



HHS Circular C-036 Mother-Friendly Worksite Program

Breastfeeding promotion is a cost-effective public health intervention that has been shown to help prevent both acute and chronic diseases in infants and women who breastfeed. However, concern about combining work and breastfeeding is the leading barrier in Texas to breastfeeding initiation, continuation, and exclusivity. This circular outlines requirements in federal and state law regarding employer responsibilities and corresponding revisions in health and human services (HHS) policy and support available within the HHS system.

Background

Breastfeeding promotion is a primary prevention strategy for various childhood diseases, including ear infection, eczema, lower respiratory tract infection, asthma, obesity, type 1 and type 2 diabetes, leukemia, and sudden infant death syndrome. Breastfeeding also is a prevention strategy for type 2 diabetes, breast and ovarian cancer, and cardiovascular disease in women. The Surgeon General's Call to Action to Support Breastfeeding (2011) indicates numerous studies have found cost-savings from breastfeeding. Participation by female and male employees in worksite lactation programs has been shown to significantly improve breastfeeding outcomes, reduce disease burden, and result in a significant return on investment for employers.

Current State and Federal Law

Section 4207 of the Patient Protection and Affordable Care Act, *Reasonable Break Time Nursing Mothers*, amended the Fair Labor Standards Act (FLSA) effective March 2010. Employers are required to provide non-exempt breastfeeding employees with "reasonable break time" and a private, non-bathroom setting to express breast milk during the work day. In 2015, the 84th Texas Legislature added Section 619 to Texas Government Code, providing these same protections to exempt breastfeeding public employees.

These laws are reflected in recent revisions to the HHS Human Resources Manual, Chapter 5, Section B, Work Time, Work Breaks; and Chapter 8, Section K, Wellness Programs, HHS Mother Friendly Lactation Support Program:



- Work Breaks (Revised 9/1/15)

A supervisor may authorize two paid work breaks a day of up to 15 minutes each, provided workload allows.

Work breaks are not an entitlement, but a privilege, and cannot be accrued or accumulated to extend lunch breaks or shorten the work day.

Employees may be called for service during work breaks.

Exception: As required by federal and state law, HHS agencies must provide reasonable break time for an employee to express breast milk for her nursing child. This can occur for up to one year after the birth of the child. HHS agencies must also provide a place, other than a bathroom, that is shielded from view and free from intrusion from coworkers and the public, which may be used by an employee to express breast milk.

If a supervisor authorizes paid work breaks, an employee who uses that break time to express milk must be paid in the same way that other employees are paid.

If the supervisor does not authorize paid work breaks, or the time needed exceeds the authorized break time, the employee must account for this time with applicable accrued paid or unpaid leave. Supervisors are encouraged to work with affected employees to provide flexible scheduling to account for any time that would otherwise be unpaid during the scheduled workday. Work hours may need to be extended to account for this break time.

- HHS Mother Friendly Lactation Support Program (Added 9/1/15)

HHS agencies must provide reasonable break time for an employee to express breast milk for her nursing child. For more information, see Chapter 5, Work Leave (B. Work Time; Work Breaks).

Resources Within HHS

- *The Texas Mother-Friendly Worksite Program.* This program recognizes worksites across Texas that voluntarily meet or exceed minimum worksite lactation support standards to be designated as a Texas Mother-Friendly Worksite. More information is available at <http://texasmotherfriendly.org>.
- *Promotion of Worksite Lactation Support.* This is an objective of multiple DSHS program areas, including the Building Healthy Texans state agency model wellness program, the



Nutrition, Physical Activity and Obesity Prevention Program, the Title V Maternal and Child Health Block Grant, and the Texas Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

- *Model Worksite Wellness.* Chapter 664 of the Government Code gives DSHS the responsibility of developing a model worksite wellness program for state agencies. Participation in this initiative will assist HHS agencies to improve support for breastfeeding employees, one of the seven priority objectives identified in the Building Healthy Texans state agency model wellness plan. Specific recommendations for supporting breastfeeding employees may be viewed at the Building Healthy Texans Website at <http://www.wellness.state.tx.us/mothers.htm>.
- *WIC Breastfeeding Resources.* The DSHS website, <http://breastmilkcounts.com/>, is Texas WIC's one-stop breastfeeding resource to provide new moms with information on what to expect while breastfeeding, current information to help breastfeeding moms continue breastfeeding, tips for breastfeeding moms on how to continue breastfeeding once they've gone back to work, and many other resources.

Inquiries

For more information contact your agency Wellness Coordinator:

DSHS: Melanie Blanchette Melanie.Blanchette@dshs.state.tx.us (512) 776-3507

DADS: Vanessa Rios Vanessa.Rios@dads.state.tx.us (512) 438-4958

DARS: Ann Woods Ann.Woods@dars.state.tx.us (512) 424-4766

HHSC: Theresa McShan Theresa.McShan@hhsc.state.tx.us (512) 424-6809

DFPS: Penelope Doherty Penelope.Doherty@dfps.state.tx.us (512) 438-2306