

Policy Statement on Paid Family and Medical Leave

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Background

Paid family and medical leave (paid leave) refers to longer-term paid leave from work to manage a serious personal health condition, care for a family member with a serious health condition, or bond with a new child after birth, adoption, or placement in foster care. The United States is the lone developed nation that lacks a federal policy mandating *paid* leave.¹ In 2019, only 19% of civilian workers had access to paid family leave.² Further, access to paid leave is inequitable with 9% of the lowest quartile of earners having access to paid family leave* and 30% of the highest quartile of earners having access.² Paid leave is also more accessible to white people than people of color.³

Enacted in 1993, the Family and Medical Leave Act (FMLA) is the only federal law that provides some protection for unpaid leave to certain employees nationwide. The law mandates employers allow employees up to 12 weeks unpaid leave for specific family and medical reasons in a 12-month period and still retain their job. More information on the criteria for eligibility and the allowable reasons to take unpaid leave are available in Appendix A.

In addition to FMLA, the federal government passed the Federal Employee Paid Leave Act (FEPLA) in December 2019, which went into effect October 1, 2020.⁴ The FEPLA provides certain federal employees up to 12 weeks paid leave for the birth or placement (adoption or foster care) of a new child. The employee must be eligible for FMLA and must agree to work for at least 12 weeks after they return to work.⁵

The case for expanding paid leave beyond the parameters of FMLA has intensified over the last two decades. In 2002, California became the first state to pass paid leave legislation. At present, nine states (CA, CO, CT, MA, NJ, NY, OR, RI, and WA) and Washington, DC have passed legislation providing paid leave.⁶

Equity of Paid Family and Medical Leave

Access to paid leave is not equitable. In 2019, only 19% of civilian workers had access to paid family leave,² and only 60% of employees in the U.S. have access to the unpaid leave protections from FMLA.⁷ Paid leave is disparate according to race/ethnicity, worker socioeconomic status, employment status (full-time v. part-time), and employer size.^{8,9} Paid leave also impacts gender equity. Wealth gaps between white families and families of color are well established and exist because of longstanding discriminatory policies and

Medical Leave: time away from work to take care of personal medical conditions.

Caregiving Leave: time away from work to care for a sick family member.

Parental leave: time away from work for a mother or father to bond with a new child.

Family leave: encompasses caregiving and parental leave.

* If paid family leave is used v. paid leave, the statement does not include medical leave.

structural racism.¹⁰ Black and Latino/Hispanic families have less access to paid leave than white families.³ Women of color are more likely to be caregivers and wage earners for their families than white women,¹¹ which provides less flexibility to leave the workforce to take care of a medical illness, care for a sick family member, or bond with a new child. These disparities have a domino effect on the health of employees' children.^{8, 12-15} This is especially disconcerting given the existing health disparities by race/ethnicity and socioeconomic status, which can lead to the need to take more leave.¹⁶

Twenty-nine percent of workers in management, professional, and related occupations have access to paid leave, more than any other major occupation.² In contrast, employees in the construction and services sectors have among the lowest rates of access to paid leave.^{2, 17} Twenty-two percent of full-time workers have access to paid family leave, yet only 8% of part-time workers have access.² Employer size is also correlated with employee access to paid leave.² Only 10% of employers with 1-49 employees offer paid family leave and 24% of employers with 500 or more employees offer paid family leave.²

Paid parental leave policies also expose a gender divide in child-rearing. Even in nations with the most generous paternity and parental leave provisions, mothers still take significantly more parental leave than fathers.¹⁸ However, fathers have been shown to increase the amount of leave they take when policies allow them more non-transferrable leave.^{19, 20} Shared leave is still mostly used by mothers.¹⁸ Families in which each parent shares a more even distribution of leave have been found to have more cooperation between parents.²¹ Research has shown that fathers' involvement with their children is highly correlated with access to more leave.²²⁻²⁴ Paid parental leave could also help with closing the gender wage gap.²⁵

Summary of the Evidence

Both employers and employees are economically impacted by paid leave policies. Research has shown that paid leave increases productivity, profits, retention, and employee morale, and decreases turnover.^{26, 27} Paid leave can also be relatively low cost: a 2018 analysis estimated the cost of a national paid parental leave program with eight weeks of leave and 70% wage replacement rate capped at \$600 per week would vary from 0.10% to 0.61% of total wages, based on participation rates and duration of leave.²⁸ The estimated cost of leave for family caregiving (as opposed to parental or personal medical leave) was significantly lower: less than 0.01% to 0.09% of wages, due to low uptake and the typically shorter duration.²⁸

Medical Leave

Medical leave allows employees to take paid time away from work to manage or recover from a serious health condition. Employees will require different durations of leave depending on their health condition. For example, heart attacks can often require at least of four weeks of recovery time—research shows approximately 50% of heart attack survivors return to work after four weeks and approximately 75% return after four months—with up to six months of follow-up appointments.²⁹ It is important for paid leave policies to offer enough leave to cover a wide range of medical conditions.

Caregiving Leave

Caregiving leave allows an employee to take paid time away from work to care for a sick family member. FMLA only covers unpaid caregiving leave for a child, spouse, or parent,³⁰ though some state paid leave policies extend to care for grandparents, siblings, domestic partners, or other extended family members. Benefits of paid caregiving leave include less stress for caregivers, greater financial security for families,

decreased nursing home utilization, increased employee retention, and maintaining a productive workforce.³¹ Caregiving leave claims make up a relatively small percentage of claims in states that offer paid family leave: 12% of claims in California, 18% of claims in New Jersey, and 23% of claims in Rhode Island.³² The numbers may be higher in Rhode Island because the state's paid leave policy includes job protections for workers.³¹ The need for family caregiving is expected to increase in the U.S. as the baby boomer population ages.³³

Parental Leave

Parental leave allows mothers (maternity leave) and fathers (paternity leave) to take paid time away from work to bond with a new child after birth, adoption, or placement in foster care. As many as 23% of employed mothers return to work within 10 days of giving birth because of an inability to pay for living expenses without income.³⁴ Employees with access to paid leave benefit by experiencing an increased level of wage replacement during leave and an increased likelihood that women will be working nine to 12 months after a child's birth, compared to women who take no leave.³⁵ Also, women are not as likely to participate in other government-sponsored assistance programs in the year following childbirth, compared to women who take no leave.³⁵

In addition to economic benefits, research has established that paid leave enhances child and parental physical and emotional health.^{36-38,34, 39-43} For example, infant mortality rates are inversely correlated with the duration of paid family leave.^{34, 39, 41-43} Other health benefits include fewer low birthweight babies, fewer ER visits, fewer hospital readmissions for infants and mothers, higher rates of breastfeeding, a lesser likelihood of sending a sick child to school, longer parental lifespan and improved mental health, as well as increased long-term achievement for children.^{34, 37, 43-55} Breastfeeding is also positively associated with childhood cognitive development, although the evidence here is less clear.⁵⁶⁻⁶⁰ Additional psychological benefits include the reduction of maternal stress during and immediately after pregnancy, which has been shown to have an adverse effect on infant and child health and well-being.^{61, 62}

A father's involvement has been significantly associated with emotional, psychological, behavioral, and cognitive benefits to children.^{63, 64} Paternity leave also has a positive effect on the return of mothers to the workplace and has been associated with increased rates of breastfeeding.^{65, 66}

Impact on Cardiovascular Health

Numerous reviews and models have identified positive cardiovascular outcomes associated with breastfeeding. Research has shown a positive correlation between access to paid leave and breastfeeding.^{37, 45, 54, 67, 68} One study concluded that "lactation is associated with a beneficial effect on maternal blood pressure that persists for decades,"⁶⁹ while another identified lactation as "a modifiable risk factor for maternal metabolic disease in later life."⁷⁰ Three studies found that women who breastfed showed healthier vascular systems than women who did not breastfeed, of which one associated these changes with lower postpartum blood pressure and another with lower risk of future cardiovascular disease.⁷¹⁻⁷³ Some evidence suggests that lactation may reduce risk of cardiovascular disease,⁷⁴⁻⁷⁹ hypertension,^{69, 78, 80, 81} and stroke.⁸² Other evidence suggests a dose-response relationship between breastfeeding duration and risk of hypertension,^{83, 84} stroke,⁸⁵ and vascular diseases.⁸⁶ Less frequent breastfeeding may be associated with higher rates of hypertension^{87, 88} and, among non-Hispanic Black and Hispanic populations, increased risk of myocardial infarction and mortality over the lifespan, according to two separate Monte Carlo simulations.⁸⁹

Research has also shown that chronic stress is a predictor of cardiovascular mortality and morbidity.^{90, 91} In fact, chronic stress, especially work-related stress or “job strain” is associated with a significant increase in risk for cardiovascular disease.⁹¹⁻⁹⁴ However, research has shown that time off from work can reduce stress and its potential effect on the likelihood of developing cardiovascular disease.^{95, 96}

Barriers to Utilizing Paid Family and Medical Leave

Even when paid leave is provided, there can still be barriers to utilizing the leave. Lack of awareness about paid leave policies, inadequate wage replacement, worries about job protection, and social stigma can all play a role.³¹ As demonstrated by the 40% of workers who cannot access FMLA, certain requirements around number of hours worked in a calendar year or the amount of time an employee has been with an employer can impact and employees ability to access paid leave.

Financing Paid Family and Medical Leave

Most paid leave proposals are financed with a payroll tax, instead of a requirement on employers. A payroll tax approach spreads the cost across all employers and employees. In most states that implemented paid family leave as of 2017, an approximately 1 percentage point payroll tax had been sufficient to fund the amount of leave taken by employees.⁹⁷ When compared to the 15.3 percent federal Social Security taxes already levied on payroll plus other taxes (e.g., for unemployment insurance), a 1 percent tax for paid leave is not an excessive addition, but also not trivial.⁹⁷ The paid leave proposal in President Biden’s American Families Plan would be paid by the federal government through a variety of tax changes primarily on America’s highest earners and corporations.⁹⁸

Policy Guidance

Recognizing the equity and health impact of paid family and medical leave, the American Heart Association advocates for paid leave policies that:

- Address medical leave, caregiving leave, and parental leave;
- Cover as many workers as possible;
- Offer sufficient wage replacement, ensuring lower-income workers have enough wage replacement to allow them to take advantage of paid leave policies;
- Offer sufficient time off to meet worker needs;
- Guarantee job protections and anti-retaliation protections;
- Allow gender neutral parental leave to promote gender equity in the workplace; and
- Ideally, include an education and awareness campaign.

Appendix B provides definitions for terms used in policy guidance. Appendix C provides the wage replacement rate, maximum weekly benefit, and time offered by each of the state paid family and medical leave policies.

Appendix A: FMLA Criteria for Eligibility and the Allowable Reasons to Take Unpaid Leave

Employees must meet two criteria to reap the benefits of FMLA. First, in the private sector, a worker must work for an employer with 50 employees or more, working at least 20 workweeks during either the year the leave is taken or the previous year. All public agencies and public or private schools are classified as covered employers.³⁰ Second, employees must also meet the following eligibility requirements:

- Must have worked for their covered employer for at least 12 months;
- Must have worked at least 1,250 hours in the 12 months prior to taking leave; and
- Must currently work for the covered employer at a location where at least 50 other employees are working within a 75 mile radius.³⁰

Those who meet the necessary requirements are guaranteed by FMLA to take up to 12 weeks of unpaid leave for specifically covered reasons. Chief among these are:

- The birth, adoption, or foster-care placement of an employee's child;
- To address an employee's own serious health condition (one which renders the employee unable to complete essential tasks of his or her job); or
- To care for a spouse, child, or parent with a serious health condition.³⁰

Additionally, the FMLA guarantees up to 26 weeks of unpaid leave for employees caring for family members on active duty in the military with serious health conditions related to their service. Employers are required to return an employee to their original job, salary, and benefits after taking FMLA leave.³⁰ Care for only the four explicitly mentioned types of family members is protected under the FMLA. Care for grandparents, parents-in-law, stepparents, or siblings is not protected. As of 2015, the definition of "spouse" under FMLA includes same-sex married couples.⁹⁹

Appendix B: Policy Guidance Definitions

Sufficient wage replacement: Ensuring adequate wage replacement, especially for lower-income employees, to ensure the employees are able to take advantage of the policy. Some states offer a progressive wage replacement with a cap on the amount of wage replacement. This approach ensures lower-income employees take home a higher percentage of their pay and are more likely to be able to take advantage of the policy.

Sufficient time off: Offering a reasonable amount of time to deal with the health issue or qualifying life event. The length of time will differ depending on the nature of the leave, this could be determined by a doctor's medical certification and then verified by corresponding insurance agency.

Job protections: Ensuring an employee can come back to the same or an equivalent job.

Anti-retaliation protections: Prohibiting an employer from retaliating against an employee for having exercised or attempted to exercise any paid family medical leave right. Retaliation could include pay reduction, dismissal, or demotion.

Gender neutral parental leave: Allowing equal time off to parents of any gender to bond with a child after birth, adoption, or placement in foster care.

Appendix C: State Wage Replacement, Maximum Weekly Benefits, and Time Offered

State	Wage Replacement Rate	Maximum Weekly Benefit	Time Offered
California	60-70% of employee's average weekly wage.	\$1,357	Up to 52 weeks of medical leave and up to eight weeks of family leave in a 12-month period.
Colorado	90% of an employee's weekly wage (up to an amount equal to 50% of the statewide average weekly wage) and 50% of an employee's weekly wage (above an amount equal to 50% of the statewide average weekly wage).	1,100*	Up to 12 weeks in an application year. Employees may receive up to 4 weeks additional leave for specific pregnancy/childbirth-related health needs.
Connecticut	95% of an employee's average weekly wage (up to an amount equal to 40 times the state minimum wage) and 60% of an employee's average weekly wage (above an amount equal to 40 times the state minimum wage).	\$780	Up to 12 weeks in a 12-month period (for medical and/or family leave). Employees with pregnancy/childbirth-related health needs may receive up to an additional two weeks of benefits.
Massachusetts	80% of an employee's average weekly wage (up to an amount equal to 40 times the statewide minimum wage) and 60% of an employee's average weekly wage (above an amount equal to 40 times the statewide minimum wage).	\$850*	Up to 26 weeks in any benefit year (up to 20 weeks of medical leave and/or up to 12 weeks of family leave); military caregivers can receive up to 26 weeks of family leave.
New Jersey	85% of an employee's average weekly wage.	\$903	Up to 26 weeks of medical leave for any period of disability and up to 12 weeks of family leave in a 12-month period.
New York	50% of an employee's average weekly wage (medical leave) and 60% of an employee's average weekly wage (family leave).	\$170 for medical leave and \$971.61 for family leave	Up to a maximum of 26 weeks in a 52-week period (up to 26 weeks of medical leave for any period of disability or in any 52-week period) and/or up to 10 weeks of family leave.

Oregon	100% of an employee's average weekly wage (up to an amount equal to 65% of the statewide average weekly wage) and 60% of an employee's average weekly wage (above an amount equal to 65% of the statewide average weekly wage).	120% of the statewide average weekly wage	Up to 12 weeks in any benefit year (for medical, family, and/or safe leave); employees with pregnancy/childbirth-related health needs may receive up to an additional two weeks of benefits.
Rhode Island	Approximately 60% of an employee's average weekly wage.	\$887	Up to a maximum of 30 weeks in a 52-week period (up to 30 weeks of medical leave and/or four weeks of family leave).
Washington	90% of an employee's average weekly wage (up to an amount equal to 50% of the statewide average weekly wage) and 50% of an employee's average weekly wage (above an amount equal to 50% of the statewide average weekly wage).	\$1,206*	Up to a maximum of 16 weeks in a 52-week period (up to 12 weeks of medical and/or family leave). Employees with pregnancy/childbirth-related health needs may receive up to an additional two weeks of benefits.
Washington, DC	90% of an employee's average weekly wage (up to an amount equal to 40 times 150% of the D.C. minimum wage) and 50% of an employee's average weekly wage (above an amount equal to 40 times 150% of the D.C. minimum wage).	\$1,000*	Up to a maximum of eight weeks in a 52-week period (up to two weeks of medical leave, up to six weeks of caring for a sick relative, and/or up to eight weeks of bonding with a new child)
* adjusted annually after first year			

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