AMCHP’s Role

AMCP supports state maternal and child health (MCH) programs and provides national leadership on issues affecting women and children. We work with partners at the national, state and local levels to promote women’s health; provide and promote family-centered, community-based, coordinated care for women and children; and facilitate the development of community-based systems of services for women, children and their families.

The AMCHP National Center for Health Reform Implementation provides state MCH leaders and their partners with the information, tools and resources to optimize the opportunities presented by the Patient Protection and Affordable Care Act (ACA) for improving services, systems and health outcomes for MCH populations.

Introduction

Breastfeeding is one of the most effective measures to protect the health of infants. According to the U.S. Surgeon General, breastfeeding protects babies from infections and illnesses, including diarrhea, ear infections and pneumonia. In addition, breastfed babies are less likely to develop asthma and those who are breastfed for six months are less likely to become obese. Mothers also benefit from breastfeeding. Research shows that women who breastfeed have a decreased risk of breast and ovarian cancers.

According to the Centers for Disease Control and Prevention (CDC), 75 percent of mothers initiate breastfeeding after the birth of a child. Yet, breastfeeding rates fall to 43 percent nationally after six months. Additionally, disparate rates among racial and ethnic groups persist with 58 percent of African-American women initiating breastfeeding and only 28 percent continuing to breastfeed after six months.

Persistent barriers for women to initiate and continue to breastfeed include a lack of accommodation to breastfeed or express milk at the workplace, experience or understanding among family and community members of how to best support breastfeeding mothers, opportunities for breastfeeding mothers to communicate and support each other, up-to-date instruction and information on breastfeeding from health care professionals, as well as some hospital policies that make it challenging for women to initiate breastfeeding.

Breastfeeding promotion is currently a significant focus of national health policy. In January 2011, the U.S. Surgeon General released a Call to Action to Support Breastfeeding. The Call to Action summarizes research on the health benefits of breastfeeding and outlines actions mothers, families, communities, health care agencies, employers, researchers and public health agencies can take to support healthy breastfeeding practices. Simultaneously, the U.S. Baby-Friendly Hospital Initiative encourages and recognizes hospitals and birthing centers that offer an optimal level of care for infant feeding practices and have implemented the Ten Steps for Successful Breastfeeding for Hospitals outlined by the World Health Organization. Moreover, the Patient Protection and Affordable Care Act (ACA) offers states and communities additional opportunities to strengthen breastfeeding support. Highlights of key ACA provisions are below.
Breastfeeding Provisions in the Patient Protection and Affordable Care Act

Requires lactation support for new health insurance plans through the Women’s Preventive Service Regulation (Sec. 2713).

Under the ACA, new health insurance plans are required to provide coverage for women’s preventive health services as identified by the Institute of Medicine (IOM) in its July 2011 report, Clinical Preventive Services for Women: Closing the Gaps. One of those required health services is breastfeeding support, including supplies and counseling.

In issuing its report, the IOM report affirmed previous national recommendations and guidelines on breastfeeding most notably breastfeeding support during pregnancy and after birth that is integrated into the health care system, related training of clinicians and other health care team members, and lay support (such as peer counseling) as a provided service. Comprehensive breastfeeding counseling and supplies was identified as a gap in current coverage.

In August 2011, the U.S. Department of Health and Human Services issued guidelines requiring new health insurance plans beginning on or after Aug. 1, 2012, to cover comprehensive breastfeeding support, counseling and costs of breastfeeding equipment without charging a co-payment, co-insurance or a deductible.

- **Comprehensive breastfeeding support** is defined as interventions that are available both during pregnancy and after birth to promote breastfeeding. The guidelines specify that support is to be made available to women in conjunction with each birth.

- **Breastfeeding counseling** is defined as coverage of a trained provider available to provide counseling services to all pregnant women and to those in the postpartum period to ensure the successful initiation and duration of breastfeeding.

- **Breastfeeding equipment** is defined as the costs of renting breastfeeding equipment.

Supports community efforts to promote breastfeeding through the Prevention and Public Health Fund (Sec. 4002).

The ACA established a new source of public health funding, the Prevention and Public Health Fund (PPHF), to promote investments in wellness, disease prevention and protection against public health emergencies. The PPHF currently funds community-based breastfeeding promotion through direct support to hospital systems in order to obtain a ‘Baby-Friendly’ designation through the Best Fed Beginnings initiative (see the text box below for a description of “baby-friendly” hospital).

The Best Fed Beginnings initiative promotes the pursuit of a baby-friendly hospital designation among hospitals by funding a 22-month learning collaborative for hospitals and health care providers to implement evidence-based maternity care practices and the recognized Ten Steps to Successful Breastfeeding. This funding is designed to help 90 hospitals nationwide obtain a “baby-friendly” designation by the spring of 2014.

### Ten Steps to Successful Breastfeeding for Hospitals

In order to obtain a ‘baby-friendly’ designation, hospitals must implement the Ten Steps to Successful Breastfeeding established by the World Health Organization. These Ten Steps are:

1. Have a written breastfeeding policy that is routinely communicated to all health care staff
2. Train all health care staff in skills necessary to implement this policy
3. Inform all pregnant women about the benefits and management of breastfeeding
4. Help mothers initiate breastfeeding within one hour of birth
5. Show mothers how to breastfeed and how to maintain lactation, even if they are separated from their infants
6. Give newborn infants no food or drink other than breast milk, unless medically indicated
7. Practice “rooming in”—allow mothers and infants to remain together 24 hours a day
8. Encourage breastfeeding on demand
9. Give no pacifiers or artificial nipples to breastfeeding infants
10. Foster the establishment of breastfeeding support groups and refer mothers to them on discharge from the hospital or clinic
Additionally, funding from the Community Transformation Grant (CTG) program, which is a component of PPHF, can be used to support breastfeeding promotion. The CTG program supports community-level efforts to reduce chronic diseases, such as heart disease, cancer, stroke, and diabetes, by promoting healthy lifestyles. Community agencies design and submit proposals for funding through the CTG program based on a list of “approved” strategies. Increasing the number of designated baby-friendly hospitals and increasing policies and practices to support breastfeeding in health care, community, workplaces, and learning and childcare settings are two of the “approved” strategies that will be considered under the CTG program.

**Protects the rights of nursing mothers in the workplace** (Sec. 4207).

The ACA amends the *Fair Labor Standards Act* (FLSA), also known as the Federal Wage and Hour Law, to require that employers provide reasonable break time for an employee to express breast milk for her nursing child for one year after the birth of the child. The law guarantees the employee break time each time she needs to express milk. In addition, employers are required to provide a private place (i.e., non-bathroom) that is shielded from view and free from intrusion from coworkers and the public for nursing mothers to express breast milk during the workday. As long as nursing employees are completely relieved of their duties during the break time, the law does not require employers to compensate an employee for this time. The new requirements, however, do not preempt state laws providing greater protection to employees, such as state laws providing compensated break time. Employers with fewer than 50 employees are not subject to FLSA break-time requirement if compliance with the provision would impose an undue hardship.

On Dec, 22, 2010, preliminary guidance was issued by the U.S. Department of Labor (DOL) to help provide employers useful guidance to consider in establishing policies for nursing employees. The guidance was compiled from public health and lactation experts and helps define the provision of the new ACA law. The DOL does not plan on issuing further regulations implementing these provisions; however, at a future point in time the agency may offer more updated guidance and address more complicated situations (i.e., situations where the workplace is not in an office building, situations where it may be appropriate to develop a shared space that can be used by employees from multiple employers, and situations where employees are not in a fixed location or situations where employees are not in a fixed location or situations where they are hosted by a client throughout their shift).

Summary points from the current DOL guidance are outlined below:

- **Reasonable break time – frequency**: The frequency and time nursing employees will need to express breast milk will vary depending on the factors, such as the age of the baby, the number of breastfeeding in the baby’s normal schedule, and whether the baby is eating solid food. In the early months of a baby’s life, nursing employees will typically need two to three breaks during an eight-hour shift.

- **Reasonable break time – length**: Typically, the act of expressing breast milk alone will take nursing employees 15 to 20 minutes. The guidance suggests, however, the actual length of breaks for nursing employees will vary depending on additional factors, such as the location of the private space and the amenities nearby (proximity of a sink or washing area, storage for the milk, etc.).

- **Appropriate space**: Where practicable, the law requires employers to make a room available for use by nursing employees to take breaks and express breast milk. Where it is not practicable to provide a room, the requirement can be met by creating a space with partitions and curtains. With any space provided, windows should be covered and signs be made available to designate the space is in use or a lock available for the door. The space can be a temporary creation/conversion and does not have to be permanently dedicated to nursing mothers. Bathrooms and locker rooms without sufficient differentiation between the toilet area and the space reserved for expressing breast milk would not meet the requirements of the law. At a minimum, the space must provide the nursing employee with a place to sit and a flat surface, other than the floor, on which to place the breast pump. In addition, the regulation requires employers to provide a place where expressed breast milk can be reasonably stored. This does not mean employers must provide refrigeration for the storage of breast milk; however, they must allow employees to bring insulated food containers to work and ensure there is a place for storing both the pump and insulated containers while they are at work.
Everyone plays a role in helping women breastfeed: the Surgeon General Call to Action

On Jan. 20, 2011 Surgeon General Regina M. Benjamin issued a Call to Action to Support Breastfeeding, outlining recommended steps that can be taken by mothers, families, communities, health care agencies, employers, researchers and public health agencies to remove some of the obstacles faced by women who want to breastfeed their babies. A “Call to Action” is a science-based document to stimulate action nationwide to solve a major public health problem. To access the complete report, visit surgeongeneral.gov/library/calls/breastfeeding.

How Can MCH Programs Use the ACA to Strengthen Breastfeeding Efforts for Women?

Women who choose to breastfeed need information on the benefits of breastfeeding, as well as external support to meet their breastfeeding goals. MCH programs can utilize opportunities in the ACA to strengthen, promote and support breastfeeding mothers. As states proceed with ACA implementation, MCH programs and their partners can maximize the opportunities presented by the ACA to promote breastfeeding through strategies that include the following:

- Use the Surgeon General’s Call to Action to help guide efforts to promote and strengthen breastfeeding efforts and strategic initiatives among public health agencies and partners
- Develop partnerships with hospitals to promote baby-friendly designations using the Ten Steps to Successful Breastfeeding and Baby-Friendly Hospital resources
- Partner with colleagues in chronic disease to apply for and use Community Transformation Grant funding to develop and strengthen community-level activities and initiatives to promote breastfeeding
- Work with partners to develop and implement statewide maternity care quality standards for hospitals to support breastfeeding
- Provide resources to employers to help guide implementation of regulations on reasonable break time for nursing mothers

Sources and Selected Resources for Further Information

The Surgeon General Call to Action to Support Breastfeeding
- surgeongeneral.gov/topics/breastfeeding

U.S. Women’s Preventive Services Guidelines
- hrsa.gov/womensguidelines

U.S. Department of Labor Break Time for Nursing Mothers Regulations and Guidance
- Break Time for Nursing Mothers: Overview, General Guidance, Additional Resources: www.dol.gov/whd/nursingmothers
- Federal Register containing preliminary guidance to employers implementing new regulations on reasonable break times for nursing mothers: webapps.dol.gov/FederalRegister/PdfDisplay.aspx?DocId=24540

The Centers for Disease Control and Prevention
- Community Transformation Grant Program: cdc.gov/communitytransformation/index.htm
- Baby Friend Hospital Initiative: cdc.gov/VitalSigns/BreastFeeding

The Business Case for Breastfeeding

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This fact sheet is part of an AMCHP series of tools, documents and resources on implementation of the ACA and its impact on maternal and child health populations. For more information, please visit the AMCHP website at: amchp.org. AMCHP staff can be reached by phone at: (202) 775-0436.