Patient Protection and Affordable Care Act: Public Health

Health Law Systems in Reform
Health Law Conference
Northeastern University School of Law
March 16, 2012

Donna E. Levin
General Counsel
Massachusetts Department of Public Health
OVERVIEW: Focus on effect of ACA on Massachusetts Public Health Initiatives

I. Regulatory Programs:
   A. Managed Care Appeals
   B. Pharmaceutical and Medical Device Manufacturer Disclosure and Code of Conduct

II. Funding/Grant Opportunities
Managed Care Appeals: Office of Patient Protection

- M.G.L. c. 176 O “Health Insurance Consumer Protections” (2001) governs only fully-insured plans (not self-funded)

- OPP charged with implementation of requirements on:
  - Internal grievance procedures of managed care carriers
  - External appeals of managed care carrier decisions: three External Appeals Panels
  - Guidelines for determining medical necessity and provisions for continuity of care
ACA: Appeals Process (Section 2719)

- All health plans must offer an external review process to members of fully insured and self-funded plans per specific requirements.
- Preempts state process that is inconsistent with key ACA provisions.
- Interim, partial compliance for state process allowed until 2014.
- MA amended OPP regulations to achieve partial compliance in 2011.
- Should MA retain consistent parallel oversight and enforcement?
M.G.L. c. 111N: “Massachusetts Pharmaceutical and Medical Device Manufacturer Code of Conduct” (2009)

- **Code of Conduct** - often referred to as “Gift Ban”
  - Prohibitions on certain conduct by these manufacturers – e.g. gifts and payments to certain health care providers

- **Reporting Requirements** – to MDPH and publicly available
  - By manufacturers on allowable payments made to certain health care providers
“Federal Physician Sunshine Act”: Section 6002 of the ACA

- Requires reporting but does not require Code of Conduct
- Preempts MA reporting requirements for majority of health care providers (physicians and teaching hospitals) when federal regulations are final
- Does not preempt MA Code of Conduct
ACA Funding: Prevention and Public Health Fund

- “.... first time a comprehensive public health strategy with dedicated funding has been articulated in federal law”
  
  Health Affairs: Health Policy Brief  2/23/12

- “The [ACA] if it is adequately funded, effectively implemented, and creatively leveraged through public and private-sector partnerships, will mark the turning point in the fundamental nature of our health system, initiating the transformation of our health system from one that treats sickness to one that promotes health and wellness.”

  American Public Health Association: Issue Brief 10/10
Funding

- Originally $15 Billion over 10 years
- (But Congress can use money from fund on existing prevention/health promotion activities with goal of improving health/limiting costs)
- Since passage, target of several attempted cuts
- 2012 cut by $5 billion to pay for other initiatives, including payroll tax relief
- Further cuts proposed in President’s budget
Funding for Massachusetts Initiatives under ACA

- 2010: > $7 million
- 2011: > $18 million
  - Home Visiting
  - HIV Surveillance
  - Pregnant/Parenting Teen Support
  - Electronic Laboratory Capacity
  - Tobacco Control
  - Childhood Obesity
  - Infrastructure
  - Immunization
  - Community Transformation
  - Chronic Disease Prevention
  - Public Health Workforce
Expanding Mass in Motion

- **Mass in Motion** Municipal and Wellness grants are beginning their third years
  - New Community Transformation Grants allow us to expand from 16 municipalities to 49 municipalities ($3 million a year)

- **Childhood Obesity Demonstration Grant** ($1.5 million)
  - Fitchburg and New Bedford
Mass in Motion: Community Transformation Grants

- **Community Transformation Grant** - $1,574,982 (Middlesex)
  - 8 new Mass in Motion programs and 1 current Mass in Motion program – serving 12 municipalities

- **Community Transformation Grant** - $1,505,006 (8 county)
  - 8 new Mass in Motion programs and 3 current Mass in Motion programs serving 31 municipalities

With this expansion, we now have Mass in Motion initiatives in 53 municipalities and every county in the Commonwealth.
Mass in Motion: Eat Better, Move More

Multifaceted state initiative

- Call to Action report
- Governor’s Executive Order 509
- BMI regulation
- School Nutrition Regulation
- Public information campaigns
- Municipal wellness grants
- Worksite initiative
- Website
  - Info on physical activity and nutrition
  - Blogs
  - Links to state and local resources
Mass in Motion Community Activities to Increase Healthy Eating

- Support implementation of school nutrition regulations
- Promote healthy dining in restaurants
- Promote access to healthy food in retail stores
- Implement EBT system and/or use of SNAP and WIC vouchers at farmers markets
- Promote access to healthy food including farmers markets and increase access to farmers market via affordable transportation modes
- Conduct community food assessment to determine food deserts; present data and recommendations to city officials
- Review zoning/land use policies for usage of vacant parcels of land as community gardens
Mass in Motion Community Activities to Increase Active Living

- Implement a safe routes to school initiative
- Establish a “complete streets” policy
- Incorporate health outcomes into master plan
- Pass policy to require all new development include sidewalks
- Zoning ordinance that requires site plans for commercial/industrial buildings require bicycle racks
- Conduct walkability assessment and sidewalk review
- Citywide collaboration re: snow clearance
Community Transformation Grants

- Three long-term outcomes

  - Reduce death and disability due to tobacco use by 5%

  - Reduce the rate of obesity through nutrition and physical activity interventions by 5%

  - Reduce death and disability due to heart disease and stroke by 5%
Mass in Motion: Childhood Obesity Demonstration Grant

- To reduce childhood obesity among underserved children 2 -12 in 2 sites
  - Fitchburg and New Bedford
- Focus on 5 key behaviors related to childhood obesity in multiple sectors of the community
  - Consumption of sugar sweetened beverages
  - Amount of moderate/vigorous physical activity
  - TV and other screen time/TVs in bedrooms
  - Replacement of empty calories with fruits and vegetables
  - Adequate sleep
Mass in Motion: Community-Clinical Partnerships to Reduce Childhood Obesity

- Community-wide interventions
  - Interventions targeting 5 key behaviors
  - Social marketing campaign

- Interventions in:
  - Primary Health Care at community health centers: “High Five for Kids”
  - Child Care: “I am Moving, I am Learning”
  - Nutritional/Physical Activity
  - Self-Assessment
  - Schools/After-School Programs: “Food & Fun”, “Eat Well and Keep Moving” and “Planet Health”
Mass in Motion: Community-Clinical Partnerships to Reduce Childhood Obesity

Measure effectiveness in intervention and comparison communities - e.g.:

- Replacement of calorically-dense foods with fruits and vegetables

- Decrease in:
  - Screen time and TVs in bedrooms?
  - Consumption of sugar-sweetened beverages?
  - Body Mass Index (BMI)?

- Increase in:
  - Moderate and vigorous physical activity?
  - Sleep duration and improvement in sleep quality?
  - Primary care BMI screening; obesity-related counseling, coordinated care, and parental satisfaction with care?