

Family and Medical Leave

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The Issue

A vast majority of parents with young children actively participate in the workforce,ⁱ yet most do not have access to paid family and medical leave. Illness, the birth of a child, or the needs of aging family members too often force parents to choose between caregiving responsibilities and maintaining their incomes. Family and medical leave policies enable working parents to balance these demands and are broadly supported by the public.

Why It's Important

The early years of a child's life are a critical time for family bonding and early brain development. Families need time together to create strong relationships and address critical health needs as they arise.ⁱⁱ Research has shown that family leave policies that provide paid time off after the birth of a child reduce preterm and low birthweight; increase breastfeeding and infant immunizations; improve maternal mental health and women's labor force retention; and have minimal impacts on businesses.ⁱⁱⁱ The American Academy of Pediatrics recommends a minimum of 12 weeks of paid leave for infants while the American College of Obstetrics and Gynecology recommends a minimum of six weeks. Sick leave policies, which provide short-term leave for one's own illness or a family member's while maintaining pay and benefits, help caregivers meet their children's health needs and can reduce transmission of infectious diseases in the workplace.

Considerations for State Policymakers

Forty percent of workers in the United States are currently excluded from FMLA coverage,^{iv} and many people in low-skill, low-wage positions who qualify cannot afford to take unpaid leave.^v As part of the 2017 revision to the tax code, a new federal tax credit is now available for employers who provide paid family and medical leave to their employees.^{vi} However, because of limitations in federal and private sector leave policies, states have acted to expand family and medical leave protections to additional workers. States do so through social insurance programs funded through worker and/or employer contributions; tax credits for businesses; or tax-deferred savings accounts for workers. For short-term sick leave, states have also adopted requirements for employers.

1. Expand Access to Paid Family and Medical Leave

Some workers are not able to take advantage of the job-protecting leave benefits under state or federal family leave policies because they cannot afford to take unpaid leave. To support healthy families, six states (California, Rhode Island, New Jersey, New York, Washington, and Massachusetts) and the District of Columbia have acted to provide paid family and medical leave to workers, regardless of size of employer or industry.^{vii}

Key considerations for expanding access to paid family and medical leave include:

- **Worker eligibility**, including waiting periods to qualify; amount of time worked; wage minimums; and contributions to temporary disability funds managed by the state.

FAMILY AND MEDICAL LEAVE ACT

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The federal Family and Medical Leave Act (FMLA) is a national law that enables workers to care for themselves and their loved ones for up to 12 weeks of unpaid job-protected leave. Protections are available for workers employed by businesses with 50 or more employees or a public agency, and who have worked for that employer for at least one year and for 1,250 hours in the last 12 months.

- **Allowable reasons to take paid family and medical leave**, such as bonding with or caring for a new child, or taking care of one's own serious health condition or that of a family member.
- **Definition of family member**, such as in [New Jersey](#), which allows care for siblings, grandparents, grandchildren, and parents-in-law, along with children, spouses, and parents.
- **Length of leave**, which currently ranges from four weeks for family leave in Rhode Island, to 12 weeks in New Jersey, Washington, and Massachusetts.
- **Benefit amount for workers**, which ranges from 55 percent of a worker's average weekly wages in Rhode Island and New York, to 90 percent of average weekly wages in Washington for lower-wage workers.
- **Job protection**, which is offered by Rhode Island, New York, and Massachusetts.
- **Funding and mechanism for accessing benefits**, including contributions by employees only, employers only, or through joint contributions. In California, where eligible workers are paid 60 percent to 70 percent of their average weekly wage for up to six weeks, benefits are funded through worker contributions to the California State Disability Insurance Fund.
- **Education and enforcement** to enable employers to be compliant with new rules and employees to know their rights and obligations.

2. Expand Access to Unpaid Family and Medical Leave (if paid leave is not feasible)

Many states have acted to expand access to unpaid family and medical leave beyond the federal FMLA through two specific approaches:^{VIII}

- **Broaden the definition of a caregiving relationship** to recognize caregiving for family members not included in the federal FMLA. In [Hawaii](#), for example, workers may take leave to care for grandparents and grandparents-in-law in addition to children, spouses, and parents as allowed by FMLA.
- **Extend leave to more workers** since many employees at small businesses or part-time workers are not covered by the federal FMLA. In Vermont, all employers with 10 or more employees qualify for leave associated with a new child or adoption.

3. Expand Access to Paid Sick Leave

Eleven states and the District of Columbia, through legislative and ballot actions, have acted to provide paid sick leave for workers.^{IX} Key considerations for establishing paid sick leave policies are like those for paid family and medical leave outlined above, with three additional considerations:

- **Worker eligibility**, including the size of the businesses that must provide paid sick leave; how leave is earned; and minimum standards for leave. In [Arizona](#), employers with fewer than 15 employees must provide at least 24 hours of paid sick leave each year, while businesses with 15 or more employees must provide a minimum of 40 hours yearly.
- **Health conditions that qualify for leave**: Consider allowing sick leave for physical or mental health conditions and injuries experienced by the worker or family, including domestic violence and sexual assault.
- **Enable localities to enact stronger standards**: States that adopt paid sick leave requirements should set a floor or minimum for all businesses operating in the state and allow localities to enhance leave benefits. Currently, 23 states prohibit cities, towns, and counties from considering their local policy needs.

Endnotes

- I United States Department of Labor, Bureau of Labor Statistics. "Employment Characteristics of Families Summary, Bureau of Labor Statistics." April 2018. www.bls.gov/news.release/famee.nr0.htm
- II Zero to Three and the National Partnership for Women and Families. "The Child Development Case for a National Paid Family and Medical Leave Program." December 2018. www.zerotothree.org/resources/204-the-child-development-case-for-a-national-paid-family-and-medical-leave-program
- III County Health Rankings and Roadmaps. "Paid Family Leave." August 2018. www.countyhealthrankings.org/take-action-to-improve-health/what-works-for-health/policies/paid-family-leave
- IV United States Department of Labor, Wage and Hour Division. "FMLA Surveys." February 2013. www.dol.gov/whd/fmla/survey/
- V Winston, P. "Work-Family Supports for Low-Income Families: Key Research Findings and Policy Trends." March 2014. <https://aspe.hhs.gov/basic-report/work-family-supports-low-income-families-key-research-findings-and-policy-trends>
- VI Internal Revenue Service. New employer tax credit for paid family and medical leave available for 2018 and 2019. September 2018. www.irs.gov/newsroom/new-employer-tax-credit-for-paid-family-and-medical-leave-available-for-2018-and-2019
- VII National Partnership for Women & Families. State Paid Family and Medical Leave Insurance Laws. February 2019. <http://www.nationalpartnership.org/our-work/resources/workplace/paid-leave/state-paid-family-leave-laws.pdf>
- VIII National Conference of State Legislatures. "State Family and Medical Leave Laws." July 2016. www.ncsl.org/research/labor-and-employment/state-family-and-medical-leave-laws.aspx
- IX National Partnership for Women & Families. Paid Sick Days – State and District Statutes. March 2019. www.nationalpartnership.org/our-work/resources/workplace/paid-sick-days/paid-sick-days-statutes.pdf