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A National Paid Leave Program Would Help Workers, Families Should Prioritize Workers of Color and Those With Low Wages

By Kathleen Romig and Kathleen Bryant

In response to the COVID-19 pandemic, federal policymakers created a temporary paid family and medical leave program in the Families First Coronavirus Response Act, which passed with strong bipartisan support. Though Families First limited benefits to COVID-19-related reasons and did not cover all workers, it recognized that workers need to be able to take time off to attend to their own health, the health of family members, and other caregiving responsibilities without losing their wages or jobs, and that employers' voluntary efforts to provide paid leave are insufficient to protect public health and the economy. The recovery legislation that policymakers are expected to consider provides a historic opportunity to create a permanent, broad-based, comprehensive, and progressive program of paid family and medical leave.

The United States is alone among wealthy countries in its lack of a national paid leave program. Instead, we have a patchwork of federal, state, and local policies. Federal law affords a little over half of workers access to unpaid leave but provides no national paid leave. Nine states and the District of Columbia have paid leave programs at various stages of implementation, but two-thirds of workers don't live in those states. And while some employers voluntarily offer paid family and medical leave, the vast majority do not.

The benefits of paid leave are well established. Providing new parents with paid time off to care for newborn or recently adopted children contributes to healthy development, improves maternal health, and enhances families' economic security. Paid medical and caregiving leave lets workers care for themselves and loved ones when ill or injured, and reduces financial insecurity and stress during those times. Paid leave benefits businesses by improving retention and productivity and boosting labor force participation. Paid leave programs in the places that offer them are popular.

The United States should establish a permanent paid family and medical leave program. It should cover comprehensive reasons for leave, including caring for a new child and for a worker's serious health condition or that of a family member — and possibly other reasons, such as natural disasters or public health emergencies. It should be generous enough that low- and middle-income workers

can meet their families' needs while on leave. To broadly share benefits and costs, most or all workers should be eligible. The program should also include robust outreach and a straightforward application process.

Every aspect of program design should prioritize the needs of low-wage workers, workers of color, and other marginalized groups. These workers are disproportionately ineligible for current federal, state, and employer-based leave policies, and face more barriers to accessing benefits even when they are eligible. Thoughtful policy design choices would ensure that a national paid leave program would be fully accessible to all workers.

Today's Patchwork of Policies Leave Most Behind

The United States is the only member of the Organisation for Economic Co-operation and Development (OECD) that does not have a national paid family leave program, and one of two member countries lacking a national paid medical leave program.¹ Instead, it has a patchwork of policies — including a national policy providing job-protected unpaid leave, several state-level paid leave programs, employer-provided paid leave benefits for a small minority of workers, a small federal tax credit for some employers that offer paid leave, and a temporary COVID-related federal paid leave program in 2020, which was followed by temporary incentives for employers that offer COVID-related leave in 2021. (See box, “Emergency Paid Leave During the COVID Pandemic.”) These policies provide time off to some workers, but most workers are not eligible for any paid leave. There are stark disparities by race and income in access to paid leave: white, non-Hispanic workers and those with high wages are more likely to have access than Black or Hispanic workers and those paid low wages.²

The 1993 Family and Medical Leave Act (FMLA) was the first national policy to provide many workers with job-protected — albeit *unpaid* — time off from work. Eligible workers can take up to 12 weeks of FMLA leave to care for a newborn or newly adopted child; to care for a spouse, child, or parent with a serious health condition; to recover from a serious health condition preventing them from working; or to take military family leave.³ The law's job protection guarantees workers the right to return to their original job or to an equivalent position with the same salary and benefits. However, leave taken under FMLA is unpaid unless workers use paid vacation, sick, or other leave voluntarily provided by their employers.

Unpaid leave is not affordable for many workers, especially those living paycheck to paycheck without adequate savings. In a recent evaluation of FMLA, two-thirds of workers who did not take

¹ Sarah A. Donovan, “Paid Family and Medical Leave in the United States,” Congressional Research Service, updated February 19, 2020, <https://crsreports.congress.gov/product/pdf/R/R44835>

² Ann P. Bartel *et al.*, “Racial and ethnic disparities in access to and use of paid family and medical leave: evidence from four nationally representative datasets,” Bureau of Labor Statistics (BLS), January 2019, <https://www.bls.gov/opub/mlr/2019/article/racial-and-ethnic-disparities-in-access-to-and-use-of-paid-family-and-medical-leave.htm>; BLS, “Employee Benefits in the United States, March 2019,” <https://www.bls.gov/ncs/ebs/benefits/2019/ownership/civilian/table31a.pdf>.

³ Qualifying military exigencies include when a worker's spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty.

needed family and medical leave reported that they could not afford to take leave unpaid.⁴ Black, Hispanic, and Native American workers are less likely to be able to afford unpaid leave from work than white workers, reflecting racial disparities in access to wealth-building opportunities and higher-paying jobs.⁵ Furthermore, about 44 percent of workers do not even have the option to take unpaid leave under FMLA. FMLA excludes smaller employers, many part-time workers, and workers who haven't worked for their current employer for at least a year.⁶ A greater proportion of low-paid workers and younger workers are not eligible, because they don't meet all of these requirements.

Workers who need to take time off work but don't have paid leave respond in a variety of ways, many of which cause hardship. Some are forced by circumstances to take unpaid time off work, and struggle to get by. Others continue to work through significant health problems or are unable to care for their families' needs. Still others quit their jobs — or are fired — because of their need to address their health or their family's needs. For example, without paid leave, 30 percent of working women left their jobs after giving birth, according to one study, as did 59 percent of colorectal cancer patients in another. For both groups, access to paid leave significantly reduced labor market exits, which can have long-term economic consequences for workers and families.⁷

Six states and the District of Columbia have paid family and medical leave programs, and three more have passed laws to implement them.⁸ While the details of the programs vary, such as benefit levels as a share of pre-leave wages (or the “wage replacement rate”), maximum weeks of benefits, and eligibility criteria, they share several common features. All of the programs are financed through payroll taxes on employees and/or employers. Covered employment almost always has modest, minimum work history or earnings requirements (except for D.C.'s program, which has no formal eligibility requirements and pays prorated benefits to those with a work history shorter than one year).

⁴ Scott Brown *et al.*, “Employee and Worksite Perspectives of the Family and Medical Leave Act: Results from the 2018 Surveys,” Abt Associates, July 2020, https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHD_FMLA2018SurveyResults_FinalReport_Aug2020.pdf.

⁵ Pamela Joshi *et al.*, “The Family and Medical Leave Act: Policy Equity Assessment,” diversitydatakids.org, January 2020, http://diversitydata.org/sites/default/files/2020-01/ddk_policyequityassessment_fmla_2020_2_0.pdf; Jessica Mason and Paula Molina Acosta, “Called to Care: A Racially Just Recovery Demands Paid Family and Medical Leave,” National Partnership for Women & Families, March 2021, <https://www.nationalpartnership.org/our-work/economic-justice/reports/called-to-care-a-racially-just-demands-paid-family-and-medical-leave.html>.

⁶ Brown *et al.*

⁷ Kelly Jones and Britni Wilcher, “Reducing maternal labor market detachment: A role for paid family leave,” Washington Center for Equitable Growth, March 12, 2020, <https://equitablegrowth.org/working-papers/reducing-maternal-labor-market-detachment-a-role-for-paid-family-leave/>; Christine M. Veenstra *et al.*, “Association of Paid Sick Leave With Job Retention and Financial Burden Among Working Patients With Colorectal Cancer,” *JAMA*, December 22, 2015, <https://jamanetwork.com/journals/jama/fullarticle/2478191?resultClick=3>.

⁸ California, the District of Columbia, Massachusetts, New Jersey, New York, Rhode Island, and Washington State have established paid family and medical leave programs. Connecticut, Oregon, and Colorado will begin paying benefits in 2022, 2023, and 2024, respectively.

State paid leave programs have allowed millions of workers to take time off work to care for themselves or loved ones, but roughly two-thirds of the U.S. labor force live in states that have not passed or implemented their own programs.⁹ Even in states that have created paid leave programs, barriers to access remain. Some state programs provide inadequate benefits for workers paid low wages, making it difficult for them to afford to participate. Several state programs also lack robust job protection, which discourages participation among workers not also covered by federal FMLA who fear losing their jobs for taking leave.

Emergency Paid Leave During the COVID Pandemic

To address the COVID-19 public health and economic crises, the Families First Coronavirus Response Act (FFCRA) provided up to two weeks of paid sick days for workers who were ill or quarantined due to COVID-19 or caring for family members who were ill or quarantined, as well as up to 12 weeks of paid family leave if they needed to care for a child whose school or place of care was closed for reasons related to COVID-19. Caregivers received up to two-thirds of their pay, and sick or quarantined workers received up to 100 percent of their pay, up to daily caps. Employers were responsible for paying their employees' leave and received dollar-for-dollar reimbursement through refundable tax credits.

FFCRA's paid leave was quite limited. In addition to being temporary and limited to pandemic-related reasons, it left out tens of millions of workers. The law excluded or exempted workers who work for businesses with fewer than 50 or more than 500 employees as well as most health care and emergency response workers. FFCRA provided most federal workers with paid sick days but excluded all of them from its family leave policy. These exclusions left out millions of workers in many front-line occupations deemed essential during the COVID-19 pandemic, where workers of color are often overrepresented.

Employers were no longer required to offer emergency paid sick and family leave benefits after the FFCRA program expired on December 31, 2020. The end-of-year relief package offered additional payroll tax credits to employers that let their employees take unused FFCRA paid sick and family leave through March 31, 2021, but did not require employers to do so. The American Rescue Plan further extended the tax credits to September 30, 2021, expanded them to include longer-term medical and caregiving leave for COVID-related reasons, and increased the limit on weeks of emergency paid sick and family leave eligible for reimbursement. But again, employers had no obligation to provide additional leave to private-sector workers. Federal employees did gain COVID-related emergency paid leave benefits under the Rescue Plan.

Some employers have created paid family leave policies for their employees to care for a newborn or newly adopted child or a sick family member; about 20 percent of workers have access to these benefits.¹⁰ These employer policies disproportionately leave out the workers who are least able to finance their own leaves. Workers paid high wages and workers in managerial or professional occupations are substantially more likely to receive paid family leave benefits from their employers than low-paid workers and workers in blue-collar occupations. There are also racial disparities in

⁹ National Partnership for Women & Families, "Paid Leave Works: Evidence from State Programs," September 2019, <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-leave-works-evidence-from-state-programs.pdf>. Note that Colorado passed a paid leave program after publication of this statistic.

¹⁰ Table 31, "Leave benefits: Access, all civilian workers, March 2020," in Eugene Scalia and William W. Beach, "National Compensation Survey: Employee Benefits in the United States," Bureau of Labor Statistics, March 2020, <https://www.bls.gov/ncs/ebs/benefits/2020/employee-benefits-in-the-united-states-march-2020.pdf>. These statistics include parental and caregiving leave, but not leave to care for one's own health.

access to employer-provided paid family leave — white, non-Hispanic workers are more likely to be offered paid leave benefits at work than Black or Hispanic workers.¹¹

Workers left behind by our nation’s patchwork of unpaid and paid leave policies are more likely to be people of color or in low-paid jobs. Even before the COVID-19 pandemic, some 11 percent of Black employees and 10 percent of Hispanic employees reported that they needed family or medical leave from work in the past 12 months but could not take it, compared to 6 percent of white workers. Low-paid workers were also more likely to report an unmet need for leave.¹²

Federal policymakers have proposed a variety of national paid leave programs. The most prominent is the FAMILY Act, which would establish a new social insurance program providing paid leave for workers when a new child joins the family, they need to care for ailing family members, or they have their own serious health conditions that require time off, financed through a modest payroll tax.¹³ Other proposals have significant downsides. The New Parents Act¹⁴ and the CRADLE Act¹⁵ would offer only parental leave and would ask individual parents to bear the cost of their parental leave benefits by cutting the Social Security retirement benefits they would receive decades later, with substantial interest.¹⁶ Another proposal, the Advancing Support for Working Families Act, would allow new parents to take an “advance” on their Child Tax Credits, to be repaid over the first ten years of their children’s lives — a loan, not leave, program.¹⁷

Benefits of a National Paid Family and Medical Leave Program

The benefits of paid leave are well established. Providing new parents with paid time off to care for newborns or recently adopted children contributes to the children’s healthy development, improves maternal health, supports fathers’ involvement in care, and enhances families’ economic security. Paid medical and caregiving leave lets workers care for themselves and loved ones when ill or injured, and reduces financial insecurity and stress during those times. Paid leave benefits businesses by improving retention and productivity, and can boost labor force participation.

¹¹ Bartel *et al.*

¹² Brown *et al.*

¹³ The FAMILY Act (H.R. 804, S. 248 in the 117th Congress) was introduced by Rep. Rosa DeLauro and Sen. Kirsten Gillibrand.

¹⁴ The New Parents Act (S. 920, H.R. 1940 in the 116th Congress) was introduced by Sens. Marco Rubio and Mitt Romney and Reps. Dan Crenshaw and Ann Wagner.

¹⁵ The CRADLE Act was proposed by Sens. Joni Ernst and Mike Lee.

¹⁶ Kathleen Romig and Kathleen Bryant, “Cutting Social Security to Offset Paid Parental Leave Would Weaken Retirement Security,” CBPP, September 12, 2019, <https://www.cbpp.org/research/social-security/cutting-social-security-to-offset-paid-parental-leave-would-weaken>.

¹⁷ S. 2976, H.R. 5296 in the 116th Congress. See Kathleen Romig, “Paid Family Leave’ Bill Offers Loan, Not Leave,” CBPP, updated December 6, 2019, <https://www.cbpp.org/research/federal-tax/paid-family-leave-bill-offers-loan-not-leave>.

Much of the research on the benefits of paid leave comes from California, which enacted paid leave nearly 20 years ago, long before most other states.¹⁸ States that passed paid leave programs in the years since have typically included more progressive features, such as broader coverage and more generous benefit levels. The evidence shows that even a relatively modest program has many benefits, which can be made stronger through policy improvements.

Paid Parental Leave Supports Child Growth and Development

Providing new parents with paid time off to care for their newborn or recently adopted children contributes to healthy growth and development for infants and toddlers, research shows.¹⁹ Providing 12 weeks of paid parental leave on a national scale would lead to 600 fewer infant deaths per year, according to conservative estimates.²⁰ Participation in California's paid leave program has been associated with better health outcomes among children in elementary school, especially among children from families with low incomes.²¹ These findings suggest that the effects of paid parental leave during infancy — including lower prenatal stress levels, higher rates of breastfeeding, fewer infant hospitalizations, and increased parental involvement — can have lasting effects on children's health.²²

Providing paid leave rather than unpaid time off is essential to ensure that these developmental benefits are available to children of women with low incomes. *Unpaid* leave has been associated with reductions in infant mortality and premature births but only for college-educated, married mothers.²³

¹⁸ California's paid leave law was implemented in 2004, New Jersey's in 2009, Rhode Island's in 2014, New York's in 2018, the District of Columbia's and Washington State's in 2020, and Massachusetts' in 2021. Connecticut, Oregon, and Colorado are all working to implement paid leave programs.

¹⁹ Maya Rossin-Slater and Lindsey Uniat, "Paid Family Leave Policies And Population Health," *Health Affairs*, March 28, 2019, <https://www.healthaffairs.org/doi/10.1377/hpb20190301.484936/full/>.

²⁰ National Partnership for Women & Families, "The Child Development Case for a National Paid Family and Medical Leave Program," December 2018, <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/the-child-development-case-for-a-national-paid-family-and-medical-leave-insurance-program.pdf>.

²¹ *Ibid.*

²² Rossin-Slater and Uniat; Ariel Marek Pihl and Gaetano Basso, "Did California Paid Family Leave Impact Infant Health?" *Journal of Policy Analysis and Management*, October 18, 2018, <https://onlinelibrary.wiley.com/doi/full/10.1002/pam.22101>; Rui Huang and Muzhe Yang, "Paid maternity leave and breastfeeding practice before and after California's implementation of the nation's first paid family leave program," *Economics & Human Biology*, Vol. 16, January 2015, <https://www.sciencedirect.com/science/article/pii/S1570677X14000021>.

²³ Maya Rossin, "The Effects of Maternity Leave on Children's Birth and Infant Health Outcomes in the United States," *Journal of Health Economics*, Vol. 30, Issue 2, March 2011, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3698961/>. Expectant mothers may take FMLA leave before childbirth to get prenatal care or if pregnancy complications make them unable to work.

Paid Parental Leave Improves Maternal Health and Family Economic Security

Research shows that paid parental leave policies significantly improve maternal physical and mental health by allowing mothers time to recover from childbirth and adjust to new caregiving responsibilities. About half of women report experiencing pain within the first two months following childbirth, and many experience more serious, potentially life-threatening postpartum complications.²⁴ A substantial majority of new mothers experience “baby blues” after childbirth, and for about 1 in 5 that condition develops into postpartum depression, with those who are economically insecure at greater risk.²⁵ Mothers who take paid family leave are less likely to experience symptoms of postpartum depression and less likely to report parenting stress.²⁶

Paid parental leave also improves household economic security for families in the year following the birth of a child. California’s paid family leave program lowered the risk of poverty among mothers of infants by 10.2 percent and increased household income for those mothers by 4.1 percent, on average.²⁷ California’s program also significantly reduced food insecurity among households following childbirth.²⁸ These effects were particularly strong for low-income mothers, who have access to fewer resources that help parents juggle caregiving responsibilities and employment.

Women of color are more likely than white women to face difficult choices between their caregiving and work responsibilities, because they are more likely to be the primary breadwinners for their families and to be paid low wages than other workers. Four in five Black mothers and 2 in 3 Native American mothers are key or sole breadwinners for their families, compared to about half of white and Latina mothers.²⁹ Women of color are paid less on average than white non-Hispanic women and men (even within comparable jobs) and are dramatically overrepresented in low-wage

²⁴ Eugene R. Declercq *et al.*, “Listening to MothersSM III: Pregnancy and Birth,” Childbirth Connection, May 2013, <https://www.nationalpartnership.org/our-work/resources/health-care/maternity/listening-to-mothers-iii-pregnancy-and-birth-2013.pdf>; Brigid Schulte *et al.*, “Paid Family Leave: How Much Time is Enough?” New America, June 2017, <https://www.newamerica.org/better-life-lab/reports/paid-family-leave-how-much-time-enough/maternal-health-and-wellbeing/#>.

²⁵ Narasimhaiah G Manjunath *et al.*, “Postpartum Blue is Common in Socially and Economically Insecure Mothers,” *Indian journal of community medicine*, Vol. 36, No. 3, pp. 231-233, Jul-Sep 2011, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3214451/>.

²⁶ Schulte *et al.*

²⁷ Alexandra Boyle Stancyk, “Does Paid Family Leave Improve Household Economic Security Following a Birth? Evidence from California,” *Social Service Review*, Vol. 93, No. 2, June 2019, <https://www.journals.uchicago.edu/doi/full/10.1086/703138>.

²⁸ Otto Lenhart, “The effects of paid family leave on food insecurity — evidence from California,” *Review of Economics of the Household*, January 7, 2021, <https://link.springer.com/article/10.1007/s11150-020-09537-4>.

²⁹ National Partnership for Women & Families, “Paid Family and Medical Leave: A Racial Justice Issue – and Opportunity,” August 2018, <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-family-and-medical-leave-racial-justice-issue-and-opportunity.pdf>.

jobs that are less likely to offer family-friendly workplace policies.³⁰ A well designed national paid leave program would help mitigate these disparities.

Paid Medical and Caregiving Leave Improves Economic Security for Workers and Families

Some paid leave proposals only offer parental leave after a child is born or adopted, even though the most common reason that workers take FMLA leave is to address their own serious health conditions.³¹ About half of employees who take leave from work do so because of their own illness, compared to a quarter who take leave to care for a new child.³² Job-protected medical leave ensures that workers do not have to worry about losing their employment or wages while experiencing an illness or injury that can keep them out of work for an extended period.

Paid medical leave is especially important for people of color, who are more likely to have serious health conditions that may require time off work. Because of systemic racial disparities in areas including health coverage and discrimination in the health care system, access to nutritious foods, and exposure to environmental pollution, Black, Hispanic, and Native American people are more likely to report having fair or poor health than non-Hispanic white people.³³ People of color are more likely than white people to have chronic illnesses like asthma, diabetes, high blood pressure, and heart disease. And for people of color, those conditions are also more likely to be life-threatening.³⁴ Black people are more likely than other Americans to experience major adverse cardiac events that often have lengthy recovery times, like strokes, and are more likely to experience complications afterwards.³⁵

Workers also need time off to care for family members with serious illnesses or chronic health problems. Family caregiving responsibilities tend to be particularly substantial for people of color, who are more likely to live in multigenerational households than white families. This is important because people are more likely to provide care for people living within their homes, data from a survey of caregivers show, and younger people of color are much more likely to be family caregivers

³⁰ Ariane Hegewisch and Zohal Barsi, “The Gender Wage Gap by Occupation 2019,” Institute for Women’s Policy Research, March 24, 2020, <https://iwpr.org/iwpr-issues/employment-and-earnings/the-gender-wage-gap-by-occupation-2019/>.

³¹ For example, the New Parents Act, the CRADLE Act, and the Advancing Support for Working Families Act.

³² Brown *et al.*

³³ Sofia Carratala and Connor Maxwell, “Health Disparities by Race and Ethnicity,” Center for American Progress, May 7, 2020, <https://www.americanprogress.org/issues/race/reports/2020/05/07/484742/health-disparities-race-ethnicity/>.

³⁴ Kenneth E. Thorpe *et al.*, “The United States Can Reduce Socioeconomic Disparities By Focusing On Chronic Diseases,” *Health Affairs* Blog, August 17, 2017, <https://www.healthaffairs.org/doi/10.1377/hblog20170817.061561/full/>.

³⁵ Ericha G. Franey *et al.*, “Association of Race and Major Adverse Cardiac Events (MACE): The Atherosclerosis Risk in Communities (ARIC) Cohort,” *Journal of Aging Research*, Vol. 2020, March 21, 2020, <https://www.hindawi.com/journals/jar/2020/7417242/>.

than younger white people.³⁶ In the United States more than 1 in 4 Asian, Hispanic, and Black people live in households that include at least two adult generations, compared to 1 in 6 white people.³⁷ These figures suggest that workers of color “are more likely to have elder care responsibilities despite being less likely to have access to leave for elder care.”³⁸

Paid Leave Is Good for Businesses and the Economy

Paid leave policies benefit businesses by improving worker retention and productivity without increasing operating costs (and can even produce cost savings). In studies of California’s paid leave program, about 90 percent of businesses reported either a positive or neutral effect on productivity and almost all businesses (99 percent) identified positive or neutral effects on employee morale. These workplace improvements cost businesses very little: 87 percent of businesses surveyed in California reported no increased costs and 9 percent even reported cost savings due to lower rates of employee turnover or lower spending on employee benefits. Businesses in New Jersey have reported similarly positive effects from their state’s paid leave program.³⁹

Paid leave can also boost labor force participation.⁴⁰ Job-protected paid leave keeps women connected to their employers when some otherwise would have exited the labor force to care for their newborns and increases the likelihood that they return to work within a year of giving birth.⁴¹ Paid leave laws increased women’s labor force attachment in California and New Jersey in the months preceding and following the births of their children, research shows.⁴² Access to paid leave also makes it more likely that people with serious health conditions, like cancer patients, can keep

³⁶ AARP and National Alliance for Caregiving, “Caregiving in the United States 2020,” May 2020, <https://www.aarp.org/content/dam/aarp/ppi/2020/05/full-report-caregiving-in-the-united-states.doi.10.26419-2Fppi.001103.001.pdf>.

³⁷ D’Vera Cohn and Jeffery S. Passel, “A record 64 million Americans live in multigenerational households,” Pew Research Center, April 5, 2018, <https://www.pewresearch.org/fact-tank/2018/04/05/a-record-64-million-americans-live-in-multigenerational-households/>

³⁸ National Partnership for Women & Families, August 2018.

³⁹ National Partnership for Women & Families, “Paid Family and Medical Leave: Good for Business,” September 2018, <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-leave-good-for-business.pdf>.

⁴⁰ Isabel V. Sawhill *et al.*, “Paid leave as fuel for economic growth,” Brookings Institution, June 27, 2019, <https://www.brookings.edu/blog/up-front/2019/06/27/paid-leave-as-fuel-for-economic-growth/>.

⁴¹ Julia Isaacs *et al.*, “Paid Family Leave in the United States: Time for a New National Policy,” Urban Institute, May 2017, https://www.urban.org/sites/default/files/publication/90201/paid_family_leave_0.pdf.

⁴² Isaacs *et al.*; Charles L. Baum II and Christopher J. Ruhm, “The Effects of Paid Family Leave in California on Labor Market Outcomes,” *Journal of Policy Analysis and Management*, Vol. 35, Issue 2, pp. 333-356, February 2, 2016, <https://onlinelibrary.wiley.com/doi/abs/10.1002/pam.21894>; Tanya S. Byker, “Paid Parental Leave Laws in the United States: Does Short-Duration Leave Affect Women’s Labor-Force Attachment?” *American Economic Review*, Vol. 106, No. 5, pp. 242-246, May 2016, <https://www.aeaweb.org/articles?id=10.1257/aer.p20161118>; Maya Rossin-Slater *et al.*, “The Effects of California’s Paid Family Leave Program on Mothers’ Leave-Taking and Subsequent Labor Market Outcomes,” *Journal of Policy Analysis and Management*, Vol. 32, Issue 2, pp. 224-245, <https://onlinelibrary.wiley.com/doi/abs/10.1002/pam.21676>.

their jobs, a 2015 study shows.⁴³ The evidence on the effect of paid leave on labor force attachment over the longer term is more mixed. Multiple studies have found that paid leave increases labor force participation among mothers in the years following childbirth, while others have found neutral or small negative effects.⁴⁴ Paid leave also increases the labor force attachment of family caregivers.⁴⁵

Design Paid Leave to Help All Workers — Especially Those Who Need It Most

To ensure that no worker must choose between paying the bills and caring for their own health or for a loved one during a major life event, policymakers should establish a new federal paid leave program. The program should be broad based, comprehensive, progressive, and responsibly financed. It should also be structured to ensure that workers who need it most — low-income workers, workers of color, and other marginalized groups — can use it. This will require thoughtful design, outreach, and administration.

Coverage Should Be Universal or Nearly So

A paid leave policy should cover the workforce as widely as possible. “Coverage,” in social insurance, typically refers to which workers contribute to a program and work toward becoming insured for benefits. Social insurance programs work best with the broadest pool to spread costs and risk. (See box, “What Is Social Insurance?”) Broad coverage enables the maximum number of workers to take leave, from young parents to older caregivers. It also reduces the cost per worker by spreading the cost among the widest risk pool. It allows participation by workers whose employers don’t offer robust benefits, such as part-time workers, gig workers, and independent contractors — which is particularly important for low-paid workers and workers of color. Finally, covering most or all workers simplifies communication and reduces confusion about who is eligible.

One of the advantages of delivering paid leave through a public social insurance program, rather than an employer-provided benefit, is that there is no reason to limit coverage by employer size or type. Small employers would no longer have to take on the full cost of individual employees’ leave from work when they have new babies or become seriously ill; the cost would be pooled with employers of all sizes and contributions to the paid leave fund would be small and predictable. Establishing a national paid leave program would also allow policymakers and employers much more flexibility in the event of future public health or other emergencies.

⁴³ Veenstra *et al.*

⁴⁴ Sam Abbott, “New research shows paid leave increases mothers’ labor force participation following childbirth,” Washington Center for Equitable Growth, March 12, 2020 <https://equitablegrowth.org/new-research-shows-paid-leave-increases-mothers-labor-force-participation-following-childbirth/>; Maya Rossin-Slater and Jenna Stearns, “The economic imperative of enacting paid family leave across the United States,” Washington Center for Equitable Growth, February 18, 2020, <https://equitablegrowth.org/the-economic-imperative-of-enacting-paid-family-leave-across-the-united-states/>; Martha Bailey *et al.*, “The Long-term Effects of California’s 2004 Paid Family Leave Act on Women’s Careers: Evidence from U.S. Tax Data,” University of Michigan, 2019, <https://www.nber.org/papers/w26416>; Brenden Timpe, “The Long-Run Effects of America’s First Paid Maternity Leave Policy,” University of Kansas Economics Department, October 24, 2019, https://economics.ku.edu/sites/economics.ku.edu/files/files/Seminar/papers19_20/Timpe%20draft%202019.10.pdf.

⁴⁵ Lenhart.

Policymakers could consider using the coverage rules in existing social insurance programs. For example, the proposed FAMILY Act would use Social Security Disability Insurance coverage rules, which cover 94 percent of workers (176 million in 2021) — most notably excepting about a quarter of state and local government employees.⁴⁶ Another, more universal approach to coverage would be using the Medicare Hospital Insurance rules, which cover all the same workers as Social Security but do not exclude state and local workers (184 million in 2021).⁴⁷

What Is Social Insurance?

Social insurance programs protect workers against certain risks that can cause families to lose earnings, such as unemployment, old age, disability, workplace injury, or the death of a family breadwinner. These issues can be unpredictable and difficult for workers, families, and employers to handle on their own. Workers and their employers pool together resources to replace lost wages for workers who confront those challenges. Social insurance programs are often — though not always — funded through dedicated payroll tax contributions that are deposited into trust funds.

Eligibility Should Be Flexible

Paid family and medical leave — like other forms of social insurance — is intended to replace lost wages, so most paid leave programs and proposals require a certain amount of recent earnings to be insured for benefits. Once workers are insured, they are eligible to take paid leave upon experiencing a qualifying event, like a health crisis or a new baby. Work history requirements should not be so onerous that they exclude many workers who need leave. Many new parents are just starting out in the labor force or have recently taken time off after having another child.⁴⁸ Low-wage workers and workers of color are more likely to work in industries like leisure and hospitality, which disproportionately offer part-time and temporary work arrangements — and which have seen unprecedented work interruptions during the pandemic.

One advantage of the social insurance approach is that all covered work counts. Benefits are portable across employers; there is no tenure requirement with a particular employer; and workers can receive credits from multiple jobs, part-time work, and non-traditional work arrangements.

Policymakers should consider work history requirements that don't preclude workers who need paid leave most, including new parents and low-wage workers. The criteria should allow for workers who have low earnings and career interruptions (for example, for the birth of a previous child or a spell of unemployment). The FAMILY Act would use the same work history requirements as Social Security Disability Insurance, which requires covered earnings of at least \$5,880 (in 2021) in at least

⁴⁶ Social Security Administration, “Fact Sheet on The Old-Age, Survivors, and Disability Insurance Program,” January 29, 2021, <https://www.ssa.gov/oact/FACTS/index.html>.

⁴⁷ Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, 2020 Annual Report, April 22, 2020, <https://www.cms.gov/files/document/2020-medicare-trustees-report.pdf>.

⁴⁸ Lynda Laughlin, “Maternity Leave and Employment Patterns: 2006-2008,” U.S. Census Bureau, *Current Population Report*, pp. 70-128, October 2011, <https://www.census.gov/prod/2011pubs/p70-128.pdf>.

five of the last ten years (less for the youngest workers). About 83 percent of all workers aged 21-64 meet these requirements.⁴⁹

To reach more workers, policymakers could use a lower threshold, which would simplify and expand eligibility without being costly. For example, California’s paid family leave program requires that a worker be paid at least \$300 in covered employment during the “lookback period” of approximately a year. Because benefits are based on recent earnings, workers with limited work histories receive relatively low benefits at low cost.

Reasons for Leave Should Be Comprehensive

A paid leave program should include comprehensive reasons for leave. Workers face many risks that might necessitate a short-term absence from work, from their own health problems or caregiving for a family member, to a natural disaster or public health emergency. Pooling all these risks into one program makes sense, because different workers face different risks — older workers are more likely to receive serious diagnoses, while younger workers are more likely to have babies, for example.

With a comprehensive paid leave program, all of these workers could access benefits in a single place when they need to take a short-term leave from work. Including comprehensive reasons for leave is especially important for marginalized workers, who are less likely to be able to weather emergencies with their own resources. It also advances gender equity, as only offering maternity leave can contribute to employer discrimination against women.

Policymakers should consider the full array of reasons for leave in existing programs. FMLA includes caring for a newborn or newly adopted child, a worker’s serious health condition, caregiving for a family member with a serious health condition, or military family leave. The emergency paid leave in Families First provided sick days for workers affected by COVID-19 and caregiving leave for parents affected by school and child care closures, which the American Rescue Plan expanded to include longer-term medical and family caregiving leave for workers affected by COVID. Some state laws also specifically provide for sick leave during public health emergencies and cover people needing paid family and medical leave for other reasons, such as survivors of domestic or sexual violence or organ or bone marrow donors.

Definition of Family Should Be Inclusive

In addition to covering broad reasons for leave, caregiving leave should be inclusive of different types of families. Often extended family members provide care to one another. For example, 8 percent of caregivers provide care to grandparents and grandparents-in-law.⁵⁰ When someone in an extended family needs care due to a health issue, caregivers often include relatives that extend beyond spousal, parental, and child relationships and include grandparent, sibling, aunt/uncle,

⁴⁹ Social Security Administration, January 29, 2021. Ninety-three percent of workers are covered, and 89 percent of covered workers aged 21-64 meet the SSDI work history requirements, meaning that 83 percent of workers are eligible for SSDI based on work history.

⁵⁰ AARP and National Alliance for Caregiving.

cousin, and other relationships. Family definitions that extend beyond the nuclear family (i.e., spouses and their children) are particularly important for communities of color, the disability community, and the LGBTQ+ community.

Policymakers should consider a more expansive definition of family. FMLA caregiving leave is restricted to workers caring for spouses, parents, and sons or daughters who are minors or adults with disabilities. In contrast, every state law uses a more expansive definition of family, as did emergency COVID leave. State policies allow workers to take time to care for their adult children, siblings, stepparents, grandparents, and/or chosen family.⁵¹

Benefits Should Be Progressive

The paid leave program's benefit levels should be adequate to allow workers and families to meet their needs while on leave, and progressive enough so that lower-paid workers are able to take leave. The most common reason workers give for not taking needed leave is the inability to afford unpaid leave, cited by two-thirds of workers.⁵² Adequacy of benefits is particularly important for workers of color, as well as younger workers who are just starting in the labor force and most likely to be new parents.

Participation rates in state paid leave programs are lower when benefits are substantially smaller than a worker's usual wages, especially a low-income worker's wages.⁵³ For example, California's paid leave program originally replaced 55 percent of workers' average weekly wages up to a cap, and nearly one-third of workers who knew about the program did not apply because benefits were too low.⁵⁴ Workers paid low wages were less likely to apply to the program than those paid higher wages.

California has since raised its wage replacement rate to 60 to 70 percent of earnings (up to a cap), but recent evidence shows those benefits are still inadequate for low-income workers and discourage participation.⁵⁵ Several studies have also found that Rhode Island's wage replacement rate of 60 percent of the highest recent quarter of wages and New Jersey's rate of 66.6 percent of average weekly wages have prevented many workers from taking paid leave through their state's programs.⁵⁶

⁵¹ National Partnership for Women & Families, "State Paid Family and Medical Leave Insurance Laws," January 2021, <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/state-paid-family-leave-laws.pdf>.

⁵² Brown *et al.*

⁵³ National Partnership for Women & Families, "Paid Family and Medical Leave Policy Metrics," December 2018, <https://www.nationalpartnership.org/our-work/resources/economic-justice/coalition/paid-family-and-medical-leave-policy-metrics.pdf>.

⁵⁴ Kali Grant *et al.*, "The Paid Family and Medical Leave Opportunity: What Research Tells Us About Designing a Paid Leave Program that Works for All," Georgetown Center on Poverty and Inequality, July 2019, https://www.georgetownpoverty.org/wp-content/uploads/2019/08/Georgetown_PLUS-PaidFamilyMedicalLeaveOpportunity-20190804.pdf.

⁵⁵ Kristin Schumacher, "California's Paid Family Leave Program is Out of Reach for Workers With Very Low Wages," California Budget & Policy Center, March 2020, <https://calbudgetcenter.org/resources/californias-paid-family-leave-program-is-out-of-reach-for-workers-with-very-low-wages/>.

⁵⁶ Kali Grant *et al.*, 2019.

New Jersey’s wage replacement rate increased in 2020 to address this issue.⁵⁷ The FAMILY Act would replace two-thirds of workers’ average monthly earnings in the highest recent year, up to a cap — better than some state and local benefits but lower than what is needed for many low-paid workers.

Workers earning low wages struggle to afford basic needs. Minimum-wage workers earn too little to afford the typical cost of a modest two-bedroom apartment without spending more than 30 percent of their income on rent (the government’s standard for affordability) anywhere in the country, and 35 percent of households with incomes below the federal poverty line experienced food insecurity in 2019.⁵⁸ Most low-income families also cannot afford to set aside savings: in 2019, households in the bottom 40 percent of the income distribution were not able to set aside any of their income at all. For these reasons, many workers earning low wages often cannot afford to accept a substantial pay cut during a leave from work.

A national paid leave program should have a progressive benefits structure that replaces a higher share of earnings for lower-paid workers. To ensure equitable access, benefits for low-income workers should provide full or near-full replacement of wages, following the lead of several state programs. Once fully implemented, Oregon’s paid leave program will pay 100 percent of wages for workers earning less than 65 percent of the statewide average weekly wage, with the wage replacement rate decreasing as earnings grow. Washington, D.C.’s program pays 90 percent of wages to workers earning up to 150 percent of D.C.’s minimum wage.

The duration of benefits should also be adequate for workers to meet their needs. FMLA allows a total of 12 weeks of *unpaid* leave per year, and the FAMILY Act would offer the same amount in *paid* leave. The duration of paid leave in state programs varies, including by type of leave. Most of them are extensions of state temporary disability insurance programs, which offer disability benefits for longer durations. Some categorize recovery from childbirth as a short-term disability benefit, and provide a shorter amount of bonding leave for new parents.

Job and Anti-Retaliation Protections Should Be Strong

A paid leave program should provide job and anti-retaliation protection as well as benefits. Workers won’t take time off if they fear that they will lose their jobs or face some other form of retaliation from their employers, especially if employers actually have the legal right to fire people who take leave. Some 45 percent of workers who do not take needed leave report that they fear losing their jobs.⁵⁹

⁵⁷ Vicki Shabo, “Explainer: Paid Leave Benefits and Funding in the U.S.,” New America, December 14, 2020, <https://www.newamerica.org/better-life-lab/articles/explainer-paid-leave-benefits-and-funding-us/>.

⁵⁸ Alicia Adamczyk, “Full-time minimum wage workers cannot afford a 2-bedroom rental anywhere in the US,” CNBC, June 26, 2019, <https://www.cnbc.com/2019/06/26/minimum-wage-workers-cannot-afford-2-bedroom-rental-anywhere-in-the-us.html>; U.S. Department of Agriculture: Economic Research Service, “Food Security and Nutrition Assistance,” December 16, 2020, <https://www.ers.usda.gov/data-products/ag-and-food-statistics-charting-the-essentials/food-security-and-nutrition-assistance/#>.

⁵⁹ Brown *et al.*

Job and anti-retaliation protections are critical for ensuring that low-paid workers and workers of color can participate in paid leave programs. More than three times as many low-paid workers reported losing their jobs after taking leave, compared to higher-paid workers (18 percent and 5 percent, respectively), according to the Department of Labor’s 2018 survey on family and medical leave.⁶⁰ Similarly, three times as many Black workers reported having leave requests denied, compared to white workers (28 percent and 9 percent, respectively).⁶¹ Inadequate job protection in Washington State’s program posed a major barrier to access for Black women, according to a 2019 study.⁶² Any federal program for paid family and medical leave should be accompanied with robust labor enforcement.

Paid Leave Should Be Financed Responsibly

Paid leave is affordable and can be responsibly financed — without cutting other necessary benefits. In some recent proposals (such as the New Parents Act, the CRADLE Act, and the Advancing Support for Working Families Act), workers receiving parental leave benefits would have to repay them, sometimes with steep interest, through cuts in their Social Security or Child Tax Credit benefits. These proposals would ask individual parents to bear the cost of any advance benefits they receive, either by cutting the tax credits they need to cover their children’s expenses as they grow or by weakening their future retirement security. Policymakers should reject this approach.

State paid leave programs and the FAMILY Act finance their benefits with a modest payroll tax, relying on contributions from workers and/or employers to fund the costs of benefits among the pool of workers who are potentially eligible for them. This is similar to Social Security, which is funded mostly through dedicated payroll taxes. (Other social insurance programs — like Medicare and Unemployment Insurance — use a combination of payroll taxes and general revenues.) State programs are financed through payroll taxes on employers, employees, or both. The combined payroll tax in state programs ranges from 0.4 percent of covered payroll in Rhode Island to 1.1 percent in Washington State, which offers short-term disability benefits of up to 30 weeks.⁶³ The FAMILY Act would require a 0.62 percent payroll tax, split evenly between employers and employees, according to Social Security’s actuaries.⁶⁴

Payroll taxes are not the only potential financing mechanism — like any program, it also could be funded through income and corporate taxes.

⁶⁰ *Ibid.*

⁶¹ Color of Change, National Employment Law Project, Time’s Up Foundation, and ILR Worker Institute, “Foundations for a Just and Inclusive Recovery,” <https://www.nelp.org/wp-content/uploads/Foundations-for-Just-Inclusive-Recovery-Report.pdf>

⁶² Marilyn P. Watkins, “Responses of African-American Women to Washington’s Paid Family & Medical Leave Program,” Economic Opportunity Institute, November 22, 2019, <http://www.opportunityinstitute.org/research/post/responses-of-african-american-women-to-washingtons-paid-family-medical-leave-program/>.

⁶³ National Partnership for Women & Families, January 2021.

⁶⁴ Social Security Office of the Chief Actuary, letter to Rep. Rosa DeLauro, January 28, 2020, https://www.ssa.gov/OACT/solvency/RDeLauro_20200128.pdf

Reaching All Eligible Workers Requires Careful Design and Outreach

Making paid leave accessible to all workers who need it is not just a matter of legislation, but also good administration after a law's enactment. Reaching the workers who need leave most requires targeted outreach, a simple application process, and swift benefit payments.⁶⁵

It takes some time after a program is implemented for workers — particularly the most marginalized workers — to find out about it. For example, five years after California implemented the nation's first paid family leave program, just under half of workers who experienced a qualifying event, such a new baby or a serious illness, were aware of the new benefits. An even smaller proportion of low-wage workers, immigrants, Latinos, and workers with less than a high school diploma knew about California's paid leave program.⁶⁶ With more robust outreach, awareness and participation increased. Many workers were also unaware of the emergency COVID paid leave, for which outreach was very limited.⁶⁷ Again, workers with lower earnings and less education were less likely to know about the program, as were those living in rural areas.

To succeed, a new federal paid leave program requires a robust outreach plan, with an emphasis on reaching low-paid workers, workers of color, immigrants, and women. The program should partner with employers, health care providers, community organizations, human service providers, business associations, payroll providers, and government agencies to promote the new benefit. It should be advertised on television, radio, print, and social media. There should be a special emphasis on reaching workers where and when they experience qualifying events — for example, at the hospital after a stroke or a birth. Communication about the program should be accessible, with plain-language materials, diverse translations, and accessibility for people with vision and hearing impairments. Plan administrators should also use real-time data to understand which workers are applying and which are rejected, and why.

Application Should Be Simple and Benefit Delivery Prompt

Once workers know about paid leave benefits, they need a straightforward way to apply for them, track the status of their applications, and receive benefits promptly. The primary reasons workers will need paid leave are inherently stressful — welcoming a new child, becoming ill or injured, or caring for a close family member with serious health problems. The workers who need leave most face the highest barriers.

⁶⁵ Gabriel Zucker, "Implementing Paid Family and Medical Leave," *New America*, updated March 31, 2021, <https://www.newamerica.org/better-life-lab/reports/implementing-paid-family-and-medical-leave/>.

⁶⁶ Julia M. Goodman *et al.*, "Expand and Simplify To Reach Low-Income Workers with Paid Family Leave Policies," University of California, Berkeley, Issue Brief, July 7, 2020, https://www.populationsciences.berkeley.edu/sites/default/files/SF_Paid_Parental_Leave_UC-Berkeley_Issue_Brief_3_0.pdf.

⁶⁷ Eleanor Mueller, "Democrats say DOL keeping workers in the dark about paid leave," *Politico*, updated June 6, 2020, <https://www.politico.com/news/2020/06/04/democrats-say-dol-keeping-workers-in-the-dark-about-paid-leave-302478>; Claire Cain Miller and Jim Tankersley, "Paid Leave Law Tries to Help Millions in Crisis. Many Haven't Heard of It." *New York Times*, May 8, 2020, <https://www.nytimes.com/2020/05/08/upshot/virus-paid-leave-pandemic.html>.

The new paid leave program should make application as easy as possible. It should offer various modes of application and assistance — online, by phone, or in person. It should be coordinated with existing paid leave programs in states or localities so that workers don't have to navigate multiple programs. The paperwork requirements for applicants, health care providers, and (if relevant) employers should be streamlined, sharing existing data as much as possible.

Applications should also be processed, and benefits paid, quickly. Many workers will qualify because of a sudden health problem. Many will need prompt payments to cover rent, food, and child care during their time away from work.

In order to provide robust customer service, the agency administering the program should receive ample administrative funding, especially as the program is being established.