

# The Quorum

June 2022

## The Formula Shortage Crisis

It's been over three months since Abbott Nutrition issued a voluntary recall of powder formula manufactured at a plant in Michigan, spearheading the infant formula shortage crisis. But it wasn't only this recall that led to the ongoing shortage – pandemic related supply chain issues and long-standing market concentration among four formula companies serve as the basis for the problem. About a month ago the average out-of-stock rate nationwide was about 40%, and for the week ending on May 28, that rate had surged to 73.6%.<sup>1</sup> The ongoing shortage has been particularly impactful for lower-income families who rely on the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), which provides services to more than 1.7 million infants. The crisis has also underscored glaring disparities in breastfeeding rates. Some women cannot breastfeed for a myriad of reasons, however, other women who may desire to breastfeed their infant face structural barriers such as inadequate peripartum lactation support, limited access to supplies such as breast pumps, and work environments lacking time and private space to pump. This month's Quorum will review inequities in breastfeeding rates and ongoing federal and local level policies aimed at addressing the ongoing formula shortage crisis.

The AAP recommends exclusive breastfeeding until around 6 months and continued breastfeeding until at least 12 months. However, according to CDC data, while 83.9% of infants are initially breast fed, only 56.7% are still breastfed at 6 months and 35% are breastfed at 1 year.<sup>2</sup> Moreover, breastfeeding disparities exist among minority and socioeconomically marginalized families. Fewer non-Hispanic Black infants (75.5%) are ever breastfed compared with Asian infants (92.4%), non-Hispanic White infants (85.3%), and Hispanic infants (85%).<sup>2</sup> Infants eligible for WIC are also less likely to be ever breastfed (76.9%) than infants eligible, but not receiving WIC (83.3%), and infants ineligible for WIC (91.6%).<sup>2</sup>

Within Los Angeles County (LAC), significant disparities in lactation support, breast feeding rates, and infant health outcomes exist. Among LAC Service Planning Areas (SPAs), 68.6% of infants in the West SPA are exclusively breastfed at 3 months as compared to 33.3% and 28.8% in the less affluent Antelope Valley and South SPAs, respectively.<sup>3</sup> Moreover, the Antelope Valley and South SPAs have the highest infant mortality rates in LAC, the fewest lactation support resources, and the highest number of households with annual incomes between \$12,813 and \$41,400.<sup>3</sup>

There have been numerous federal-level policy initiatives to address the ongoing formula shortage crisis. In May, the Biden Administration invoked the Defense Production Act, which required suppliers to make infant formula over other goods. The administration also launched Operation Fly Formula, which directed the Department of Health and Human Services (HHS) and US Department of Agriculture (USDA) to expedite infant formula imports from Switzerland. Simultaneously, the FDA lifted import rules to allow for a greater influx of foreign-made

formula.<sup>4</sup> And on May 21<sup>st</sup>, President Biden signed H.R. 7791, the Access to Baby Formula Act of 2022, a bill that allows WIC participants to buy any brand of formula with their vouchers, not just the brand that their local WIC office has a contract with (typically each local WIC agency contracts with a single formula manufacturer). Of note, Democrats in the US House of Representatives tried to give \$28 million in emergency assistance to the Food and Drug Administration via H.R. 7790 to enhance safety inspections and prevent fraudulent products from getting into stores – but the bill failed as GOP members refused to give the FDA more money (90% of House Republicans voted against the bill).

Within California, the California Department of Public Health's WIC program has expanded the list of formula brands eligible for purchase with WIC benefits – as of June 2<sup>nd</sup>, WIC participants can choose from more than 130 different formula brands.<sup>5</sup> On June 8<sup>th</sup>, Governor Newsom signed an executive order banning excess price hikes on baby formula. Under the order, retailers are not allowed to sell formula at a price that is greater than 10% of the price charged by the seller as of February 17<sup>th</sup>.<sup>6</sup> And within Los Angeles, LAC and the LAC Department of Child and Family Services (DCFS) purchased \$750,000 and \$500,000 of infant formula, respectively, to be distributed to families in need.<sup>7</sup>

## References:

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