

Health Reform & Breastfeeding

The AMCHP Role

AMCHP 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 expand medical homes; provide and promote family-centered, community-based, coordinated care for children with special health care needs; and facilitate the development of community-based systems of services for children and their families.

AMCHP's 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), 77 percent of mothers initiate breastfeeding after the birth of a child. Yet, breastfeeding rates fall to 49 percent nationally after six months. Moreover, racial and ethnic groups continue to have disparate rates of breastfeeding. After giving birth, only 58 percent of African-American women initiate breastfeeding and only 28 percent continue to breastfeed after six months.

Persistent barriers make it difficult for some women to initiate and continue to breastfeed. Roadblocks include a lack of workplace accommodations to breastfeed or to express breastmilk, limited experience or understanding among family and community members of how to support breastfeeding mothers, limited opportunities for breastfeeding mothers to communicate with and support each other, and limited up-to-date instruction and information on breastfeeding from health care professionals. In addition, some hospital policies make it challenging for women to initiate breastfeeding.

Breastfeeding promotion remains a significant focus of national health policy. In January 2011, the U.S. Surgeon General released a [Call to Action to Support Breastfeeding](#), which summarizes research on the health benefits of breastfeeding and outlines actions that 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 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.

Breastfeeding Provisions in the Patient Protection and Affordable Care Act

Lactation Support through the Women's Preventive Services (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*. Among required health services is the provision of breastfeeding support, including supplies and counseling.

The IOM report affirmed the need to continue previous national recommendations and guidelines on breastfeeding. Most notably, services need to include 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). 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 most health insurance plans to cover comprehensive breastfeeding support, counseling and costs of breastfeeding equipment without charging a co-payment, co-insurance or a deductible for the duration of breastfeeding.

- **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 for Community Efforts to Promote Breastfeeding (Sec. 4002)

The ACA established the Prevention and Public Health Fund (PPHF) to promote investments in wellness, disease prevention and protection against public health emergencies. The PPHF 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.

The Best Fed Beginnings initiative directly promoted the pursuit of a "Baby-Friendly" hospital designation by funding a 22-month (ended in spring 2014) learning collaborative for hospitals and health care providers to implement both evidence-based maternity care practices and the recognized [*Ten Steps to Successful Breastfeeding*](#). As a result of this initiative, 89 hospitals nationwide obtained a "Baby-Friendly" designation.

Additionally, funding from the Community Transformation Grant (CTG) program, which was a component of PPHF, was used to support breastfeeding promotion. The CTG program supported community-level efforts to reduce chronic diseases, such as heart disease, cancer, stroke and diabetes, by promoting healthy lifestyles. Community agencies designed and submitted 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.

Ten Steps to Successful Breastfeeding

- Have a written breastfeeding policy that is routinely communicated to all health care staff.
- Train all health care staff in skills necessary to implement this policy.
- Inform all pregnant women about the benefits and management of breastfeeding.
- Help mothers initiate breastfeeding within one hour of giving birth.
- Show mothers how to breastfeed and how to maintain lactation, even if they are separated from their infants.
- Give newborn infants no food or drink other than breast milk, unless medically indicated.
- Practice “rooming in”-- allow mothers and infants to remain together 24 hours a day.
- Encourage breastfeeding on demand.
- Give no pacifiers or artificial nipples to breastfeeding infants.
- Foster the establishment of breastfeeding support groups and refer mothers to them upon discharge from the hospital or clinic.

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 a reasonable break time and a place for or most hourly wage-earning and some salaried employees to express breastmilk for her nursing child for one year after the child is born. The law guarantees the employee a “reasonable” amount of time each time to express milk. In addition, employers are required to provide a private place that is not a bathroom and is shielded from view and free from intrusion from coworkers and the public for nursing mothers to express breastmilk 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 ACA, however, does not pre-empt state laws from providing greater protection to employees; for example, state laws may require employers to provide compensation for break time. All employers, regardless of their size, are subject to the “Break Time for Nursing Mothers” law. If a complaint is filed with the U.S. Department of Labor (DOL), employers with fewer than 50 employees may be able to apply for an undue hardship exemption. There are no exemptions for employers with more than 50 employees.

On December, 22, 2010, preliminary guidance was issued by the DOL to provide employers with 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. Summary points from the current DOL guidance are outlined below:

- ***Reasonable break time – frequency:*** The frequency and time nursing employees need to express breastmilk will vary. Factors driving these decisions include the age of the baby, the number of breast feedings 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 breastmilk alone takes nursing employees 15 to 20 minutes. However, as the guidance suggests, the actual length of breaks for nursing employees will vary depending on additional factors, which include the location of the private space and the amenities nearby (proximity of a sink or washing area, access to storage for the breastmilk).
- ***Appropriate space:*** Where practicable, the law requires employers to make a room available for use by nursing employees to take breaks

and express breastmilk. Where this is not practicable, employers can meet this requirement by creating a space with partitions and curtains. For all spaces provided, employers should ensure that windows are covered and signs are designated to indicate that the space is in use; or they may provide a lock for the door. The space can be temporarily created and then converted; it does not have to be permanently dedicated to nursing mothers. Bathrooms and locker rooms that lack sufficient space between the toilet area and the space reserved for expressing breastmilk do not meet the law's requirements. 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. The regulation also requires employers to provide a place where expressed breastmilk can be reasonably stored. Employers are not required to provide refrigeration; however, they must allow employees to bring insulated food containers to work and they must provide a place to store the pump and the insulated containers while employees are at work.

- Partner with colleagues in chronic disease 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.
- Support and disseminate information about lactation counseling and supplies through the Women's Preventive Services.
- Ensure that the state health department is in compliance with reasonable break time laws for nursing mothers.

AMCHP has created a crosswalk to identify potential opportunities in the ACA that can support state Title V leaders in their planning efforts to address the Title V National Performance Measures (NPMs). AMCHP's NPM-ACA crosswalk is available [here](#).

Resources

Centers for Disease Control and Prevention: [2014 U.S. Breastfeeding Report Card](#)

Centers for Disease Control and Prevention: ["Baby-Friendly" Hospital Initiative](#)

Federal Register: [Preliminary Guidance to Employers on Implementing New Regulations on Reasonable Break Times for Nursing Mothers](#)

Health Resources and Services Administration: [Women's Preventive Services Guidelines](#)

Institute of Medicine: [Clinical Preventive Services for Women: Closing the Gaps](#)

Office of the U.S. Surgeon General, HHS: [Surgeon General's Call to Action to Support Breastfeeding](#)

The Title V Role in Promoting Breastfeeding

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. MCH programs and their partners can maximize the opportunities presented by the ACA to promote breastfeeding by implementing the following strategies:

- Use the Surgeon General's [Call to Action](#) 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.

Office on Women’s Health, HRSA: [Supporting Nursing Moms at Work: Employer Solutions](#)

Office on Women’s Health, HRSA: [The Business Case for Breastfeeding](#)

U.S. Department of Labor: [Break Time for Nursing Mothers Regulations and Guidance](#)

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AMCHP Contact Information

This fact sheet is part of a series of AMCHP tools, documents and resources on implementation of the ACA and its impact on maternal and child health populations. For more information, please visit the [National Center for Health Reform Implementation](#). All AMCHP staff can be reached via phone at (202) 775-0436.