized in the policy areas of public health, human services, education, civil rights, and family law. Karley has worked as a research fellow for various state and national organizations, including the National Institutes of Health and the ACLU of Michigan. She is a three-time Wolverine with a bachelor's degree in sociology, a master's of public health, and a juris doctor from the University of Michigan.

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