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MotherWoman and the Massachusetts Pregnant Workers Fairness Act: The Role of Community Organizations in Education and Outreach for State Employment Laws

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**MotherWoman and the Massachusetts Pregnant Workers Fairness Act:
The Role of Community Organizations in Education and Outreach for
State Employment Laws**

Christoph Demers MPPA/MBA and Laura Sylvester MPPA/MPH

Executive Summary

Since 2013, MotherWoman has been leading the drive to pass the Massachusetts Pregnant Workers Fairness Act (PWFA), which is likely to be voted on within the current legislative session. While a full vote on the bill has not yet been scheduled, there appears to be significant support for the bill from legislators, coalition members, and the general public, and little public pushback from potential opponents. While MotherWoman continues to help move the legislation through the legislature, they must look to the next phase: implementation. Once passed, it will be up to the Massachusetts Commission Against Discrimination (MCAD) to implement and enforce the PWFA. How can MotherWoman positively impact implementation of the PWFA, specifically through outreach and education? The following analysis examines family policy-issue nonprofits who have conducted or aided in outreach and education efforts of similar legislation in other states. From our analysis of the planning, actions, and outcomes of these education and outreach efforts, we offer outreach and education recommendations for MotherWoman to facilitate Massachusetts workers and employers learning about the bill and their rights and responsibilities, including key information to be included in educational toolkits for various stakeholders. Our analysis examines the experiences of nonprofits conducting outreach and education, and based on our analysis we recommend the following:

Collaboration

- MotherWoman must collaborate across different sectors: with other nonprofit organizations, organized labor, business groups, and the MCAD in conducting education and outreach.

Advocacy and Policy

- MotherWoman must continue to advocate and lobby for funding and legislation that will further pregnant workers' rights and outreach and education
- MotherWoman should decide whether they have the capacity to write regulations for the PWFA for MCAD, with assistance from MELA and the WBA.
- While MCAD is doing the best they can with the resources they have, with more funding, they could decrease the processing time between when a complaint is filed and when a complaint is resolved, bringing them more into line with regulatory agencies in other states.
- Because pregnancy is a relatively short-term condition, it would make sense to put into the law a provision that compels employers to provide accommodations as soon as they're requested, regardless of whether or not the plans to contest the request. If a complaint later turns out to be invalid, the employer can be reimbursed the cost (if any) of compliance.

Outreach and Education

- MotherWoman should strategically target their efforts to groups and industries where they can have the most impact, such as larger employers, medical professionals, and unions.
- MotherWoman should focus outreach on providing workers with a broad understanding of their employment rights, not just on the PWFA.
- MotherWoman should develop an evaluation plan to monitor and track their education and outreach efforts.
- MotherWoman should create and publish a list of Top Women- and Family-Friendly Massachusetts businesses.

Funding

- MotherWoman must examine what resources they are able to put towards outreach and education. For many nonprofits, the lack of resources (staff and funding) presents a major issue: many organizations believe that awareness for workers and compliance for employers is significantly lower than it should be, and resources needed to correct this are a limiting factor. MotherWoman should think creatively about expanding their funding, whether from public or private sources.
- MotherWoman could pursue grant money to have a hotline to help employees understand the law and their rights.

Table of Contents

Executive Summary	2
Introduction	5
Methods	5
Limitations.....	6
Literature Review	6
Background.....	10
NYC Commission on Human Rights:.....	12
California Department of Fair Employment and Housing:	14
New Jersey Civil Rights Commission:.....	15
Findings	15
Challenges	18
Targeted outreach and education campaigns.	18
Conferences and large events.....	20
Trainings.	21
Focus groups and research.....	21
Hotlines.	22
Standardized training.....	23
Funding for outreach and education programs.	24
Government funding.....	24
Non-governmental funding.	24
Focus of outreach and education campaigns.	25
Building relationships with government officials and regulatory agencies.....	26
Tracking, monitoring and evaluating education and outreach campaigns.....	28
Building and strengthening coalitions to amplify reach.	29
Recommendations	29
Conclusion	30
Bibliography	32
Appendices	35
Appendix 1:	35
Appendix 2:	36

Introduction:

The Massachusetts Pregnant Workers Fairness Act (PWFA) would compel employers to provide “reasonable accommodations” for pregnant workers like a stool to sit on in the later stages of pregnancy, temporary reassignment to light duty, and extra water and bathroom breaks. In addition, there is a provision that would allow women to express breast milk at work without penalty, and require employers to provide clean, private, non-bathroom space to do so. The PWFA is likely to pass within the year. Once passed, the legislation directs the Massachusetts Commission Against Discrimination (MCAD) to implement and enforce it. As a primary supporter, MotherWoman seeks to ensure that the legislation will be properly implemented once it becomes law. Our research examines what opportunities exist for MotherWoman to positively impact the implementation of the PWFA through outreach and education. We examine how MotherWoman can collaborate with MCAD and other partners to help with implementation of the law. We will look at what roles other nonprofits have played in outreach and education for similar legislation in California, New Jersey, and New York City. Finally, we will develop actionable recommendations for MotherWoman and outline a plan for an education and outreach initiative, which would facilitate businesses and workers learning about the bill and their rights and responsibilities.

Methods

We used an exploratory interview approach to investigate the role that nonprofits play in education, outreach, and implementation of similar legislation in California, New Jersey, and New York City. We gathered evidence using semi-structured interviews with nonprofits, agencies, and individuals both who have already been advising MotherWoman and who were not

previously in contact with the organization. This data was collected through email outreach and telephone and in-person interviews.

We collected data on how nonprofits and women's advocacy groups have aided in outreach and education efforts in California, New Jersey, and New York City, conducting eight interviews with five organizations and three advisors. We chose California because the California PWFA passed in 1999 and information is readily available about its history, both on the California legislative website and through Google searches. We chose New York City because MotherWoman's coalition partner and advisor A Better Balance is based there and has played an important role in education, outreach and implementation of New York City's PWFA. Also New York City's population is 8.4 million, which is roughly comparable to Massachusetts' 6.7 million. We chose New Jersey because we were referred by our contact at A Better Balance to the Center for Women at Work at Rutgers University, an organization that has worked on implementing family policy laws in that state.

Limitations

Public private partnerships of the type described here are relatively new and cutting edge, therefore it was challenging to find nonprofits and agencies who are doing outreach, education, and implementation of family policy laws. When we were able to locate organizations doing this work, often they were too busy to even respond to our inquiries, despite repeated attempts. It is possible that this small sample presents an incomplete picture of the work that is being done.

Literature Review

The following literature review examines (1) literature about how workers elect to exercise their labor rights when enforcement mechanisms are reliant on worker complaints, and (2) literature examining how outreach and education can play a role in ensuring that workers' rights are not violated.

Labor law in the United States is governed by dozens of different pieces of legislation and regulation, and differs across states and localities. At the federal level, the 1964 Civil Rights Act established the Equal Opportunity Employment Commission (EEOC), the Pregnancy Discrimination Act was passed in 1978, and the Americans with Disabilities Act (ADA) was enacted in 1990. In addition to these laws, each state and locality may or may not have additional protections, so that a move from one jurisdiction to another can mean drastically different protections for workers (Bureau of Labor Statistics, 2015). Pregnancy discrimination protections mirror the patchwork pattern of U.S. labor law described above. The many labor protections on different government levels with distinct enforcement mechanisms make for a complex and opaque legal environment for workers and employers. Resources for understanding and then exercising workers' rights are not often readily available, and U.S. workers are conflict averse and likely to go to significant lengths to avoid litigation (National Partnership for Women & Families, 2013).

Implementation literature that focuses on complaint-based enforcement mechanisms demonstrates that workers implicitly – although sometimes explicitly – weigh the costs and benefits of exercising their rights. In order to conduct such cost-benefit analysis, these workers must: collect information about what rights exist and whether or not their employer must actually abide by such laws, understand their workplace environment, recognize risks in their workplace, and then comprehend how they can as an individual exercise their rights under a given law (Weil, 2003).

The literature suggests that nonprofit organizations can help ensure that workers' rights are upheld, and when they are not, encourage workers to exercise their rights. Because of organizational differences, nonprofit organizations tend to enjoy more trust within the

community than government agencies (Graauw, 2015). Unlike many enforcement agencies, community organizations often have significant contacts throughout the communities they serve, and have community member volunteers that are willing to vouch for the organization as well as conduct community-level marketing (Gleeson, 2009). Therefore, community organizations can often gain access to at-risk populations when enforcement agencies cannot (Gleeson, 2009), and community organizations can influence implementation by acting as a partner for the agency responsible for enforcement (Graauw, 2015). As an analysis by the labor advocacy organization the National Employment Law Project outlines, outreach and education initiatives allow advocacy groups to gather stories about front-line conditions, and can further educate enforcement agencies by giving them access to information they might otherwise not been able to obtain (Bernhardt et al., 2009).

However, nonprofit organizations have important weaknesses that must be understood, too. Nonprofit attempts to influence workplaces are limited because they are organizations outside of the workplace. Unlike unions, community organizations cannot examine what is going on in an organization, and cannot directly represent workers. They largely cannot go beyond an informational role, providing workers with information about what rights exist and how they can exercise those rights, but cannot examine nor directly influence actual workplace conditions. (Fine & Gordon, 2010; Weil, 2003). Unions, in contrast, are directly involved in the workplace, can examine workplace conditions, and are then able to determine whether or not the conditions represent a violation of labor law (Graauw, 2015). However, declining union representation has meant that far fewer workers have such built-in workplace advocates (Weil, 2010; Graauw, 2015).

The literature indicates that outreach and education is a vital step in implementing legislation that relies on worker-filed complaints for enforcement. Workers must be informed of the new law, and must then be taught how they can exercise their rights under that specific law (Gleeson, 2009). Even in states where extensive outreach and education campaigns have occurred, low levels of awareness about such laws persist. For example, in a 2011 poll of California workers, only 42% responded that they had heard of the California Paid Family Leave Act, which came into effect in 2004, and provides disability benefits in order to take care of family members or bond with a child. While there were significant outreach and education efforts for this law, awareness only slowly increased, and awareness continues to remain low years after passage (Applebaum & Milkman, 2011).

Outreach and education should be conducted in areas that have a large number of at-risk workers. Compliance with labor legislation varies by industry, but is low in industries where reasonable accommodations are most necessary. Workers most at risk for labor law violations are in retail, foodservice, healthcare, and other physically difficult industries, and are more often in smaller workplaces than in larger ones (Ostermann, 2008). The difference in workplace size is important for enforcement, as there are significantly more of these small workplaces than large ones, increasing the difficulty of enforcement for relevant agencies (Ostermann, 2008). In fact, the National Employment Labor Project argues that government agencies will never be able to monitor enough workplaces in the United States, and therefore, community organizations are a vital part of the enforcement environment (Bernhardt et al., 2009).

In addition, outreach and education should concentrate in areas where workers are less likely to complain. Workers in all industries fear retaliation for complaints, but certain groups are more likely to fear retaliation and therefore less likely to exercise their rights (Ruckelshaus, Fine

& Gordon, 2010, Weil 2003). Employers are often aware of this fear, and immigrant workers are particularly vulnerable, as they may be afraid that a complaint to a government agency may result in deportation (Fine & Gordon, 2010).

Finally, outreach and education should target groups that may have a positive impact on society-level understanding of rights. The literature indicates that understanding civil rights on an individual decision level ignores important downstream effects (Albiston, 2005).

Understanding that certain rights exist leads to discussions of such rights and their merits, and can lead to questioning previously accepted workplace actions or violations, as institutions such as families, friends, and colleagues “shape perceptions, preferences, and choices.” (Albiston, 2005) Therefore, it may be reasonable to concentrate on industries, firms, or groups that might yield broader societal awareness – such as high profile firms, or groups that come into contact with a large number of workers, such as physicians.

The literature review aided in structuring our interviews and our additional data collection. Noting the continued emphasis on finding avenues for educating the largest number of workers of their rights, we sought out not only *what* each non-profit did in terms of outreach and education, but *why*. While the details of how each organization conducted their respective outreach and education initiatives were important, we emphasized understanding their thinking in developing their programs. We also looked at how they partnered with government agencies and other organizations, if at all, in their efforts.

Background

Representative Ellen Story and Senator Joan Lovely introduced House Bill H. 1769, the Pregnant Workers Fairness Act in January, 2015. The bill was then referred to the Joint Committee on Labor and Workforce Development. The bill mandates that employers provide

“reasonable accommodations” to pregnant workers, and makes it unlawful, “for an employer to deny reasonable accommodations for any condition of a job applicant or employee related to pregnancy, childbirth, or related conditions if the employee or applicant so requests, unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer’s program, enterprise, or business” (MA Bill H.1769).

Since its introduction, the bill has received significant support from lawmakers as well as community advocates, unions, nonprofits, businesses, and the general public. The bill garnered sixty-two co-sponsors -- nearly 40% of Massachusetts State Representatives and Senators. In addition, interest groups have lined up in support of the bill: health groups such as the American Congress of Obstetricians and Gynecologists, as well as business leaders such as Baystate Health (one of the largest employers in Massachusetts) have delivered written testimony in support of the bill (MA Bill H.1769, MA-ACOG, Keroack, 2015).

The Massachusetts Commission Against Discrimination is the agency that will oversee and implement the PWFA. The agency is charged with implementing all the antidiscrimination laws in the state, which fall under Section 4 of chapter 151B of the Massachusetts General Laws. In 2014, MCAD processed 3,127 new complaint filings bringing the year-end total (including rollover from 2013) to 4,843 complaints under investigation. Compared to other state civil rights commissions across the country, the MCAD has one of the largest caseloads per investigator, averaging 250, compared to neighboring states which average 50-75. Eighty-two percent on average, of all claims filed are employment related.

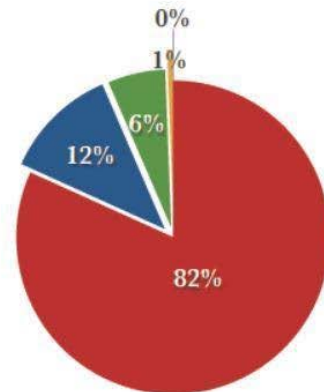
MCAD provides numerous outreach and education trainings with the aim of eliminating and preventing discriminatory policies or practices before they reach the claim stage. The Enforcement Division staff conducts these trainings at public and private organizations, colleges

and universities, business organizations, law firms, and civic associations. During 2014, MCAD conducted 111 external employment and housing discrimination prevention training sessions and presentations attended by 2,420 participants.

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

COMPLAINTS FILED BY JURISDICTION IN 2014

Number of Complaints Filed by Jurisdiction		
● Employment	2,557	
● Housing	367	
● Public Accommodation	184	
● Education	18	
● Credit	1	
Total	3,127	



This graph shows the total number of complaints filed in 2014 by jurisdiction. The pie chart visualizes the percentage of cases filed in each jurisdictional category against the total. As in years past, the vast majority of new complaints alleged employment discrimination (81.7%), followed by Housing (11%) an increase of 11 cases over 2013, and Public Accommodation at (5.8%), essentially equivalent to 2013 (5.7%).

MCAD’s equivalents in the states we examined are the NYC Commission on Human Rights, The New Jersey Civil Rights Commission, and the California Department of Fair Employment and Housing. Understanding how each agency functions is necessary to accurately compare and contrast each non-profit organization’s outreach and education activities. For example, if enforcement agencies have significantly different structure, funding, or policies around conducting outreach and education, this must be taken into account when comparing non-profit organizations located in different states.

NYC Commission on Human Rights: The NYC Commission on Human Rights is the agency charged with implementing the PWFAs and other anti-discrimination laws in New York City. The Commission offers employers education and guidance on what is expected of them.

For the PWFA, they distribute a poster for employers to display notifying employees about the law. The poster is available in nine languages: English, Spanish, Traditional Chinese, French, Arabic, Urdu, Russian, Korean, and Haitian Creole (See Appendix 1). The commission offers to answer any questions either employers or employees have about pregnancy-related accommodations and provides a phone number to call.

In 2014, 633 complaints of discrimination, retaliation, harassment, or failure to accommodate were filed with the NYC Commission on Human Rights (NYC Commission on Human Rights 2014 Annual Report). Of those 633 cases, 69% were employment related, and 27 were pregnancy related. The Commission's goal is to resolve as many cases as possible through "pre-complaint intervention."

As an example, the Law Enforcement Bureau of the Commission (LEB) successfully resolved a case on behalf of a pregnant worker who was fired instead of being offered a temporary leave accommodation. The LEB spoke with her employer, citing the amendment that was added to the NYC Human Rights Law in 2014 which prohibits discrimination based on pregnancy, childbirth, or a related medical condition and requires employers to provide a reasonable accommodation. When the woman was cleared to work, she was given back her job. Pre-complaint intervention is a way to get faster results since pregnancy discrimination cases tend to be more urgent due to pregnancy's temporary nature.

After the 2014 addition of the pregnant workers' fairness amendment to the NYC Human Rights Law, the Commission increased its public education efforts. They created the Pregnancy and Employment Rights poster mentioned above, which all employers with four or more employees are required to distribute. In addition, the Commission employs 27 Human Rights Specialists whose job it is to, "proactively reach out to the public – individuals, communities,

community groups, advocacy organizations, employers, businesses, landlords, real estate agents, etc. – to provide education, training, and information on the protections of the Human Rights Law and encourage understanding and respect among the people ... in New York City.” (De Blasio & Malalis, 10) These Human Rights specialists provide trainings, workshops, and information fairs to clinics, hospitals, and community-based organizations and have highlighted pregnant workers’ rights in all their presentations. Additionally, Commission staff have trained employers, colleges, and schools to know that interns have the same rights as employees under the law, whether they are paid or unpaid. The Commission on Human Rights also offers free workshops for employers and business owners on their responsibilities under the New York City Human Rights Law.

California Department of Fair Employment and Housing: The California Department of Fair Employment and Housing’s (DFEH) mission states, “the DFEH is the state agency charged with enforcing California’s civil rights laws. The mission of the DFEH is to protect the people of California from unlawful discrimination in employment, housing and public accommodations and from hate violence” (Kish, 2015). According to the DFEH 2014 annual report, the last year which is available, they have 93 complaints per investigator, which is approximately 40% of the amount per investigator compared to the Massachusetts Commission Against Discrimination, and there were a total of 1,181 pregnancy related employment complaints (Kish, 2015). The DFEH runs various outreach and advocacy programs, including “Employment Roundtables,” which they have conducted since 1983. These events are meant to provide a means for employers to understand California employment law and ask questions in a non-threatening setting which encourages conversation. The roundtable setting also allows for

dissemination of technical advice and discussion of information about DFEH rules and procedures (Kish, 2015).

New Jersey Civil Rights Commission: The New Jersey Civil Rights Commission is charged with implementing New Jersey’s Pregnancy Discrimination Act, which amended the state’s Law Against Discrimination in 2013. The Law Against Discrimination, “makes it unlawful to subject people to differential treatment based on race, creed, color, national origin, nationality, ancestry, age, sex (including pregnancy), familial status, marital status, and other protected classes.” The Civil Rights Commission is a branch of the New Jersey’s Office of the Attorney General. The Commission is comprised of seven members who are appointed by the Governor. Each member serves a five-year term and is not compensated for his or her service.

Pregnancy discrimination claims must be filed with the New Jersey Division on Civil Rights (DCR) within 180 days after the alleged discrimination takes place. Complaints must be filed in person at one of four Division offices throughout the state. The DCR offers mediation as well as hearings as a method for resolving claims. They also offer anti-discrimination posters with information about the law on their website in English and Spanish for employers to download and display. Finally, the New Jersey Department of Law & Public Safety, through the DCR Bureau of Prevention and Community Relations offers fee-based trainings to employers and other groups on how to define and prevent discrimination.

Findings

To provide context, we include below a brief description of each of the community organizations we interviewed.

1. The California Breastfeeding Coalition is the umbrella organization that coordinates the work of forty-six local, grassroots organizations, and advocates for lactation accommodations in the workplace, and conducts outreach and education to inform mothers as well as the public

about lactation rights. Director Jenya Cassidy spoke with us about their advocacy organization. California's Lactation Accommodation law, passed in 2001, requires that employers provide reasonable accommodations to allow workers to express breast milk while at work, including a private, non-bathroom space to pump breast milk. Beginning as a non-incorporated leadership group for California breastfeeding coalitions, the CBC played a significant role in pushing for implementation of the Lactation Accommodation Law, and in 2007, received funding from the California Women, Infants, and Children (WIC) Supplemental Nutrition Program, a federally funded nutrition program (R. Gonzalez-Diaz, Personal Communication, March 9, 2016).

2. The California Work and Family Coalition's (CWFC) mission is to organize communities to realize equitable, family-friendly workplaces and to expand the social safety net in California through policy, advocacy, and education. According to Executive Director Robbie Gonzalez, the CWFC conducts legislative campaigns, community education and outreach, and coalition building to fulfill this mission. The California Work and Family Coalition has worked to ensure that workers, employers, and unions are aware of Paid Family Leave Act, Paid Sick Days laws in California, and laws that ensure reasonable accommodations for pregnancy and breastfeeding (J. Cassidy, Personal Communication, March 24, 2016).

3. A Better Balance (ABB) is a national legal advocacy organization, founded in 2005, whose mission is to "promote equality and expand choices for men and women at all income levels so they may care for their families without sacrificing their economic security." Retrieved from <http://www.abetterbalance.org/web/> ABB uses multiple strategies including legislative advocacy, litigation, direct services, grassroots organizing, research, and public education to promote family-friendly policies like family leave insurance, paid sick leave, and pregnant

workers fairness. ABB has been instrumental in helping to pass the PWFA in multiple states and has been a consultant to MotherWoman on the Massachusetts PWFA.

Phoebe Taubman is a Senior Staff Attorney at A Better Balance. She was instrumental in helping to write and pass the PWFA in New Jersey and New York City and has been working closely with MotherWoman as an advisor on the Massachusetts bill. After the PWFA passed in New York City in 2013, Attorney Taubman and others from A Better Balance worked with the New York City Commission on Human Rights to help with education, outreach, and implementation of the law. Specifically, they work with women who call their hotline with pregnancy discrimination-related calls. They assist the women with self-advocacy; providing guidance on how to write letters to their employer (P. Taubman, Personal Communication, February 19, 2016).

4. The Community Service Society of New York (CSS) addresses the root causes of economic disparity through research, advocacy, litigation, and innovative program models. They are a well-respected agency that formed over 170 years ago. They are part of a broad-based coalition of workers, labor, women's groups, health advocates, seniors, and advocacy organizations.

Vice President for Policy, Research, and Advocacy Nancy Rankin is the creator of The Unheard Third, an annual survey that asks low-income New Yorkers about their work and home life. Rankin's research first identified that many low-wage workers lacked paid sick days and she was a leader of the campaign to successfully pass the paid sick days law in New York City in 2013.

5. The Rutgers Center for Women at Work's (CWW) goal is to advance women in the workplace. They conduct research on public and workplace policies, provide assistance and

programs to educators, industry, and governments, and advocate for issues that impact the living standards working families. Karen White is the director of the Working Families Program at CWC. She is an expert on policies such as paid family leave and has participated in national dialogues, including a White House initiative on this topic. Yarrow Willman-Cole is the program coordinator at the Working Families Program at CWW. She assists in research, outreach, and education on family-friendly workplace policies.

Challenges

What are the challenges that MotherWoman might face in conducting a successful outreach and education campaign? Based on the themes from the literature review, we focused our interviews and research on the following challenges that such campaigns might face.

Targeted outreach and education campaigns. The literature suggests that such campaigns should focus not only on workers, but on employers, and specifically on individuals, groups, or organizations that are likely to have larger societal level impacts, such as prominent corporations or people that are in contact with a large numbers of workers. In our interviews and other data collection, we sought to explore whether or not the experience of non-profit organizations reflected what the literature suggested, or whether they found other avenues for conducting outreach and education more successful. A related challenge is how such education campaigns handle the temporary nature of pregnancy and lactation employment discrimination. Since the need for pregnancy and lactation accommodations are always temporary, how can these nonprofits ensure that their campaigns are reaching pregnant workers before or as soon as they become pregnant? Our research and interviews indicate that vulnerable workers, employers, and those that are regularly in contact with affected workers should be the target of an education

and outreach campaign. These groups can be targeted through conferences, direct trainings, and printed and online materials.

The Center for Women and Work (CWW) is housed in the Working Families Program at Rutgers University in New Jersey. Their research was instrumental in passing and conducting outreach and education for New Jersey's paid family leave law, which was signed in 2008 and went into effect July 2009. During the initial rollout of program CWW partnered with the New Jersey Time to Care coalition. Time to Care had done advocacy for family leave and were eager to participate in outreach. The Time to Care Coalition met with the Department of Labor Commissioner to tell him who they were going to target for outreach and what they were going to do. The Commissioner told them that the Governor was going to hold off on education and outreach until the government had an idea of the costs, so CWW and the coalition began to do focused outreach to fill that gap. They started with their coalition members, which included unions, faith-based, and women's organizations, and averaged one presentation a week to coalition members who brought their constituents to the sessions. Then they branched out to any other organization where they thought they could have an impact, for example, they did a workshop for the National Association of Social Workers at their annual conference. The Family Resource Center brought together all caregivers in New Jersey and CWW did a presentation there. They met with the head of WIC in New Jersey and were able to present to the heads of the regional WIC offices. CWW left brochures and other information with WIC because they were on the front lines and able to distribute information to many people. They met with WIC three times but then didn't hear back from them. White said follow up was difficult and it seemed like WIC were no longer interested (K. White, Personal Communication, March 30, 2016).

Another example is the California Breastfeeding Coalition’s outreach and education, which has targeted the business community. They have conducted several trainings using the Health Resources and Administration’s *Business Case for Breastfeeding* framework, which provides employers with strategies and tools for creating breastfeeding-friendly workplace. In addition, they identified businesses that have implemented especially effective breastfeeding policies, and have even gone as far as creating the “California Mother-Baby Friendly Workplace Employer Award,” given in 2015 to Ventura County, California. Such awards, they believe, are a way to celebrate successes, and show communities that reasonable accommodations are just that – reasonable – and that workplaces in their community are able to implement such policies without detrimental effect on the workplace (R. Gonzalez-Diaz, Personal Communication, March 9, 2016).

Some organizations, like Community Service Society, do not do outreach to employers because it doesn’t fit with their mission. In their case, they rely on the NYC Department of Consumer Affairs to do employer trainings.

Conferences and large events. The California Breastfeeding Coalition has found that one of the most effective ways to reach their constituents is by hosting conferences. Their major outreach and education event held each year is CBC’s California Breastfeeding Summit. The Summit was founded to “establish a yearly collective direction to increase exclusive breastfeeding rates among all populations in California” (CBC Website). A particularly successful aspect of the 2016 summit, held January 28 – 30, was a lactation rights workshop held for healthcare professionals and specifically targeted physicians. The turnout was high: eighty physicians, and additional health care professionals, attended the seminar. The aim was to ensure that physicians understood the Lactation Accommodation Law, and were fluent enough in the

language of the law to help their patients understand their rights and how to exercise them (R. Gonzalez-Diaz, Personal Communication, March 9, 2016).

Trainings. Many of the organizations we interviewed reported that they conduct trainings. Throughout the year, the California Breastfeeding Coalition, working with other coalitions, leads trainings with health care providers, primarily primary care physicians, and obstetricians. They believe this form of outreach is the most successful because they are educating those that are in direct contact with the highest number of parents, and are usually considered a trusted source. They believe that having workers hear about accommodation laws from a healthcare provider will encourage workers to think about their rights as an important part of their healthcare. They distribute small, informational cards that outline workers basic lactation accommodation rights (R. Gonzalez-Diaz, Personal Communication, March 9, 2016).

Meanwhile, the California Work and Family Coalition has been piloting a program that they run with healthcare clinics. Typically, the CWFC runs one to two trainings a month. The goal is to educate healthcare providers about the various laws in California that protect workers. By doing so, CWFC believes that they will be able to indirectly reach a far larger number of at-risk workers. In addition, they are using this as an opportunity to collect information to better understand vulnerable workers in Los Angeles, by collecting information about patient awareness in terms of labor rights, and a survey to examine the impact of their outreach and education initiative (J. Cassidy, Personal Communication, March 24, 2016).

Focus groups and research. The Community Service Society (CSS) of New York works to address “the root causes of economic disparity through research, advocacy, litigation, and innovative program models” so for them, targeting low wage workers to inform them about New York’s paid sick leave law (which was passed in 2013 as a result of their advocacy efforts) was

natural. Retrieved from <http://www.cssny.org/>. CSS's Vice President for Policy Research and Advocacy Nancy Rankin created "The Unheard Third" survey in 2002, an ongoing public opinion poll of low-income households, so the organization already had a relationship with and was trusted by this population. The survey asked where and whether people were employed and whether they were eligible for sick days, pensions, and other benefits. The survey found that the majority of low wage workers received no sick days (N. Rankin, Personal Communication, April 8, 2016).

In order to get the word out about the paid sick days law, Rankin conducted focus groups with populations who hadn't previously had access to paid sick days and asked which methods of communication would best reach them. The answers were television, subway posters, and text messages, but not email, since everyone has a cell phone, but not everyone has internet service (N. Rankin, Personal Communication, April 8, 2016).

An additional aspect of education is not only performing outreach, but creating avenues for individuals who have questions or concerns about pregnancy or lactation employment laws to reach out to organizations for information or help. One such resource is providing a phone number for a hotline, where workers can call and explain their employment situation or ask for help. Our interviews showed that such resources can be either official or unofficial hotlines.

Hotlines. The California Breastfeeding Coalition does not promote itself as having a hotline because they simply don't have the resources to continually staff one, however, they do take calls from workers and employers concerned about lactation accommodations, and work to provide the callers with the most accurate information possible as well as relevant resources. Workers can leave a message, and when staff or volunteers at the California Breastfeeding Coalition have time, they call the workers back and attempt to answer their questions. This

sporadic hotline approach, while not ideal, helps provide the CBC with on-the-ground information about the types of discrimination workers are facing on a day-to-day basis, as well as fulfill its mission to serve constituents in need of help (R. Gonzalez-Diaz, Personal Communication, March 9, 2016).

A Better Balance has a free legal hotline for low-income women facing employment law issues related to caregiving. Their hotline is staffed by attorneys, and while they don't provide legal advice over the phone, they do inform callers of their rights and offer to take them on as clients if appropriate (P. Taubman, Personal Communication, February 19, 2016).

A Better Balance also has information on their website to educate women about the New York City PWFA, and all other states with pregnant workers fairness laws. They have downloadable pamphlets and flyers in both English and Spanish (See Appendix 2), along with clear, detailed information about what women can do if they are denied accommodations.

CSS doesn't have their own hotline, but they promote and refer people to A Better Balance's hotline.

Standardized training. Each of the organizations we interviewed creates standardized materials in the form posters, postcards, handouts, fliers, and web content, in multiple languages and reading levels. For example, the CWW has a few different PowerPoint presentations they use with graphics and visuals. They have two brochures printed in color that are also available on their website - one for family leave and one for temporary disability. The California Breastfeeding Coalition developed and distribute small, informational cards that outline workers basic lactation accommodation rights (R. Gonzalez-Diaz, Personal Communication, March 9, 2016).

Funding for outreach and education programs. Like many other small non-profit organizations, funding an outreach and education program would put significant strain on MotherWoman's current budget. Examining traditional fundraising methods is important, but there may be additional creative ways of obtaining funding for outreach and education, including lobbying for additional state funding.

Government funding. The CWFC recently received funding from the California Employment Development Division, which allows the Coalition to run more frequent trainings. They successfully lobbied for additional funding for the California Employment Development Department (EDD), which then in turn contracted with local community groups, including the CWFC, to conduct further outreach and education. By lobbying for additional funding for the EDD, they were able to run a pilot project with a local medical clinic that concentrates its work on low-income and vulnerable populations. The CWFC highly recommends lobbying for funding for continued outreach and education campaigns, and warns against achieving a legislative win and then becoming distracted by other priorities (J. Cassidy, Personal Communication, March 24, 2016).

Non-governmental funding. CSS had received grant money from the Robert Wood Johnson Foundation to advocate for the passage of the paid sick days law, and when the law passed sooner than they thought it would, they used the leftover money from the grant for outreach and education. Working with A Better Balance and Make the Road New York, (a grassroots agency that works with Latino and working class communities to eradicate poverty), they developed Know Your Rights brochures and guides, and provided trainings for community groups and social workers (N. Rankin, Personal Communication, April 8, 2016).

Focus of outreach and education campaigns. It is important to make sure workers, employers, unions, and other organizations involved in the employment process are aware of the new legislation. However, employment law is complicated and covered by many different state and federal laws and regulations, and therefore it may be useful to conduct campaigns that educate parties on different aspects of employment law. Furthermore, a broader outreach and education campaign may see more buy-in, since some workers and employers may see pregnancy discrimination as affecting a smaller subset of the population. If more workers, employers, and others, attend such events because they are wrapped in the broader context of discrimination law, more people can be informed of the new legislation.

After CWW, at Rutgers, found that interest for partnering to do outreach from WIC and other groups was waning, they continued to do trainings, but not as many. They began to inject word about the paid leave law into regular daily interactions and continued outreach and education by talking to anyone who was interested. They also began to fold in family leave to other issues that nonprofits they partner with were doing, thereby combining and consolidating efforts (K. White, Personal Communication, March 30, 2016).

The CWFC went through a training-content evolution similar to the CWW. CWFC began by conducting “Know Your Rights” training sessions in a limited way: they concentrated on a single piece of new legislation. They found, however, that such an approach was not necessarily the most effective, because labor law is complicated and most attendees had questions about other protections, too. In response, they expanded their sessions to be far more comprehensive, including an overview of all different types of protections. In addition, they shifted from concentrating on individual groups, such as a local union chapter, community group, or workplace, to publicizing their work to a broader audience. The CWFC began to advertise and

invite diverse groups, as well as the public to their trainings, through word of mouth and social media. They found that these mixed group trainings were more effective because the different groups raised different concerns, and therefore each group gained exposure to a broader spectrum of workers' rights issues than they would have otherwise. Furthermore, the CWFC has developed additional resources, including outreach and education tools available in multiple languages, and, most recently, an outreach training webinar for other community organizations (J. Cassidy, Personal Communication, March 24, 2016).

Building relationships with government officials and regulatory agencies.

Enforcement agencies, often underfunded and overworked, may have trouble understanding what conditions workers across a state are facing. However, the literature indicates community organizations can serve as an informational source for enforcement agencies because they often have direct community contact coupled with high levels of trust.

CSS's Nancy Rankin was known and respected for the work she had done in New York City with her Unheard Third Survey, so when she reached out to the Department of Consumer Affairs (the agency charged with implementing the paid sick days law) they were receptive to meeting with her because they knew she had been one of the key people involved in advocating for the bill. They used the survey's data to target neighborhoods with vulnerable workers. Mayor Bloomberg ran on paid sick days as an issue and wanted to be proactive. He put a lot of money into public outreach and created a Day of Action where they held a press conference and blanketed the city with 350,000 brochures and posters in eight languages at 150 subway stops (N. Rankin, Personal Communication, April 8, 2016).

New Jersey's paid family leave law was signed by then democratic governor Jon Corzine. The NJ Department of Labor chose to not do extensive outreach and education about the bill

because they were worried they might not have enough money to cover the costs if too many workers took advantage of the leave. They decided to wait for a year to see what the uptake and usage was and then do education and outreach. However, the next year (2009) Gov. Corzine ran on the platform that he had signed the paid family leave bill and Chris Christie ran on the platform that he would dismantle it if elected. Christie was elected and has not dismantled the law, but there has been no outreach done by state agencies, other what is minimally required, which is that employers need to post notice of the law at their workplaces and inform new employees when they're hired. No one is tracking what the compliance rate of employers is. CWW did some polling of NJ residents and discovered that 60% of them were not aware of the law and of those that did know, many did not realize that they could utilize paid leave to take care of a sick family member (K. White, Personal Communication, March 30, 2016).

“A policy is only as good as its implementation,” according to White (K. White, Personal Communication, March 30, 2016). In the best case scenario – the government should give money to organizations to conduct education and outreach. In California, the Employment Development Department put appropriations in their paid leave bill for education and outreach. New Jersey couldn't do that, and they had to make the bill run at no cost to the state or it wouldn't pass.

Chris Longo was in charge of paid leave program under the Corzine administration and he and his Commissioner of Labor at the time were supportive, friendly, and great partners and communicators to CWW (K. White, Personal Communication, March 30, 2016). In retrospect, White says they should have institutionalized that relationship so it didn't disappear when Longo left office. Longo attended their coalition meetings and reported on what he had been doing with the program, any problems he was having with it, and what the uptake and usage was. “He was

very open and kept us in the loop. Then he left and because we had never institutionalized those regular meetings, they disappeared” (K. White, Personal Communication, March 30, 2016).

In the first years of the Christie administration, CWW flew under the radar with outreach and education about the bill because they didn’t want to make waves. “There was not a lot of trying to engage the commissioner,” (K. White, Personal Communication, March 30, 2016).

They did reach out to Christine Madrid, who oversees the paid leave program in the Department of Labor and Workforce Development, but she was not responsive.

Once they felt secure that Gov. Christie was not going to repeal the law, CWW stepped up their efforts to make paid leave more visible to both citizens and politicians, including creating a celebration at the State House for the bill’s fifth anniversary which brought together the original sponsors and people who had benefitted from the law.

Tracking, monitoring and evaluating education and outreach campaigns. What metrics - if any - do organizations use to evaluate their efforts? If they do not collect quantitative data, what qualitative data do they collect? Tracking an education and outreach campaign is a significant challenge because measurement of education of workers may be difficult and expensive. If a worker attends an employment rights session, should they be considered educated on the issue? By answering such questions, MotherWoman can understand whether the benefits of their outreach and education efforts outweigh the costs.

Due to limited resources, none of the organizations we spoke with are able to track the results of their outreach and education efforts. However, in a new pilot program at a medical clinic, the California Work and Family Coalition has begun to conduct a survey asking patients what they have learned about employment discrimination from their healthcare provider (J. Cassidy, Personal Communication, March 24, 2016).

Building and strengthening coalitions to amplify reach. The California Work and Family Coalition is part of a small, informal “watchdog” group that meets several times a month with union representatives, other advocacy organizations, and government officials, to discuss work and family issues and law. This working group is one of the most effective ways the CWFC communicates with California government officials about the state labor rights on the ground. The CWFC can tell officials about the interviews and conversations they have had with vulnerable workers, which they believe helps government officials concentrate on what is important. While this group is not official, representatives from the Employment Development Division attend all the meetings, because “they feel like they cannot ignore our group,” since the number and stature of organizations involved lends them legitimacy. They are currently considering whether or not to officialize the group, but see both advantages and disadvantages in creating a more formal structure, and are exploring issues such as legitimacy and sustainability of creating such an organization (J. Cassidy, Personal Communication, March 24, 2016).

Recommendations

Collaboration

- MotherWoman must collaborate across different sectors: with other nonprofit organizations, organized labor, business groups, and the MCAD in conducting education and outreach.

Advocacy and Policy

- MotherWoman must continue to advocate and lobby for funding and legislation that will further pregnant workers rights and outreach and education
- MotherWoman should decide whether they have the capacity to write regulations for the PWFA for MCAD, with assistance from MELA and the WBA.
- While MCAD is doing the best they can with the resources they have, with more funding, they could decrease the processing time between when a complaint is filed and when a complaint is resolved, bringing them more into line with regulatory agencies in other states.
- Based on the fact that pregnancy is a relatively short-term condition, it would make sense to put into the law a provision that compels employers to provide accommodations as

soon as they're requested, regardless of whether the employer is willing and will contest the request. If a complaint later turns out to be invalid, the employer can be reimbursed the cost (if any) of compliance.

Outreach and Education

- MotherWoman should strategically target their efforts to groups and industries where they can have the most impact, such as larger employers, medical professionals, and unions.
- MotherWoman should focus outreach on providing workers with a broad understanding of their employment rights, not just on the PWFA.
- MotherWoman should develop an evaluation plan to monitor and track their education and outreach efforts
- MotherWoman should create and publish a list of Top Women- and Family-Friendly Massachusetts businesses.

Funding

- MotherWoman must examine what resources they are able to put towards outreach and education. For many nonprofits, the lack of resources (staff and funding) presents a major issue: many organizations believe that awareness for workers and compliance for employers is significantly lower than it should be, and resources needed to correct this are a limiting factor. MotherWoman should think creatively about expanding their funding, whether from public or private sources.
- MotherWoman could pursue grant money to have a hotline to help employees understand the law and their rights

Conclusion

MotherWoman has played an important role in advocating for the Massachusetts PWFA.

It is in MotherWoman's best interest to continue to shepherd the bill through passage, and then implementation. Government regulatory agencies, like MCAD, often lack the staffing and resources to fully implement and enforce each new law that passes. Our research shows that non-profit organizations have played a vital role in partnering with or supplementing government agencies outreach and education efforts in California, New Jersey, and New York City.

Organizations that advocate for implementation of employment laws faces challenges in connecting with constituents, building relationships with government agencies and other organizations, and finding funding.

MotherWoman can increase its capacity and enhance its reputation as an organization dedicated to improving the lives of women and families in Massachusetts and beyond by taking on a leadership role and developing an outreach and education plan for PWFA implementation. Furthermore, they can build statewide coalitions, both with other advocacy organizations and government agencies, to ensure that workers and employers know their rights. However, such campaigns require additional resources. In order to maximize their reach, MotherWoman will need to seek out private and foundation based funding sources.

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Appendices

Appendix 1:



NEW YORK CITY is a family friendly city with a strong and vibrant workforce, including pregnant women and people with children. The **NYC COMMISSION ON HUMAN RIGHTS** wants to help you keep your workforce strong and your job secure.

The City Human Rights Law requires employers to provide reasonable accommodations to address the needs of an employee for her pregnancy, childbirth or related medical condition; and also requires employers to provide written notice of employees' rights under the law.

EMPLOYERS	EMPLOYEES
<p>Take the time to work with your employee to agree on a reasonable accommodation that:</p> <ul style="list-style-type: none">• Values your employee's contributions to the workplace.• Helps your employee satisfy the essential requisites of her job.• Keeps her in the workplace for as long as she is able and wants to continue working.• Is right for your employee & doesn't cause undue hardship in the conduct of your business. <p>Ignoring a request for a reasonable accommodation or firing your employee after she requests one can expose you to damages and civil penalties. Stay informed about your obligations under the law – contact the Commission for more information, including how you must notify employees about their rights under the law.</p>	<p>If you need a reasonable accommodation to continue working or remain employed, you can request one. Examples include:</p> <ul style="list-style-type: none">• Breaks (e.g. to use the bathroom, facilitate increased water intake, or provide necessary rest)• Assistance with manual labor• Changes to your work environment• Time off for prenatal appointments• A private, clean space and breaks for expressing breast milk• Light duty or a temporary transfer to a less strenuous or hazardous position• Time off to recover from medical conditions related to childbirth <p>If your request for a reasonable accommodation has been ignored or denied without an appropriate alternative, speak with someone at the Commission.</p>

The type of reasonable accommodation appropriate for an employee should be tailored to the needs of the employee and the employer. Call the Commission to help keep women in the workplace.

NYC Commission on Human Rights | www.nyc.gov/cchr or call 311
NYC Commission on Human Rights | @NYCCHR
Bill de Blasio, Mayor • Carmelyn P. Malalis, Commissioner/Chair



紐約市 是一座家庭友好型城市，勞動人口密集、充滿活力，其中包括孕婦和已經有小孩的人群。紐約市人權委員會旨在幫助您鞏固您的工作、增強職業安全感。

《紐約市人權法》規定雇主須針對員工懷孕、生育或其他醫療狀況為員工提供合理的便利措施，並且規定雇主須依照法律提供員工權利的書面通知。

雇主	員工
<p>安排時間與您的員工協商，商定合理的便利措施。該類措施應：</p> <ul style="list-style-type: none">• 重視員工對公司的貢獻• 幫助員工達到其工作的基本要求• 只要員工自身願意，且能持續工作，盡可能讓員工在公司工作• 視為員工的權利，不會為公司業務造成過多困難 <p>無視員工所提出的合理便利措施的請求，抑或在其提出該類請求後將其解雇，均會令您面臨賠償或民事罰款。即時更新法律資訊，瞭解您應當遵守的義務——詳情請諮詢人權委員會（包括如何通知員工其依照法律應享有的權利）</p>	<p>若您需要合理的便利措施，以便繼續工作或繼續就業，可以提出請求。例如：</p> <ul style="list-style-type: none">• 休息（如使用衛生間、滿足增加的水攝入量的需求或提供必要的休息）• 在體力勞動上提供幫助• 改變工作環境• 產檢休假• 提供私密、乾淨的空間以及休息時間，用於擠母乳• 減輕工作強度，或暫時調到工作量小、危險性低的崗位• 休假（生育後需要一段時間恢復） <p>若您提出的合理便利措施遭到忽視或無理拒絕，請連絡人權委員會。</p>

恰當的合理便利措施種類應根據員工和雇主的請求進行安排。請致電人權委員會，幫助婦女留在職場。

NYC 紐約市人權委員會 | www.nyc.gov/humanrights 或撥打 311
@NYCCHR
Bill de Blasio, 市長 Carmelyn P. Malalis, 委員/主席

Appendix 2:

KNOW YOUR RIGHTS:

New York City Pregnant Workers Fairness Act

1 What does the Pregnant Workers Fairness Act (PWFA) do?

The PWFA protects pregnant women and mothers who have recently given birth from workplace discrimination. Employers have to allow pregnant employees to make changes to their work duties or schedule so they can stay healthy and satisfy the "essential requisites" of their job (e.g., help with heavy lifting, breaks to drink water or rest, etc.). These changes are called "reasonable accommodations."

2 Am I covered?

If you are pregnant, recovering from child birth, nursing, or have a related medical condition and work for an employer in New York City (Manhattan, the Bronx, Brooklyn, Staten Island, or Queens) who has at least 4 employees, then you are covered.

3 What are my rights?

You are entitled to a reasonable accommodation at work as long as it does not cause an "undue hardship" for your employer. A reasonable accommodation could include temporary transfer to a less physically demanding position or a modified work schedule.

4 Do I have to be disabled to get an accommodation?

No. Even women with healthy pregnancies can get a reasonable accommodation if they need one, such as light duty to prevent injury.

5 What should I do if my employer refuses to grant me a reasonable accommodation or punishes me for being pregnant or for asking for an accommodation?

Call our Families @ Work Legal Clinic Hotline for help and advice at 212.430.5982. ABB is a not-for-profit legal center that works with New Yorkers who are facing unfair treatment at work because they are pregnant or have family care responsibilities. All of our services are completely free.



NEED HELP?

Call our Families @ Work Legal Clinic Hotline at 212.430.5982 to speak with an attorney about your rights concerning pregnancy and family care.

a better balance

the work and family legal center

212.430.5982

abetterbalance.org

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