

THE PAID FAMILY AND MEDICAL LEAVE OPPORTUNITY:

What Research Tells Us About Designing
a Paid Leave Program that Works for All

By Kali Grant, Cara Brumfield, Sophie Khan, Funke Aderonmu and Indivar Dutta-Gupta



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INTRODUCTION & SUMMARY

Care for and by loved ones is central to every society. At some point in our lives, nearly all of us will need to take time away from a job to address a loved one's or our own serious or chronic illness, or to welcome a new child into our family. Unfortunately, the United States offers only a meager and inequitable patchwork system of paid leave. Despite the national Family and Medical Leave Act's important unpaid job-protected leave, many workers, including workers with disabilities, workers of color, and women, benefit less than others, in part because they cannot afford to take unpaid time off.

When workers cannot access *paid* leave, they face a cruel and unnecessary tradeoff: health and family, or work and making ends meet. For many, going without pay to care for a family member or oneself can lead to serious economic hardship. Forty percent of households cannot readily manage a \$400 emergency.¹ A survey of low-paid workers found that one in seven reported losing a job due to falling ill or caring for a sick family member.² It is time to build upon the successes of the FMLA and establish a comprehensive and inclusive national paid family and medical leave (PFML or paid leave) program.

The already-universal need for paid leave continues to grow, particularly as the U.S.'s demographic and labor force landscape changes. A national survey found that 43.5 million caregivers had provided unpaid care to a child or adult in 2015.³ The need for family caregiving is expected to increase as the population ages, and formal long term support services are unaffordable for many.^{4, 5, 6} This reality is compounded by a lack of affordable child care—federal funding for child care assistance has not kept up with the rising costs and has never met need.^{7, 8} Indeed, some workers find themselves part of a “sandwich generation”—caring for both young children and older family members, while also working full time.⁹

It is time to build upon the successes of the FMLA and establish a comprehensive and inclusive national paid family and medical leave program.

In response to these realities, momentum is growing for a national paid leave policy in the U.S. Paid leave has risen in popularity among voters and as a policy priority for federal policymakers across party lines, as exemplified by the formation of a bipartisan Senate Finance Committee paid leave working group led by Senators Maggie Hassan (D-NH) and Bill Cassidy (R-LA).^{10, 11, 12, 13, 14} Private employers,¹⁵ states,¹⁶ and localities¹⁷ in the U.S. also have proposed and enacted partial and comprehensive paid leave policies. Since 2018, a group of 100 companies, including retailers Gap Inc. and Target, along with coffee chain Starbucks, have implemented or expanded their own paid leave policies.^{18, 19} Other major companies, such as Patagonia, Airbnb, and Spotify, have expressed support for a national paid leave policy.²⁰ As of July 2019, nine states, the District of Columbia, and Puerto Rico^{21, 22} have passed paid leave laws for either family-only or medical-only leave²³ or both,²⁴ and legislation has been recently proposed in at least four other states.^{25, 26} A national paid leave program could ensure that U.S. workers and their families no longer have to rely on the inadequate and inequitable existing patchwork of state and local laws, voluntary employer benefits, and federal unpaid leave.²⁷

As it is, the U.S. is the only industrialized country in the world without a national paid leave policy.^{28, 29, 30} Among the 34 Organisation for Economic Co-operation and Development (OECD) member countries whose paid leave policies have been studied, many provide paid leave, including 33 for maternity leave,³¹ 32 for paternity leave, 32 for one's own condition,³² 28 to care for children's health conditions, and 22 to care for adult family members.³³

A BODY OF EVIDENCE SUPPORTS NATIONAL, COMPREHENSIVE, & INCLUSIVE PAID LEAVE

Recent momentum toward a national paid leave policy and state, local, and private employer victories, are due, in part, to the ongoing and persistent work of local, state, and federal advocates.³⁴ Research has been central to the success of these efforts,³⁵ as a substantial body of evidence suggests that well-designed paid leave policies can lead to positive outcomes for workers, their families and employers, and society. Research confirms that paid leave allows families to better meet their personal, financial, and workplace needs.³⁶ Paid leave has been shown to have positive short-term and long-term effects for both employers—such as decreased employee turnover and increased profitability, productivity, and employee morale—^{37, 38} and workers and their families—such as improved physical and mental health for both parents and children,^{39, 40, 41} increased economic productivity,⁴² and improved economic security along with greater workforce participation, particularly for women.⁴³ Research also shows that paid parental leave, in particular, can reduce gender-based wage disparities.^{44, 45, 46}

RESEARCH CAN HELP INFORM POLICY

Developing paid leave policy at any level of government requires consequential design decisions. These decisions determine how well the policy can meet care needs and support better health, developmental, and economic outcomes for workers, their families, and their employers. This paper considers how available research and evidence can inform the various policy levers and parameters policymakers should consider when developing a paid leave proposal.

Some of the parameters explored in this report include:

- Job protection measures that ensure that workers have the same or an equivalent job when they come back from their period of paid leave,
- Anti-retaliation protections against adverse employment consequences for taking or requesting leave,
- Employer-sponsored health coverage continuity,
- Qualifying events and documentation,
- Wage replacement levels,
- Eligibility requirements tied to employment, such as tenure and work history,
- Intermittent and incremental use of leave,
- Outreach and education, and
- Models of financing and administration.

RESEARCH-BASED PAID LEAVE POLICIES SHOULD SUPPORT EQUITY & PROSPERITY FOR ALL

This report offers research-based recommendations that outline who should qualify for paid leave and why, the nature of the paid leave benefits themselves, and how paid leave policies should be structured and administered. The recommendations are designed to advance racial, gender, and economic equity in pursuit of three interrelated goals:

1. Allow all workers to provide necessary care for themselves and their families;
2. Support better health and child development outcomes for workers and their families; and
3. Ensure the economic stability of workers, their families, and their employers.

SUMMARY OF RECOMMENDATIONS

Ultimately, this report recommends that a paid leave program be designed to:

- 1. Include all worker types.** Paid leave should include workers at businesses of all sizes, public employees, contractors, self-employed workers, domestic workers, agricultural workers, part-time workers, and those who work for multiple employers. Paid leave programs that include all worker types are more equitable because the jobs that tend to be left out of leave policies are often lower-paying and disproportionately filled by women, people of color, and immigrants.
- 2. Cover a broad range of personal and family medical, safety, and caregiving needs.** Workers should be able to take leave to meet an expansive set of medical, safety, and caregiving needs, including the needs of military families and of DV/IPV, stalking, and sexual assault victim-survivors. Programs should define covered family members in ways that reflect the realities of workers' lives—by including extended family members, same-sex partners, domestic partners, and chosen family. Such expansive definitions of family reflect modern family structures and are especially important for LGBTQ+ people and people with disabilities.
- 3. Provide sufficient time to meet workers' needs.** Leave duration that matches health and development needs is crucial to helping workers maintain their financial stability. Adequate duration is especially important for low-paid workers who may have fewer financial resources and savings. Six months is generally time enough to allow workers to meet their caregiving responsibilities or take care of their own medical needs.
- 4. Allow intermittent and incremental leave.** Workers should be able to take leave intermittently and in short increments (hours or days) as needed. This flexibility is particularly more equitable vis-à-vis workers (and their loved ones) with disabilities or chronic health conditions who require ongoing care. It also supports more equally shared caregiving between parents.
- 5. Ensure sufficient wage replacement.** Wage replacement rates should be progressive and high enough to allow workers to afford to take leave without jeopardizing their financial stability. Wage replacement rates of 80 to 100 percent are more likely to support gender equity and likely are necessary for low- and middle-income workers to meet their financial needs.
- 6. Guarantee job protection and anti-retaliation protections.** Workers should not have to worry that

their jobs or pay are at risk, or that they might face other consequences, for taking the leave they are entitled to and need. These protections are especially important for workers of color, women, and immigrants, who face greater workplace and hiring discrimination.

7. Structure financing to pool risk and limit hiring discrimination. The social insurance model pools risk and may be less likely to result in gender- or disability-based hiring discrimination than an employer mandate. A tax credit structure is unlikely to benefit those who need paid leave the most because employer participation would be voluntary—and marginalized workers are less likely to be employed at businesses that offer paid leave.

8. Build upon existing administrative infrastructures. A national paid leave program should be administered through a federal agency such as the Social Security Administration (SSA) to best ensure coverage of all workers regardless of state residency or employer type. Using the SSA could also reduce the reporting and documentation burden for participants—which is especially important for low-paid workers.

9. Employ targeted outreach strategies and establish simple, accessible application processes. Paid leave programs should utilize targeted outreach strategies that include accessible, multilingual materials. This can help ensure that people with disabilities and those with limited English proficiency can access the information they need. Information about programs should be complete, accurate, and presented in plain language. The paid leave application process should be simple, short, and accessible to all workers.

WHAT IS PAID LEAVE & HOW DOES IT IMPROVE LIVES?

Paid family and medical leave (PFML)¹ policies enable workers to take partially- or fully-compensated time away from work to care for a family member's or their own serious or chronic health condition, or to care for or bond with an infant or recently adopted or fostered child.⁴⁷ Often, PFML is categorized into three, at times overlapping, types: personal, parental, and family.⁴⁸

BOX 1: HOW DOES PFML DIFFER FROM OTHER WORKPLACE LEAVE PROGRAMS?

PFML differs from other kinds of paid time off work.^{49, 50} Paid sick days, for example, usually require less documentation and are typically financed by employers (sometimes through a government mandate).⁵¹ Sick leaves are usually taken for shorter durations than PFML.^{52, 53} The proposed Healthy Families Act would establish a national paid sick and safe days policy which would benefit many of the 34 million workers who do not currently have access to paid sick leave by providing at least seven days of job-protected paid sick leave per year for workers in businesses with at least 15 employees.⁵⁴ (The proposed bill would not grant an additional week of paid sick leave for workers who already have at least seven days of leave.)⁵⁵

Paid time off (PTO) is a related policy which workers can utilize for a wide range of reasons (e.g., illness or vacation).⁵⁶ PTO can sometimes be combined with PFML for workers who require longer periods of leave.⁵⁷ Workers may also have access to short-term or long-term disability insurance (sometimes referred to as Temporary Disability Insurance or TDI) through their employer or the government.⁵⁸ Disability insurance provides extended time off for medical reasons.⁵⁹ Five states and Puerto Rico currently have TDI programs,⁶⁰

¹ For the purposes of this paper, we consider the outcomes of PFML policies, along with Temporary Disability Insurance and Temporary Caregiver Insurance policies.

and four states have built paid family leave (PFL) policies atop their existing TDI programs.^{61, 62} Long-term disability insurance can sometimes provide longer periods of pay than PFML programs.⁶³ Employers and governments may also provide temporary caregiver insurance which enables workers to take parental leave or leave to care for a family member who is ill.⁶⁴

Workers with disabilities can also access leave under the Americans with Disabilities Act (ADA).⁶⁵ The ADA provides qualifying workers the right to leave as a form of reasonable accommodation.⁶⁶ The duration provided varies and employers can request medical documentation from workers seeking to take leave.⁶⁷ Along with the reasonable accommodation leave, the ADA requires that employers provide employees with disabilities the same level of access to leave offered to other employees.⁶⁸

WELL-DESIGNED PAID LEAVE CAN BENEFIT US ALL

When well-designed and informed by research, paid leave policies can support improved health, development, and economic outcomes for workers, their families, and their employers. A selection of the multitude of benefits of paid leave policies is listed below.

Paid leave **can allow all workers to provide necessary care for themselves and their loved ones** and lead to:

- Improved physical and mental health for fathers,⁶⁹ mothers,^{70, 71} and other caregivers (such as individuals who provide care to elderly family members);⁷²
- Improved parent-child bonding and co-parenting skills for up to five years after the child's birth (and more equitable division of household responsibilities for up to two years after birth);^{73, 74}
- Increased family caregivers' time spent caring for their older relatives;⁷⁵ and
- Reduced stress among parents.⁷⁶

Paid leave can **support better health and child development outcomes for workers and their families** through:

- Higher breastfeeding rates and longer durations of breastfeeding⁷⁷ (particularly for women with lower incomes),⁷⁸ higher vaccination rates,⁷⁹ and decreased rates of infant mortality,⁸⁰ low birth-weight, and preterm birth;⁸¹
- Improved emotional health and cognitive development for infants;⁸² and
- Improved long-term health outcomes for children, such as decreased diagnoses of attention deficit/hypertension disorder, obesity, ear infections, and hearing problems,⁸³ and decreases in hospitalizations for pediatric abusive head trauma due.⁸⁴

Paid leave can **ensure the economic security of workers, their families, and their employers** through:

- Improved labor market attachment and higher wages, (in some cases for women, in particular, and for both part-time and full-time workers);⁸⁵
- Increased long-term labor force participation for caregivers;⁸⁶

- Decreased need for public assistance programs;⁸⁷ and
- Improved job retention for both low- and high-paid workers,⁸⁸ higher employee morale,⁸⁹ and reduced employee stress.⁹⁰

The benefits of paid leave are tied to the design of the policies. Programs must be designed inclusively for these positive outcomes to be shared by *all* workers.

THE CURRENT APPROACH LEAVES MANY WORKERS BEHIND

Paid leave is a core component of the economic security and opportunity systems that enable and promote work, financial well-being, and health for all workers.⁹¹ Current paid leave policies, however, do not reflect the reality of today's labor market—particularly for low-paid workers. Indeed, existing programs leave out many workers in the nation—and disproportionately leave out low-paid and other marginalized workers who may need access the most.⁹² Workers with the most to gain from access to paid leave are currently the least likely to have it—or access to unpaid leave, for that matter. These workers include:

- Low-paid⁹³ and part-time workers,⁹⁴
- Women,⁹⁵
- Workers of color⁹⁶ (particularly Latinx people),⁹⁷
- Immigrants,⁹⁸
- Workers with disabilities and their caregivers,⁹⁹
- Workers with lower educational attainment,¹⁰⁰
- People who work for multiple employers,¹⁰¹
- Individuals who are self-employed and workers who are misclassified as independent contractors,¹⁰² and
- Domestic and agricultural workers.¹⁰³

A comprehensive national paid leave policy has the potential to benefit individuals and families who are otherwise too easily left out.^{104, 105} As it is, just 17 percent of civilian workers have access to paid family leave¹⁰⁶ and 39 percent have access to personal medical leave through short-term TDI.¹⁰⁷ Among the lowest-paid workers, 92 percent do not have access to paid family leave,¹⁰⁸ and only 19 percent have access to employer-provided short-term TDI.¹⁰⁹ On the other hand, people who work for larger employers,¹¹⁰ individuals with higher educational attainment¹¹¹ and income,¹¹² and white workers¹¹³ are among those most likely to have access to paid or unpaid leave. In addition, not all leave (paid or unpaid) policies recognize modern family structures. Existing programs often exclude partners in unmarried couples, surrogate parents,¹¹⁴ and chosen family members,¹¹⁵ which can be particularly harmful to LGBTQ individuals and people with disabilities.¹¹⁶

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The racial disparities in access to leave (and other benefits) are stark. Black and Latinx workers are less likely than white workers to hold jobs with benefits like health insurance, retirement, and paid time off.^{117, 118} Asian American and American Indian workers are also more likely to have an unmet need for paid leave than white workers¹¹⁹ and just 43 percent of black workers and 25 percent of Latinx workers have access to paid parental leave.¹²⁰ Disparities in benefits access also exist along gender lines, with black and Latinx women being the most impacted.¹²¹

Workers of color, women, and workers with disabilities are also more likely than other workers to be employed in low-paying jobs.^{122, 123} Many low-pay industries are characterized by unstable work schedules that lack flexibility for workers; such schedules can be especially challenging to navigate for individuals who also have caregiving responsibilities.¹²⁴ As a result, without adequate paid leave policies, low-paid workers are more likely to have to reduce their hours or even leave the workforce entirely when faced with health or caregiving needs.^{125, 126} Latinx people are the least likely among racial and ethnic groups to have flexibility in their work hours or have access to paid leave.¹²⁷

An inclusive national paid leave program would not only improve access for workers, but it could also serve to reduce economic inequality along gender and racial dimensions. In fact, racial disparities in access to job benefits have accounted for 20 percent of the widening of the racial wealth gap since 1984.¹²⁸ Latinx and black households have significantly less wealth on average than their white counterparts (Latinx families hold eight percent of white families' wealth, and black households hold six percent of white families' wealth).¹²⁹ American Indians¹³⁰ also face wealth disparities compared to their white counterparts, as do some Asian American subgroups.¹³¹ As a result, families of color may have fewer resources and opportunities to save, particularly when earnings are used to cover unexpected expenses from life events.¹³² This makes access to paid leave even more important for these families.

THE FAMILY & MEDICAL LEAVE ACT & EXISTING STATE POLICIES

While the U.S. has no national paid leave law, the Family and Medical Leave Act (FMLA) grants up to 12 weeks per year of *unpaid*, job-protected leave to certain workers for their own medical conditions and caregiving for certain family members.¹³³ However, only about 60 percent of workers in the U.S. have access to unpaid leave under FMLA.¹³⁴ Among those not eligible are workers who are self-employed or independent contractors,¹³⁵ workers at small businesses with fewer than 50 employees within a 75-mile radius, new employees who have not yet worked for their employer for 12 months, seasonal and other part-year employees, and “some part-time workers who worked less than 1,250 hours for a single employer in the past 12 months.”¹³⁶ Workers who are not eligible for FMLA tend to be paid lower wages,¹³⁷ have less formal education than covered workers,¹³⁸ are more likely to be people of color,¹³⁹ and work in jobs with higher turnover rates.¹⁴⁰ Some people work in part-time and nontraditional employment, such as seasonal or contract work, due to caregiving responsibilities. These exclusions disproportionately caregivers for people with disabilities, as well as women and people of color—who are more likely to provide care for a loved one—and can reduce their labor force participation rates.^{141, 142, 143}

The current national system of unpaid leave can have far reaching economic costs. It is estimated that the economic costs of unpaid caregiving amount to \$67 billion annually and are projected to increase to as much as \$147 billion by 2050.¹⁴⁴ These costs are driven by the growth of the population of elderly people with disabilities, and include the costs to highly educated workers who must reduce their work hours, change jobs, or quit working altogether to provide care for their elderly relatives.¹⁴⁵ Nine states (California, Connecticut, Hawaii, Massachusetts, New Jersey, New York, Oregon, Rhode Island, and Washington), the District of Columbia, Puerto Rico,^{146, 147} and many municipalities across the U.S.¹⁴⁸ have passed paid leave laws for either family-only or medical-only leave or both.¹⁴⁹ Despite these efforts, just 17 percent of civilian workers have access to PFL,¹⁵⁰ 39 percent of workers have access to short-term disability

insurance, and 34 percent have access to long-term disability insurance to care for their own medical conditions.¹⁵¹

WHAT DOES RESEARCH TELL US ABOUT HOW TO ACHIEVE OUR GOALS?

Paid leave research is ongoing, especially as new policies are implemented and evaluated. As a result, what we believe to be the optimal policy now may change as we gain more information—and as our social and economic contexts evolve. Nevertheless, a substantial body of existing research argues unequivocally for action and can inform policymakers and other stakeholders today. The research summarized in this section sheds light on who and what events should qualify for paid leave; what the nature of paid leave benefits should be, including their duration, wage replacement levels, and worker protections; and how an inclusive paid leave program should be structured and implemented. This section also examines existing paid and unpaid leave policies at the national, state, and local levels, along with the policies of OECD countries. (The OECD is an international economic organization made up of 36 middle- or high-income¹⁵² democratic countries, including the U.S., with market economies.¹⁵³ Though findings from these countries' paid leave experiences will not necessarily transfer directly to the U.S., their experiences nevertheless offer some insights into the possibilities in the U.S.)

BOX 2: THE FAMILY ACT

The FAMILY Act, the leading national paid leave proposal under consideration in Congress today,¹⁵⁴ would provide workers up to 12 weeks of paid family leave¹⁵⁵ (as would some recent conservative paid leave tax credit proposals).^{156, 157} The law would likely cover many more workers than the FMLA does.^{158, 159} The Institute for Child, Youth, and Family Policy at Brandeis University estimates that the FAMILY Act would reduce by 75 percent the share of families who fall into poverty from taking unpaid leave through the FMLA.¹⁶⁰

To be eligible for benefits under the FAMILY Act, all workers, including public employees, would need a basic work and earnings history or to meet the “work credit” requirements for Social Security Disability Insurance.^{161, 162} The law does not include a job-specific tenure requirement.¹⁶³ It also would provide access to paid leave for small business owners—who would receive a benefit amount based on their self-employment income.¹⁶⁴ The proposed legislation does not specify that all paid leave must be taken at one time,¹⁶⁵ allowing for the possibility of taking leave intermittently. The current version of the bill includes a 66 percent wage replacement rate based on earnings in the past three years, with a cap on monthly payments that would be indexed to the national average wage index to ensure that benefits keep up with the rising cost of living.¹⁶⁶ Workers would also have protection against employer retaliation for requesting leave under the FAMILY Act.¹⁶⁷ Under the bill, there would be a five-day waiting period for receiving benefits unless the individual provided care for 15 or more days in the prior month.¹⁶⁸ The FAMILY Act would cover all of the qualifying events covered by the FMLA, along with care for a domestic partner's health condition, which is not included in the FMLA.¹⁶⁹

The FAMILY Act proposes that the national program use a social insurance model administered through a new Office of Paid Family and Medical Leave that would be created within the SSA.¹⁷⁰ The social insurance model has been successful in reducing racial,¹⁷¹ gender,¹⁷² and economic inequality¹⁷³ for other programs at the national level—especially Social Security—¹⁷⁴ which is one reason why the proposed FAMILY Act also uses this model.¹⁷⁵ The law mandates targeted outreach and education to increase utilization.^{176, 177}

A new Federal Family and Medical Leave Insurance trust fund would be created and the funds would be used exclusively for to pay paid leave benefits and program-related costs.¹⁷⁸ Benefits would be financed through an uncapped 0.2 percent payroll tax on employers and employees, as well as a 0.4 percent tax on the wages of self-employed workers.¹⁷⁹ A 2018 report from the Institute for Women's Policy Research (IWPR) suggests that the program would pay out close to \$27 billion in benefits each year.¹⁸⁰

WHO QUALIFIES FOR PAID LEAVE & FOR WHAT REASONS?

Eligibility for paid leave programs is often determined by factors that, first, make a worker generally eligible, and, second, make the worker specifically eligible due to a qualifying event.

WORKER ELIGIBILITY

Paid leave policies have requirements tied to employment.¹⁸¹ Worker eligibility is often contingent on a number of factors, including employer size, full-time status, worker type (employee or non-employee), job tenure (length of time with a particular employer), work history (recent history of hours, weeks, or calendar quarters worked), and recent earnings.^{182, 183} While many state paid leave laws have less stringent requirements than the FMLA,¹⁸⁴ some part-time workers, small business workers, and non-employee or nonstandard workers (e.g., self-employed workers and independent contractors)¹⁸⁵ are still left out of some state programs.¹⁸⁶

Many states also exclude public employees.¹⁸⁷ For example, in both New York and California, public employees have access to the paid leave program only if their unions opt in during collective bargaining or their employers opt in to the law.¹⁸⁸ As a result, 21 percent of public workers in California in higher quality jobs (i.e., jobs that pay a minimum of \$20 per hour and provide health insurance) and 48 percent of public workers in lower quality jobs do not have access to paid family leave.¹⁸⁹ Rules excluding public employees are consequential for racial and gender equity in paid leave programs because women and people of color, particularly African Americans, make up a larger share of the public employee workforce than other groups.¹⁹⁰

While no state paid leave laws explicitly exclude undocumented workers, California,¹⁹¹ New Jersey,¹⁹² Washington,¹⁹³ and Rhode Island¹⁹⁴ require a Social Security Number to determine eligibility. The District of Columbia and New York accept either a Social Security Number or an Individual Tax Identification Number (ITIN) issued by the Internal Revenue Service (IRS),¹⁹⁵ the latter of which helps include undocumented workers, some of whom (workers who receive paychecks in the case of New York) may be contributing taxes toward funding the program.¹⁹⁶

Employer Size

Some states limit job protections to workers at businesses with a minimum number of employees.¹⁹⁷ These provisions can exclude a sizable share of workers from needed job protections, as more than 32 million workers are employed at businesses with fewer than 50 employees and over 20 million are employed at businesses with under 20 employees.¹⁹⁸ When California amended its paid leave law in 2017 to include job-protected paid leave for workers with employers that have at least 20 employees (down from the previous requirement of at least 50 workers) within a 75-mile radius, the state expanded access to an additional 2.7 million workers—16 percent of the state's workforce.^{199, 200} New Jersey expanded access to job protection to 200,000 additional workers when the New Jersey Family Leave Act was amended in 2019.²⁰¹ New York and Rhode Island provide workers with job-protected paid family leave irrespective of their employer's size.²⁰²

Similarly, the vast majority of OECD countries with paid leave policies provide job protection to workers irrespective of employer size.^{203, 204, 205}

A national program without employer size restrictions would not only protect more workers—it may also help small businesses. Paid leave programs can make it more affordable for small businesses to provide paid leave, especially if funded as a social insurance program or through general revenues.^{206, 207} Such policies allow small businesses to recruit and retain employees who otherwise may have gone to businesses with capacity to provide their own paid leave benefits without a state or national program.²⁰⁸ Further, a survey of small- and medium-sized businesses in Rhode Island found that the state’s recently- implemented paid leave program had no reported negative impact on employee productivity and work hours in Rhode Island;²⁰⁹ there were similar responses from both large and small businesses about New Jersey’s program.^{210, 211}

Part-Time Employment

Many part-time workers are left out of paid leave programs that require a minimum number of hours worked per week or include tenure requirements (which, in some cases, apply only to part-time workers). More than 25 million people (25,636,000) were part-time workers in 2018.²¹² Over 3.5 million workers²¹³ work part time because they could not find full-time work or had their work hours cut.²¹⁴ (Such part-time workers are disproportionately people of color.)²¹⁵ Others (over 22 million workers in 2018)²¹⁶ work part time for other reasons, such as a disability²¹⁷ or caregiving responsibilities. Tenure and work history requirements can be particularly consequential for women (especially women of color), who are more likely to work part time, provide paid or unpaid caregiving work,²¹⁸ or leave a job due to caregiving obligations.²¹⁹

State paid leave policies vary in their tenure and work history requirements.²²⁰ Under Washington’s paid leave law, all workers must work an average of approximately 16 hours per week over 52 weeks for the same employer to qualify.²²¹ New York does not have a requirement related to hours worked per week, but does have a tenure requirement (at least 175 days for workers who work for less than 20 hours per week and at least 26 weeks for those working over 20 hours per week).²²² The District of Columbia also does not have a minimum work hours requirement.²²³ Other states such as Rhode Island, Massachusetts, and New Jersey have either a minimum work hours requirement or a minimum earnings requirement, which can effectively become a work hours requirement for low-paid workers.²²⁴

Independent Contractors & Self-Employed Workers

Many independent contractors and self-employed workers are left out of paid leave programs. In 2017, 6.9 percent of workers (10.6 million) were independent contractors.²²⁵ In 2018, there were an estimated 9.8 million workers who were self-employed as their primary job^{226, 227} (about six percent of workers).²²⁸ In a 2017 survey, about half of the contract workers polled lacked access to any benefits from their employer, including sick leave and health insurance.^{229, 230} Such exclusions also can impact restaurant employees, construction workers, and truck drivers, who are often misclassified as contractors.²³¹ People of color and immigrants are overrepresented in the restaurant, construction, and trucking industries and, as a result, may face added barriers to access to paid leave.²³²

New York, Washington, the District of Columbia, California, and Oregon allow independent contractors and self-employed workers to opt in to paid leave programs.^{233, 234} Massachusetts allows self-employed workers to opt in to the state’s paid leave program, while independent contractors are covered if they contract with employers whose workforce is over 50 percent contractors.²³⁵ New York and Massachusetts require all self-employed workers who opt in to pay both the employee and employer payroll tax (as is the case with the mandatory FICA [Federal Insurance Contribution Act] tax),²³⁶ while Washington requires those who opt in to pay solely the employee share of the tax—though they are eligible for the same benefits.²³⁷

Some states, such as Washington and the District of Columbia, aim to limit adverse selection (i.e. workers undermining the financial stability of the paid leave fund by joining only when in need of leave and opting out once they no longer need it) by requiring self-employed workers who opt in to remain in the program for a minimum of three years before opting out if they choose.^{238, 239, 240} This specific strategy for avoiding adverse selection has not yet been evaluated.

Self-employed workers, independent contractors, and consultants typically have to make both employer and employee contributions (except in Washington state) to access benefits.²⁴¹ Such contribution requirements could be cost-prohibitive for these workers if they are required to pay more than traditional employees to access paid leave.²⁴² However, states like Washington and Massachusetts have devised contribution plans that allow self-employed workers and independent contractors to pay the full cost (employer-employee) for certain provisions like paid family leave but only pay the employee portion for other benefits like medical leave.²⁴³ These provisions can serve to reduce contribution costs for independent contractors and self-employed workers.²⁴⁴

Internationally, a number of OECD countries provide paid leave to self-employed workers, though some provide reduced benefits to these workers. Eight OECD countries provide paid medical-only leave at the same wage replacement rate and duration to self-employed workers as other workers, while 18 provide it at lower wage replacement rates and shorter durations.²⁴⁵ Among the 27 OECD countries that provide paid parental-only leave for either parent, 21 provide the same level of benefits to self-employed workers as other workers.²⁴⁶ Additionally, three countries provide paid parental-only leave to self-employed workers for shorter durations and at lower wage replacement rates.²⁴⁷ (For an explanation of wage replacement rates and duration considerations, see the next section, *What is the Nature of PFML Benefits & Protections?*)

Domestic & Agricultural Workers

Domestic and agricultural workers²⁴⁸ have long been left out of paid leave programs and other worker benefits and protections.²⁴⁹ Landmark laws such as the Fair Labor Standards Act and Equal Pay Act excluded many domestic and agricultural workers from protections like overtime compensation, the minimum wage, and equal pay for equal work.²⁵⁰ Agricultural and domestic workers were also excluded from federal protections under laws like the Civil Rights Act of 1964 and the Occupational Health and Safety Act of 1970.^{251, 252} Access to paid leave is essential for these workers—and can advance racial and gender equity outcomes, as people of color and women are disproportionately represented in domestic and agriculture jobs.^{253, 254}

Domestic Workers

Although eight existing state paid leave programs and the District of Columbia's program cover domestic workers in the same manner as they cover other workers,²⁵⁵ these workers often face access barriers. New York is the only state explicitly to include domestic workers in its paid leave law, requiring that those hired by private families work at least 40 hours per week to qualify (while other worker types must only work 20 hours per week, or in some cases, fewer).²⁵⁶ Domestic workers may be less likely to be aware that a paid leave program exists than others.^{257, 258} Most workers learn about paid leave programs through their employers. Domestic workers, however, are often employed by families who may not be aware of their legal obligation to provide leave.²⁵⁹ Domestic workers and those who are people of color or immigrants, in particular, may also fear that they will lose their job or be retaliated against if they take the leave they are entitled to.²⁶⁰

In many cases, domestic workers have physically demanding jobs with long hours and low pay—and some

paid leave programs include minimum earnings requirements that may be hard for domestic workers to reach given these low wages. Many domestic workers, particularly live-in workers, tend to work more than 40 hours per week without guarantee of overtime pay.²⁶¹ In fact, domestic workers work 84 hours per week on average by some estimates.²⁶² A study of domestic workers found that 70 percent are paid less than \$13 an hour, and 67 percent of workers who live in their employers' households are paid below the minimum wage.²⁶³

The barriers to paid leave access that domestic workers experience exacerbate economic inequities along racial and gender lines. Black, Latinx, and immigrant women are overrepresented in the domestic labor force, and domestic workers of color are paid less on average than their white counterparts.^{264, 265} Additionally, most domestic workers lack other employee benefits such as retirement, health insurance, and paid vacation.²⁶⁶ The high demands placed on domestic workers combined with the lack of benefits severely undermine economic security for these workers.

The barriers to paid leave access that domestic workers experience exacerbate economic inequities along racial and gender lines.

Agricultural Workers

Many agricultural workers lack access to paid leave and have limited access to other important benefits like health insurance and paid sick leave.^{267, 268} Some states, like New York, explicitly exclude farmworkers from their paid leave programs.²⁶⁹ Even when not explicitly excluded, many agricultural workers are effectively excluded from state programs because of criteria like tenure requirements that indirectly exclude seasonal or temporary workers²⁷⁰ (who make up an increasing share of farmworkers).²⁷¹

Agricultural workers are among those who need access to paid leave the most. Many agricultural workers also earn low wages, with 30 percent of farmworkers earning incomes below the federal poverty line.²⁷² Farm and food production workers often labor in conditions that put them at high risk for illness, injury, and death.²⁷³ These conditions increase the health disparities between agricultural and non-agricultural workers.²⁷⁴ Although workers' compensation laws provide some benefits if a worker is injured on the job or suffers from a work-related illness,²⁷⁵ access to job-protected paid leave would help provide workers time and economic security to address their other health and caregiving needs. Ultimately, paid leave benefits should supplement, not supplant, workers' compensation benefits.

Paid leave protections for agricultural workers are also crucial for racial and gender equity. People of color and immigrants make up a significant share of the workforce.²⁷⁶ A national survey found that 75 percent of agricultural workers were foreign-born, and 83 percent were Hispanic or Latinx.²⁷⁷ Women comprise an increasing share of farmworkers—up from an estimated 18.7 percent in 2007 to around 25 percent in 2017.²⁷⁸

Tenure, Work History, & Earnings Requirements

Paid leave policies typically include tenure, work history, and/or earnings requirements. Tenure requirements relate to the length of time a worker has been with a specific employer.²⁷⁹ Work history requirements relate to the length of time a worker has been employed recently or over their lifetime.²⁸⁰ Minimum earnings requirements restrict eligibility to only those workers who earned above a specified amount in a set period.

These requirements exclude certain workers. Minimum earnings requirements² have a disproportionate impact on low-paid workers, as they must work more to meet any earnings threshold.²⁸¹ Workers who are

² Some people who work may be left out of PFML laws if their work consists primarily or entirely of informal work that is off the books.

now employed but may not have had a chance to build up the requisite tenure include recent graduates, younger workers,²⁸² labor market re-entrants (such as people returning from incarceration or caregiving),²⁸³ some self-employed workers, and many part-time and seasonal workers.²⁸⁴ Workers who frequently move in and out of the workforce may also be excluded due to tenure requirements. Researchers from the Economic Policy Institute estimate that every three months, 20 percent of the lowest-paid workers either leave or start a new job,²⁸⁵ suggesting that tenure requirements likely put a significant share of low-paid workers at a disadvantage.

Minimum earnings requirements have a disproportionate impact on low-paid workers, as they must work more to meet any earnings threshold.

All state-level paid leave policies have at least one of these three types of requirements.²⁸⁶ For example, in California, to qualify for PFML, a participant must have earned at least \$300 in wages in 12 months,²⁸⁷ while in New York, one must have worked for a covered employer for at least 26 consecutive weeks (or 175 days for part-time employees) for family leave, while for personal medical leave, one must have worked for a covered employer for at least four consecutive weeks (or 25 days for part-time employees).²⁸⁸

A majority of OECD countries that offer paid leave do not have job-specific tenure requirements.^{289, 290} Within the 15 OECD countries that do have a tenure requirement for personal medical leave, nine countries have a requirement of a month or less, and eight countries provide paid leave at a reduced duration or wage replacement level for workers who do not meet the tenure requirement.²⁹¹ Several OECD countries have tenure requirements of just four weeks or less.²⁹² Some OECD countries impose minimum earnings or work history requirements instead of tenure requirements, but a similar number have none of these three requirements.^{293, 294}

There are strategies to mitigate the impact of these requirements on access to paid leave. Allowing workers to use their earnings or tenures from multiple jobs (including self-employment), known as “portability,” may help low-paid and nonstandard workers more easily meet tenure requirements.²⁹⁵ Most states allow this. Another option is to tie the tenure or work history requirement to the state or the locality rather than a specific employer, as is the case in New Jersey,²⁹⁶ and in eight OECD countries.²⁹⁷ This approach may be more inclusive of women workers, who are more likely than men to hold more than one job at a time,²⁹⁸ as well as immigrant workers²⁹⁹ and African Americans,³⁰⁰ who also hold multiple jobs at high rates.

There are also strategies to ensure better access for people with gaps in their work history. For example, policies can be designed to offer continued access to paid leave and other benefits even if a worker is between jobs.³⁰¹ Massachusetts’ paid leave law has this feature, while New York provides TDI to unemployed workers, but not PFL.³⁰² In Massachusetts, a worker who left their job in the past 26 weeks can receive benefits if they had at least 15 weeks of earnings and a minimum of \$4,700 in earnings in the twelve months before they applied for leave.³⁰³ This is particularly helpful for seasonal workers who may not have sufficient employment during the offseason;³⁰⁴ African Americans and Latinx people are disproportionately represented among seasonal workers.³⁰⁵

Alternatively, paid leave policies could exclude tenure requirements entirely, as is the case in nine OECD countries.³⁰⁶ The lack of a tenure requirement has not been associated with lower labor force participation, reduced economic growth, or higher unemployment in OECD countries.³⁰⁷

Recommendation 1: Include All Worker Types

Paid leave policies should cover all worker types, including public employees, workers at businesses of all

sizes, part-time workers, independent contractors, self-employed workers, domestic workers, agricultural workers, seasonal workers, and those who work for multiple employers. Independent contractors and self-employed workers should be allowed to opt in easily or have automatic coverage that is at parity with other workers. These policies should cover part-time workers based on a reasonable part-time work history and all workers with a modest recent work history. Paid leave programs that include all worker types are more equitable because the jobs that tend to be left out are often low-paying and disproportionately filled by women, people of color, and immigrants.

QUALIFYING EVENTS

A qualifying event is a change in life circumstances that triggers eligibility for a leave program. Qualifying events are generally serious health conditions which require inpatient or continuing treatment, such as cancer, Alzheimer's disease, diabetes, asthma, complications related to pregnancy, or prenatal care.³⁰⁸ Other qualifying events include the birth, adoption, or fostering of a child.³⁰⁹ Paid leave policies should cover a broad array of life events to ensure that workers' needs are met.

Qualifying events under the FMLA include: birth, adoption, or fostering of a child; care for an employee's own health condition; care for an employee's spouse, child, or parent's health condition; and caregiving for military leave and/or deployment purposes.³¹⁰ Most states' family and medical leave programs do not cover bereavement³¹¹ and neither does the FMLA. Oregon's newly passed paid leave law will require employers that already provide paid sick or vacation leave to include bereavement as a qualifying reason for leave, while Massachusetts' paid leave law will provide 12 weeks of paid leave for the death of a family member in the military starting in 2021.³¹² New York was the first state to allow paid leave for "certain needs in connection with a close family member's active duty military service abroad,"³¹³ followed by Massachusetts and Connecticut.^{314, 315} "Close family members" are defined in the New York law as spouses, domestic partners, children, and parents.³¹⁶ Connecticut, however, excludes domestic partners.³¹⁷

Documentation & Waiting Periods

Generally, leave programs require workers to submit documents³¹⁸ such as birth certificates, adoption or foster care paperwork, pay stubs or tax returns, or documentation of the medical condition provided by a health professional.^{319, 320, 321} Some documentation requirements can make it harder for participants to prove their eligibility—especially low-paid workers.³²² Behavioral science research has shown that one of the ways to reduce poverty is to decrease the cognitive effort that participants must put forth when applying for programs. Stringent documentation requirements do the opposite, as workers are more likely to miss a detail and lose out on the benefits they need.³²³

Some states have waiting periods: a period a worker must wait after the qualifying event occurs before they receive benefits (though most have exceptions). Waiting periods were included in the first TDI programs and the SSDI program as a means to save program funds, reduce administrative burdens,³²⁴ and make it, "unprofitable for a person who can work not to do so," according to the Congressional Research Service.³²⁵ Yet, waiting periods can be unworkable for people with urgent health or caregiving needs, who require immediate financial assistance to receive treatment. Waiting periods can deter low-paid workers from taking leave or disproportionately affect their ability to meet their basic needs.³²⁶ In some states, workers are able to use their paid sick days or PTO during the waiting period, but low-paid workers are also less likely to have access to these benefits.³²⁷

In New Jersey's TDI program the first seven days of leave are unpaid, but participants can be paid retroactively if their disability continues for 22 days or more.³²⁸ The state's Family Leave Insurance (FLI) program has a one-week waiting period which will be eliminated in 2020.^{329, 330} Washington's paid leave

program includes a seven-day waiting period, unless the qualifying event is the birth, foster placement, or adoption of a child.³³¹ Other states, like New York,³³² do not have a waiting period. California eliminated waiting periods in 2018 to provide benefits more quickly to those with urgent caregiving needs.³³³

Safe Leave

Some states offer sick and safe leave to workers, though most state PFML programs do not cover safe leave.³³⁴ ³³⁵ Sick and safe leave programs typically expand on sick days policies to allow workers to use accrued time off for both sick leave *and* leave related to domestic violence and intimate partner violence (DV/IPV), stalking, and sexual assault.³³⁶ In some cases, workers can also use these policies to attend to family members who have experienced DV/IPV, stalking, and sexual assault.³³⁷

Although safe leave has typically been included in sick days policies, rather than PFML policies, paid leave policies could include DV/IPV, stalking, and sexual assault as qualifying events.

Although safe leave has typically been included in sick days policies, rather than PFML policies, paid leave policies could include DV/IPV, stalking, and sexual assault as qualifying events. A 2018 survey from the Centers for Disease Control and Prevention estimated that 1 in 4 women and 1 in 10 men have experienced, “sexual violence, physical violence and/or stalking by an intimate partner during their lifetime.” ³³⁸ American Indian women face higher rates of intimate partner violence and sexual assault than any other group, with recent studies finding that 39 percent of American Indian women had such an experience.³³⁹

Victim-survivors of DV/IPV, stalking, and sexual assault need sufficient time off to meet their needs, which may include medical treatment and counseling, relocation, assistance from a victims’ services organization, or related legal activities.³⁴⁰ According to the Institute for Women’s Policy Research, victim-survivors who experienced stalking “lost an average of 10.1 days of paid work per year, those who were [sexual assault victim-survivors] lost an average of 8.1 days per year, and those who experienced physical violence lost 7.2 days per year.”³⁴¹

Safe leave policies help provide economic security to victim-survivors of DV/IPV, stalking, and sexual assault as they seek safety and care. Indeed, economic security is a major concern for many victim-survivors. The National Network to End Domestic Violence found that concerns over the ability to provide for themselves and their children are a major reason DV/IPV victims stay in abusive relationships.³⁴²

Among states, New Jersey provides paid leave for victim-survivors of DV/IPV and sexual assault under its PFL program, and under Oregon’s newly passed PFML law, DV victim-survivors will qualify for paid leave.³⁴³ ³⁴⁴ Internationally, New Zealand allows ten days of paid leave for DV/IPV victim-survivors, as does the Philippines.³⁴⁵ Many provinces in Canada also have sick and safe leave laws.^{346, 347} The proposed Healthy Families Act would guarantee seven days of sick and safe leave for workers at businesses with over 15 employees.³⁴⁸

Family Definition

The way that family is defined determines who workers can take paid and/or job-protected time off to care for. Over 80 percent of households do not fit into the “traditional” nuclear family model, which consists of a married couple along with their minor children.³⁴⁹ Gender-neutral family definitions that include domestic

Gender-neutral family definitions that include domestic partners are more inclusive of the diversity of families, including same-sex couples, unmarried partners, and blended families.

partners are more inclusive of the diversity of families, including same-sex couples, unmarried partners, and blended families.^{350, 351}

Family definitions should also include extended and chosen family. In 2014, 85 million individuals—disproportionately people of color—lived with extended family members³⁵² and almost one-third (32 percent) of U.S. adults have taken time off to provide care for chosen family members or friends.³⁵³ A 2017 CAP survey of U.S. residents found that LGBTQ+ workers and workers with disabilities were especially likely to take time off to care for chosen family members.³⁵⁴

The FMLA family definition is limited to child, spouse (now including same-sex spouses),³⁵⁵ parent (including adoptive and foster parents),³⁵⁶ and relatives who cared for the individual as a child, which can include siblings and grandparents.^{357, 358} However, many are excluded, including partners in unmarried couples, surrogate parents,³⁵⁹ other extended family members, and chosen family members.³⁶⁰

Most state laws have broader definitions of family than the FMLA. Some include siblings,³⁶¹ grandparents, domestic partners, parents-in-law, and/or chosen family.³⁶² The New Jersey program is one of the most inclusive, recognizing relationships “equivalent to a family relationship” (chosen families)³⁶³ and caregivers for victim-survivors of DV/IPV or sexual assault, for example.³⁶⁴ Eleven OECD countries define family broadly, including “partners, cohabitants, individuals residing in the same household, and loved ones.”³⁶⁵

Care for Children

Often, the responsibility to care for children is shared among multiple family members.³⁶⁶ Paid leave policies should reflect this reality. For example, inclusive family definitions can allow a single parent recovering from childbirth or caring for a newly adopted or fostered child to be supported by another family caregiver, such as their own parent or sibling. Inclusive definitions can also allow grandparents or siblings of children with disabilities or other medical conditions to provide care when a parent is unavailable or if a parent has developed their own care needs. Bundling parental and family leave together can help broaden the definition of family in this way.³⁶⁷

Proposed changes to state PFL policies, such as the one put forth in California’s 2019-2020 budget, would allow other close family members besides parents to take up to six months of paid leave to care for a newborn or newly adopted child.^{368, 369} Evidence shows that allowing other family members to take paid leave alongside parents increases the amount of care available to children and reduces the burden on any individual or employer,³⁷⁰ which may particularly help women—who provide a disproportionate amount of caregiving in families.^{371, 372}

Recommendation 2: Cover a Broad Range of Medical, Safety, & Caregiving Needs

Paid leave programs should cover a broad range of medical, safety, and caregiving needs, including the needs of military families and of DV/IPV, stalking, and sexual assault victim-survivors. Waiting periods should be minimized or left out, as medical and caregiving needs can be unforeseeable and urgent. The definition of family should be expansive and include same-sex partners, domestic partners, extended family, and chosen family. Inclusive definitions of family are important and help promote equity for members of the LGBTQ+ community and people with disabilities, in particular.

WHAT IS THE NATURE OF PFML BENEFITS & PROTECTIONS?

Paid leave policies should be responsive to the realities of workers’ lives. This means reasonable leave

durations, job and retaliation protection, adequate wage replacement, the option to take leave intermittently, and health coverage continuation, all of which can help ensure the effectiveness of paid leave.³⁷³

DURATION

Duration refers to the length of time away from work a leave policy provides. The appropriate duration depends on the nature of the health issue or other qualifying event for which leave is taken and is often determined by a doctor's medical certification then verified by the corresponding insurance agency.^{374, 375} Leave duration can vary within the same policy, as a worker could face one duration time limit for receiving wage replacement and another time limit for job protection, or varying duration depending on qualifying event. Sufficient durations help allow workers to address health and caregiving needs without undermining their financial security. Leave duration can be especially consequential for low-paid workers who may have limited savings and resources to cover health costs.³⁷⁶

Parental Leave

Leave for parents serves a variety of purposes, including caring for an infant and bonding with a newly-adopted or fostered child. (Time off for physical recovery from childbirth is usually covered by personal medical leave.) The duration of parental leave is consequential for the health and development of families and children. Paid leave can also ameliorate some of the major stresses of the transition to parenthood.³⁷⁷ Indeed, caring for a newborn can impose financial stress on new parents which has been shown to undermine parental health (e.g., weakened immune system and increased risk for depression), and black mothers are particularly at risk for these negative health effects.³⁷⁸

Many paid parental leave policies provide significantly less time off to care for children in single parent households, compared to two-parent households.³⁷⁹ Often, policies provide a certain length of leave per parent, which parents can take simultaneously or consecutively. This means that children of single parents get less time with a parent at home on paid leave than children in two-parent homes have access to. Five OECD countries permit single parents to take the same amount of leave as two-parent families get combined, while two countries have such policies just for single mothers.³⁸⁰

Existing leave policies provide varying leave durations for new parents. New York provides almost three months (12 weeks) of paid leave per parent—the longest duration of any state.³⁸¹ Nearly three-quarters of OECD countries offer six or more months of paid leave for mothers (at least 26 weeks).³⁸² Paid leave for fathers averages eight weeks in the OECD, though some member countries, such as Japan and South Korea, provide up to 12 months (52 weeks).³⁸³ In comparison, Japan and South Korea provide mothers up to 58 and 64.9 weeks of paid leave, respectively.³⁸⁴

A number of private companies have created their own paid leave policies for parents. Deloitte and Microsoft provide two of the most comprehensive policies in the private sector. At Deloitte, employees can take up to 16 weeks of paid family leave to care for a new child or a loved one with a serious health condition.³⁸⁵ Microsoft provides 20 weeks (approximately five months) of paid leave to those who have given birth and 12 weeks (approximately three months) to fathers, adoptive parents, and foster parents.³⁸⁶ In addition, Microsoft exclusively partners with suppliers who provide at least 12 weeks (approximately three months) of paid parental-only leave to their employees.³⁸⁷

Child development and labor market research suggests that six months of paid leave for each parent may offer the most benefits to families.

Parental & Child Health Outcomes

Sufficiently lengthy paid parental leave can significantly improve health and child development outcomes for workers and their families. Child development and labor market research suggests that six months of paid leave for each parent may offer the most benefits to families.^{388, 389, 390} In the early months of an infant's life, sufficient leave supports parents in breastfeeding, attending medical visits, and completing necessary immunizations, among other important aspects of care.³⁹¹ At around six months infants are also developing attachment patterns with their caregivers, which is important for their emotional and social development.³⁹² Paid leave can help parents directly provide higher quality child care for their infants, especially given the extremely high costs of child care in the U.S.³⁹³

Six months of paid parental leave can support parents in meeting their breastfeeding goals. The American Academy of Pediatrics and the World Health Organization recommend that infants be breastfed exclusively for the first six months.³⁹⁴ Breastfeeding for longer has been shown to promote improved cognitive development, reduce obesity risk, and reduce the risk of breast cancer and postpartum depression for women.³⁹⁵ Breastfeeding may also decrease the risk of postpartum hemorrhage,^{396, 397} one of the leading causes of maternal mortality in the U.S.³⁹⁸ However, mothers face increased barriers to breastfeeding when they return to work—in part because work places often fail to offer breastfeeding supports for mothers.³⁹⁹ This is especially consequential for women of color, and black women in particular, who face increased systemic barriers to breastfeeding.⁴⁰⁰

There is evidence to suggest that access to paid leave can ameliorate some of the racial disparities in child and maternal health outcomes. For example, a study on the effect of paid leave in five states found that access to paid maternity leave significantly reduced the likelihood of early birth and the share of low-weight births among black mothers.⁴⁰¹ Mothers of color—black, American Indian and Alaska Native (AIAN) mothers especially—are at increased risk of maternal mortality,⁴⁰² low birth weight, and pre-term birth⁴⁰³ compared to their white counterparts.

A growing body of evidence points to the importance of paternity leave for health and development. A study of four OECD countries, including the U.S., indicated that longer paternity leave and increased paternal engagement with children is associated with higher cognitive test scores on average for their children.⁴⁰⁴ Evidence also suggests that increased paternal engagement reduces children's risk of developing behavioral challenges later in life and is linked to improved mental health outcomes⁴⁰⁵ and emotional stability.⁴⁰⁶ Paternity leave-taking can reduce overall family stress⁴⁰⁷ and improve sleep quality for both mother and newborn.⁴⁰⁸ Additionally, use of paternity leave, especially intermittent use, has been shown to reduce risk of postpartum health complications for mothers and improve their mental health outcomes.⁴⁰⁹

Employment & Economic Security Outcomes

Paid leave has meaningful implications for women's labor force participation and advancement.⁴¹⁰ Access to at least six months of job-protected paid leave increases the likelihood that women will return to their jobs.^{411, 412, 413} The retention of women in the labor force can reduce gender wage gaps by enabling women to continue building tenure and experience in their jobs, which, in turn, can increase their earnings.^{414, 415, 416}

Paid leave has meaningful implications for women's labor force participation and advancement.

Countries with at least six months of paid maternity leave have seen no short-term difference in economic output, instead seeing higher rates of labor force participation for women.⁴¹⁷ Since maternity leaves tend to

be longer than paternity leaves in most current policies, employers may assume that women are more likely to take longer periods of leave and discriminate against them as a result.^{418, 419} Offering equal lengths of leave for both parents may lessen that discrimination.⁴²⁰ Normalizing paid leave by creating a gender-neutral, standardized national policy could also help combat workplace discrimination.^{421, 422}

Paid leave policies that provide incentives for fathers to take leave can combat gender discrimination, interrupt the gender wage gap, and promote retention and job growth for women.^{423, 424} Findings from a 2018 study suggest that women in the workforce are often penalized when they have children,⁴²⁵ meaning they experience a negative shock in earnings.⁴²⁶ (Men, on the other hand, tend to experience the opposite effect, sometimes referred to as the “fatherhood bump.”)⁴²⁷ According to the study’s findings, mothers were less likely to be viewed as competent or recommended for hire, and had lower starting salaries compared to non-mothers and to men who were fathers.⁴²⁸ The disparate impact of parenthood also stems from employer assumptions that women will be more inclined to take leave from work or take on the majority of caregiving for a new child, relative to men.⁴²⁹

Paid leave policies can encourage men to take leave by setting aside time exclusively for paternity leave or providing bonuses if both parents take leave, for example.^{430, 431} Cultural shifts in gendered expectations around parental leave are crucial for women in the workplace, as is allowing and incentivizing fathers to take the same duration of leave as mothers. This can also reduce stigma around leave-taking—which is sometimes interpreted to mean low dedication to work.⁴³² Indeed, analysis of paid leave programs in OECD countries indicates that countries with policies that incentivize fathers to take leave had smaller gender gaps in labor force participation and supported mothers in returning to and remaining in the workforce.⁴³³

Family Caregiving Leave

Family caregiving leave (also referred to as family leave) is designed to allow workers to take time off to care for family members with a health problem or illness. The need for caregiving is growing and demand for caregiver support is projected to outpace the supply of caregivers as soon as 2030.⁴³⁴ The increasing costs of child care and long-term supports for people with disabilities and the elderly have made quality formal care unaffordable and inaccessible for many people.⁴³⁵ Family caregiving leave stands as one of the few available supports that can offer workers the flexibility to care for their loved ones without risking their financial security.⁴³⁶

State-level policies offer a range of 4 to 12 weeks (about one to three months) of family medical leave.^{437, 438} Half of OECD countries⁴³⁹ provide at least three months of paid leave to care for one’s children and have shown no adverse effects on labor force participation, unemployment, or economic growth.⁴⁴⁰ Eight OECD countries provide at least three months of paid leave to care for an adult family member.⁴⁴¹

Workers’ family leave needs vary widely. For example, children with cancer may miss up to 31 days of school for treatment, and children with mood disorders may need inpatient treatment which can take up to a month, in addition to outpatient therapy.⁴⁴² Workers may also take paid leave to provide care for adult family members with such conditions.⁴⁴³ Care for the elderly may require hospital visits and caregiving during recovery time after health procedures.⁴⁴⁴

Personal Medical Leave

Personal medical leave typically covers an employee’s own serious medical condition(s), including physical recovery from childbirth. State-level programs provide between two weeks (in the District of Columbia) and 52 weeks (in California) of paid leave for one’s own health condition, with the majority providing around 12 to 30 weeks (approximately three to seven months).⁴⁴⁵ Of OECD countries, 28 have paid personal medical

leave for at least six months (26 weeks), with no effects seen on national economic output or unemployment rates.⁴⁴⁶

The duration of leave that a worker requires will depend on their condition. For example, heart attacks can often require a minimum of four weeks of recovery time with up to six months of follow-up appointments. Cancer, which often requires chemotherapy and/or radiation treatment, can require up to six months of continuous treatment, depending on the individual case.⁴⁴⁷ Chronic conditions like diabetes can require ongoing appointments and sometimes hospitalization.⁴⁴⁸

Time off from work can be especially crucial for women with pregnancy complications, who may need preventive care and treatment prenatally.⁴⁴⁹ Evidence suggests that taking paid leave before giving birth reduces the incidence of low birthweight and preterm birth.⁴⁵⁰ Leave taken up to four weeks before birth can yield other maternal health benefits—including reduced risk of birth by Cesarean section (C-section).⁴⁵¹ Birth by C-section increases the likelihood of stillbirth, preterm birth, and maternal mortality and morbidity, among other complications,⁴⁵² and typically requires up to eight weeks for full recovery postpartum.⁴⁵³

It is essential that policies provide a duration of leave that is generous enough to cover a wide variety of needs. However, the length of paid leave should not be so long as to significantly harm labor market outcomes, although the duration of leave is ultimately determined by a physician's medical certification.⁴⁵⁴ Research on OECD countries suggests that taking leave for longer than a year can, “damage future earnings prospects and make it more likely that people leave the labor force altogether.”⁴⁵⁵ Some studies show that the negative effects of paid leave could start at the six month mark for women, through decreased wages⁴⁵⁶ by making it harder for women to move up within their organization due to the loss of on-the-job experience.⁴⁵⁷ These undesirable effects may be exacerbated by the gender discrimination that working women and working mothers face, in particular. The normalization of personal medical leave may be an important way to decrease the discrimination-related impacts on women—potentially lengthening the optimal duration for paid leave.

Health Coverage Continuity

Health coverage continuity is when workers continue to have access to their employer-provided health insurance with the same providers during their leave.⁴⁵⁸ New York's PFL law provides health coverage continuity,⁴⁵⁹ as does Washington's.⁴⁶⁰ Workers and their families need access to health insurance during periods of paid leave to afford the necessary treatment for their conditions avoid incurring debt for out-of-pocket medical costs.⁴⁶¹ Paid leave programs should require that workers have access to their health insurance while on leave.⁴⁶²

Recommendation 3: Provide Sufficient Time to Meet Workers' Needs

Six months of paid leave will generally meet workers' needs while promoting positive labor market and gender equity outcomes. Leave policies should be gender-neutral, and both fathers and mothers should have access to six months of parental leave per parent. Women should be able to take leave during pregnancy, rather than only after giving birth, if they choose. Single-parent families should have parental leave at parity with two-parent families. Appropriate leave durations support better financial, health, and child development outcomes for workers and their families.

INTERMITTENT & PART-TIME USE

Intermittent leave allows workers to take their paid leave in small increments, such as days or hours, instead

of in one longer block of time.⁴⁶³ This allows workers the flexibility to use their leave when they need it and save it when they do not. For example, a parent may need to take off part of a day for medical appointments for their child, or a worker might take leave occasionally to address their mental health needs.⁴⁶⁴

Part-time paid leave use can be particularly beneficial for new parents by enabling them to stagger their use of leave (and bring in more earnings by doing so).⁴⁶⁵ The staggering of leave can facilitate sharing of caregiving obligations between parents,^{466, 467, 468} as well as elder caregiving among adult children,⁴⁶⁹ or other relatives caring for people with disabilities.⁴⁷⁰ Some evidence suggests that policies that allow for part-time leave can help new mothers return to work earlier and remain in the workforce.⁴⁷¹

Workers with disabilities who require occasional medical attention and rest may particularly benefit from intermittent leave.⁴⁷² Overall, over 12 percent of the U.S. population—or some 41 million people—reports having a disability.⁴⁷³ A higher percentage of African Americans and American Indians have a disability compared to the white population.⁴⁷⁴ In part stemming from racial and ongoing labor market discrimination,⁴⁷⁵ people of color with disabilities are also more likely to work part time in low-paying jobs without access to leave.⁴⁷⁶

Intermittent leave could benefit those who experience symptoms related to menstruation, as well. A 2019 survey of over 30,000 women found that participants lost an average of nine days of productivity each year due to period pain.⁴⁷⁷ According to the study, 1 in 7 women surveyed took time off work due to their period symptoms.⁴⁷⁸ Intermittent leave (and other benefits like paid sick time and PTO) can provide greater flexibility in work hours for those who suffer from period pain and other symptoms related to menstruation—the study noted that flexibility in work hours could reduce the productivity effects.⁴⁷⁹

California, Massachusetts, New Jersey, New York, and the District of Columbia permit intermittent leave.^{480, 481, 482} A survey of the workers in states with PFL programs found that shorter increments (e.g., granted one day at a time, like in New Jersey and New York,⁴⁸³ or one hour at a time, as in California), are more effective at meeting workers' needs than longer increments (e.g., in Rhode Island, where leave can only be split into week-long increments).⁴⁸⁴ The hour-long increments permitted by California's program are particularly beneficial;⁴⁸⁵ an individual may, for example, want to take leave for a couple of hours once a week to go to a medical appointment without having to use a full-day of paid leave.⁴⁸⁶

Twelve OECD countries provide intermittent paid medical leave for personal health needs.⁴⁸⁷ At least half of the countries with paid family leave allow intermittent leave.⁴⁸⁸ Studies of OECD countries have found that intermittent paid leave can help workers with chronic diseases, increase workforce participation by allowing earlier returns to work,⁴⁸⁹ and promote work-life balance.⁴⁹⁰ A study in France found that the introduction of intermittent paid leave helped mothers with lower educational attainment remain attached to the labor market after childbirth.⁴⁹¹ A study in Sweden found that intermittent leave for fathers of newborns led to improved mental health and a reduced risk of postpartum health issues among mothers who were also on leave.⁴⁹²

Recommendation 4: Allow Intermittent & Incremental Leave

Paid leave policies should include intermittent leave and allow workers to take their leave in short increments, such as hours and days. Intermittent leave and short increments allow workers to take the leave they need, when they need it—and to work when they can. This is especially important for people with disabilities or chronic health conditions.

WAGE REPLACEMENT

Wage replacement refers to the percent of a worker's salary or wages they receive during their leave. A sufficiently high wage replacement rate makes it more likely that workers will be able to afford to take the leave they need. Progressive wage replacement schemes (wherein lower-paid workers have a higher replacement rate than higher-paid workers) and wage replacement caps are tools that can help ensure that low-paid workers receive sufficient wage replacement while containing program costs. Higher-paid workers are also more likely to have savings to help finance periods of leave compared to lower-paid workers.⁴⁹³ State program wage replacement rates range from 50 percent (New York for personal medical-only leave) to 100 percent (Oregon) with varying caps for maximum benefits.⁴⁹⁴ A number of states use progressive wage replacement.

Colorado legislators put forth the FAMLI Act, which would provide an estimated 65-95 percent weekly wage replacement to workers depending on their income.⁴⁹⁵ A simulation of the proposed law found that if five percent of eligible workers participated, a replacement rate of 90 to 100 percent of weekly wages for the lowest-paid workers would require a premium of less than one percent (0.678 percent) of total state payroll to cover the program's costs.⁴⁹⁵

Twenty-five OECD countries have at least an 80 percent wage replacement rate for maternity-only leave while 19 have this rate or higher for paid medical-only leave.⁴⁹⁷ Eighteen OECD countries provide at least an 80 percent rate for leave related to children's health needs, and 15 provide at least an 80 percent wage replacement rate for leave to care for adult family members.⁴⁹⁸

Evidence from OECD countries suggests that wage replacement rates must be at least 80 percent for low-paid workers to reduce poverty and promote gender equity.⁴⁹⁹ However, rates higher than 80 percent may be needed to help the lowest-paid workers, especially in places where the minimum wage is insufficient to meet workers' basic needs.⁵⁰⁰ A wage replacement rate of at least 80 percent can also help some middle class families meet their financial obligations, including housing payments, and out-of-pocket medical expenses.⁵⁰¹ This is also compatible with a healthy national economy, as studies on OECD countries found no significant negative effects of an 80 percent wage replacement rate on GDP growth or unemployment rates.⁵⁰²

Progressive Wage Replacement & Wage Replacement Caps

In many paid leave programs, wages are replaced at a sliding scale so that low- and middle-income people receive a high enough share of their usual wages for leave to be affordable. This progressive wage replacement is combined with a wage replacement cap that places a dollar limit on how much of a worker's wages can be replaced in a certain period of time.

Progressive wage replacement schemes and caps vary. In most state-based programs, caps are "set as a percentage of the state's average weekly wage, ranging from 50 percent to 100 percent."⁵⁰³ Oregon's PFML law, passed in June 2019, includes the most progressive wage replacement policy among states— starting in 2023 Oregon will provide 100 percent wage replacement for workers who make less than 65 percent of average weekly wages (AWW), capped at \$1,215 per week.⁵⁰⁴ The state's maximum payment amount is indexed to the Consumer Price Index (CPI) and will be adjusted annually.⁵⁰⁵ California also uses progressive wage replacement⁵⁰⁶ and includes a \$1,252 per week cap for 2019, which will be adjusted annually based on the state's AWW.⁵⁰⁷ The District of Columbia compensates low-paid workers (workers with earnings at or below \$840 a week on average) at 90 percent of their AWW.^{508, 509} In 2021, Massachusetts will implement an 80 percent replacement rate for wages below half of the state's AWW with no cap, and an 80 percent wage replacement with a cap of 50 percent of the state AWW for workers with incomes higher than 50

percent of the state's AWW.⁵¹⁰ In countries with maternity leave benefits, such as the Netherlands and Norway, mothers with above average earnings receive a wage replacement that is about 30 percentage points lower than those making less than average earnings.⁵¹¹

Wage Replacement & Take-Up Rates

Insufficient wage replacement rates can make it unaffordable for some workers to take the leave they are entitled to. For example, research from California shows that even among workers who were aware of the state's original PFL law, almost one-third did not apply because the 55 percent wage replacement rate (with a cap) was too low⁵¹² and low-paid workers were particularly unlikely to apply.⁵¹³ The low wage replacement rate would drive a minimum wage-earner deeper into poverty.⁵¹⁴ In 2016 the wage replacement rate in California was raised to a range of 60 to 70 percent based on these concerns.⁵¹⁵

Other states provide further examples. In Rhode Island, where the wage replacement rate is 60 percent of wages with a cap of \$795 per week, 80 percent of survey respondents who were qualified to take paid leave but chose not to said they declined because they could not afford the pay cut.⁵¹⁶ In New Jersey, where the replacement rate is 66.6 percent of wages with a cap of \$615 per week,⁵¹⁷ studies have found that the rate was too low for some fathers with low incomes to afford to take leave⁵¹⁸ and, while average nominal weekly benefits increased between 2009 to 2011, the real value of those benefits declined because wages had not kept up with inflation.⁵¹⁹ In 2020, the wage replacement rate will rise to 85 percent of weekly wages with a cap of \$860 per week.

Evidence from OECD countries indicated that a 67 percent replacement rate was needed to facilitate even modest paternity leave take-up rates.⁵²⁰ Findings from OECD countries also suggest that a high wage replacement rate better supports gender equity by improving gender parity in paid leave utilization rates,⁵²¹ reducing gender gaps in labor force participation,⁵²² and promoting equal involvement in child care between parents.⁵²³

Recommendation 5: Ensure Sufficient Wage Replacement

Wage replacement rates of 80 to 100 percent are necessary for low- and middle-income workers to be able to meet their financial needs while taking leave. These rates also better support gender equity. Wage replacement schemes should be progressive and avoid creating cliff effects where workers' benefits are abruptly and significantly reduced or altogether cut off upon reaching a certain income threshold. Sufficient wage replacement can improve take-up rates—especially for low-paid workers.

JOB PROTECTION & ANTI-RETALIATION PROTECTIONS

Job protection and anti-retaliation protections are core components of equitable paid leave policies. Job protection ensures that workers have the same or an equivalent job when they come back from their period of leave,⁵²⁴ while anti-retaliation provisions protect workers from adverse consequences such as pay reduction, dismissal, or demotion.⁵²⁵ The FMLA includes provisions that protect employees from retaliation and discrimination in hiring, promotion, or disciplinary action.⁵²⁶ Paid leave policies must account for widespread discrimination in the workplace. Despite federal laws banning discrimination and retaliation, many workers—people of color, people with disabilities, and women, in particular—continue to experience employment and workplace discrimination.^{527, 528} Findings from the U.S. Equal Employment Opportunity Commission indicate that 34 percent of employment discrimination claims in 2017 were race-based,⁵²⁹ about one-third were disability-based,⁵³⁰ and 30 percent were gender-based.⁵³¹

States vary on job protection and anti-retaliation provisions. For most PFML state laws, the only workers who with access to job protection are those who receive it under the FMLA (and the FMLA leaves two in five workers out of job protections).^{532, 533} Currently, Oregon is the only state to include job protection for paid personal medical leave separately from what one may qualify for under the FMLA.^{534, 535} New York's family leave law includes both job and anti-retaliation protections.⁵³⁶ New York has also created a transparent process for responding to complaints of noncompliance, retaliation, and discrimination.⁵³⁷ Rhode Island provides job-protected family leave with anti-retaliation protections.⁵³⁹ Massachusetts currently has the strongest job protection and anti-retaliation protections.^{540, 541} Nearly all (32 of 33) OECD countries with paid maternal leave and 20 of 32 with paternal leave guarantee job protection, though job protection is less common in countries with shorter paternity leaves.⁵⁴²

These protections make it more likely that workers will take the leave that they are entitled to. A survey of those who took job-protected PFL under Rhode Island law found that 45 percent of leave-takers surveyed would not have taken the leave if it was not job-protected.⁵⁴³ Studies have also shown that eligible workers may not take leave out of fear of losing their jobs, being demoted, or overlooked for promotions.⁵⁴⁴ One survey of California employers and workers found that more than one-third of respondents did not take paid leave because they were worried it would affect their opportunities for promotions or cause them to lose their job.⁵⁴⁵

Job protection can also help address racial disparities in leave-taking.⁵⁴⁶ Workers of color are likelier than white workers to face discrimination, retaliation, or job loss if they need to take leave.⁵⁴⁷ Black and Latinx workers are more likely to work in contract jobs and other jobs where workplace discrimination protections do not always apply.^{548, 549}

Job protection and anti-retaliation protections may be an important way to support fathers in taking leave. In a study of parents with low incomes in New Jersey, some fathers reported that they did not participate in the Family Leave Insurance (FLI) program due to the lack of job protection.⁵⁵⁰ In New Jersey, many fathers of color and with low incomes reported that they did not take paid leave to bond with or care for their new child because it was not job-protected.⁵⁵¹ In California, fathers were more likely to take leave for the birth of their first child than for any subsequent children.⁵⁵² This pattern may stem from a lack of job protection in California's law, as employers are more likely to approve leave for the birth of a first child.⁵⁵³

These protections are also of particular importance for women—especially women of color and mothers. Women who become mothers often face a penalty in the workplace. One study found that, on average, a woman's hourly wages drop by four percent for each child she has.⁵⁵⁴ In contrast, men's wages increase by an average of six percent when they become fathers, when accounting for experience, education, marital status, and hours worked.^{555, 556} Black and Latinx mothers are more likely than white mothers to be terminated from their jobs due to taking leave.⁵⁵⁷ Women of color are more likely than white women to be caregivers *and* breadwinners for their families, meaning they have less flexibility to leave the workforce to meet health or caregiving needs.⁵⁵⁸ Over 80 percent of black mothers, 67 percent of AIAN mothers, and 52 percent of Latinx mothers are major or sole providers for their families, compared to 50 percent of white mothers.⁵⁵⁹

Recommendation 6: Guarantee Job Protection & Anti-Retaliation Protections

Paid leave policies should include job protections and anti-retaliation protections. These policies should also include adequate enforcement of protections. Job protections and anti-retaliation provisions would help ensure that marginalized worker populations, in particular, fully realize the benefits of paid leave.

HOW IS PFML POLICY STRUCTURED & ADMINISTERED?

The structure of a paid leave policy, including how it is financed and administered, and how potential beneficiaries are made aware of and educated about the program, can impact access and the administrative burden on employees, employers, and the government.

FINANCING & DELIVERY STRUCTURE

Research suggests that the social insurance model funded through payroll taxes and the general revenue model are both strong financing and delivery structures for equitable paid leave policies. In contrast, employer mandate programs are usually financed and administered by employers themselves, which may make these programs less effective at inhibiting hiring discrimination. A tax credit structure is unlikely to benefit those who need paid leave the most because employer participation would be voluntary—and marginalized workers are less likely to be employed at businesses that offer paid leave.

Social Insurance

Social insurance is a method of providing benefits to people that is run by a government. Paid leave programs with a contributory social insurance structure are typically funded by payroll taxes levied on either employees and employers, or both.⁵⁶⁰ The money is put into an insurance trust fund which the government uses to administer the program and disburse benefits.⁵⁶¹ (Such funds are sometimes supplemented by additional government appropriations.^{562, 563}) Because employers do not pay the full cost of leave, the social insurance model can help combat hiring discrimination, particularly against women who may become mothers.⁵⁶⁴

Social insurance is the most commonly selected design for existing state-level PFML programs.⁵⁶⁵ The social insurance model has been successful for other programs at the national level (e.g., Social Security).⁵⁶⁶ Additionally, the vast majority of paid leave programs in OECD nations across the world fund their programs “through social security or public funds, or through a combination of employer liability and public funds.”⁵⁶⁷

Social insurance is the most commonly selected design for existing state-level PFML programs.

Most state-level PFL programs employ a payroll tax of approximately one percent that applies to wages up to a cap, which is relatively modest compared to Social Security payroll taxes.⁵⁶⁸ Some states have a payroll tax on both employees and employers.⁵⁶⁹ As of 2019, the District of Columbia’s paid leave program is the only one financed using an employer-only tax.⁵⁷⁰ That decision stemmed from a unique legal prohibition against taxing non-resident workers.⁵⁷¹ A worker-side tax along with a tax on employers can make workers more likely to view the program as an investment that is shared between themselves and their employer. This dynamic could help increase take-up rates and bolster public support.⁵⁷²

Health insurance and paid leave benefits would not be tied to the employer under a social insurance model. These benefits would be administered through the government, thus relieving workers of legal and other obligations to return to their prior employer post-leave or to pay their employer back for benefits if they do not return. Under the FMLA, if an employee does not return to their job after their period of unpaid leave, they may be required to pay their employer back for the cost of their health insurance during their leave, unless they quit for an FMLA qualifying reason.⁵⁷³ This can discourage low-paid workers from taking leave or cause them financial harm.⁵⁷⁴

Social insurance paid leave programs can also allow more flexibility for workers who switch jobs compared to employer mandates and tax credits because social insurance programs are administered by the government rather than by one's employer.⁵⁷⁵ However, some workers who hold multiple jobs may be ineligible for paid leave if the program includes a job-specific tenure requirement,⁵⁷⁶ although each employer pays into the system via payroll taxes (a cost that is likely passed on to workers in the form of decreased wages). In the Unemployment Insurance (UI) system (which is structured as a social insurance program), some multiple job-holders may be at a disadvantage in this way.⁵⁷⁷ The social insurance model can be designed to include multiple job-holders by rejecting or minimizing job-specific tenure requirements.

Risk Pooling

Social insurance models can pool risk.⁵⁷⁸ When social insurance programs are broadly inclusive and have limited or no options to opt out, more workers and employers participate.⁵⁷⁹ A large pool, in turn, more effectively diffuses risk and reduces the cost to individual participants and employers (though, ultimately, program cost will also depend, in part, on program utilization rates).⁵⁸⁰ When high risk is offset and diffuse under a social insurance model, premiums and other costs to each payer also become more predictable, meaning that all employers and workers can receive similar benefits and prices regardless of health status and other demographic factors that predict propensity to take leave.⁵⁸¹ Governments might have an advantage relative to private insurers when it comes to administering a social insurance program, as a government agency could pool risk across an entire jurisdiction's workforce and leverage existing payroll systems to collect contributions.⁵⁸²

General Revenue

In PFML programs funded through general revenues, the government pays for the cost of benefits through its general budget instead of levying dedicated payroll taxes on workers or employers.⁵⁸³ Instead of applying wage replacement rates, most policies of this kind provide benefits at a flat or modest rate,⁵⁸⁴ although proposals exist that provide wage replacement funded through general revenues.⁵⁸⁵ Australia uses a flat rate model and gives workers a benefit equal to the country's minimum wage. New Zealand also uses this system for parental leave.⁵⁸⁶ Other OECD countries, such as Germany and Luxembourg, use general revenues to finance paid parental-only leave,⁵⁸⁷ and others still, like Portugal and Italy, use general revenues to fund paid parental-only leave for certain workers, such as social assistance recipients and workers in specific industries.⁵⁸⁸

General revenues can be advantageous for financing paid leave policies because they incentivize greater support from employers and businesses, as they do not directly bear the cost burden under this structure.⁵⁸⁹ For example, New Zealand was able to provide a longer duration of parental-only leave with limited employer objections because the extension would not be financed directly by the businesses.⁵⁹⁰

Conversely, implementing a general revenue structure for paid leave, particularly in the U.S. context, could result in a higher general tax burden,⁵⁹¹ (as could a social insurance model) along with a greater budget deficit⁵⁹² or funding cuts to other assistance programs.⁵⁹³ With general revenue financing, policymakers may find it easier to restrict eligibility on a needs basis to manage costs, as is the case in Australia, where paid leave benefits are available only to workers with annual incomes below a certain threshold (\$150,000 AUD or \$105,232 in 2019 USD).⁵⁹⁴

Employer Mandate

Employer mandates require employers to offer paid leave to workers. Generally, employers would either

pay for the leave out of pocket or by purchasing private insurance plans.⁵⁹⁵ Sometimes the government provides some of the funding for the program⁵⁹⁶ or employees might contribute.⁵⁹⁷ Under this system, employers look at employees' chance of using leave or how much leave they have taken in the past to determine how much premiums should cost.⁵⁹⁸ Employers generally are not in favor of an employer mandate because of the added costs to them, including administrative costs.⁵⁹⁹ Participation rates could be high, but tempered by fear of facing consequences for taking leave, and discomfort with sharing personal, sensitive medical information with employers directly rather than sharing one's information with a government agency.⁶⁰⁰

Employer mandate programs require government oversight to ensure that employers do not discriminate during the hiring process against those they perceive as more likely to take leave.

Employer mandate programs require government oversight to ensure that employers do not discriminate during the hiring process against those they perceive as more likely to take leave. This could be done through the U.S. Department of Labor or Equal Employment Opportunity Commission. There is no model for using an employer mandate structure for a national PFML program, though some countries have provided maternity leave in this way⁶⁰¹ and Hawaii does so for its TDI program.⁶⁰² Countries with using employer mandates have seen increased employment discrimination against women and gender wage gaps because, under this structure, risk is not pooled and women are as seen as being more likely to take leave or have family obligations.^{603, 604}

Employer Tax Credit

Under an employer tax credit financing structure, the government provides employers a tax credit for a portion of wages paid to employees while on leave. Rather than guaranteeing access to all workers, this structure rewards voluntary employer behavior.^{605, 606} This puts low-paid workers at a disadvantage, as they are less likely to work for businesses that offer leave. Additionally, tax credits are likely most beneficial for large companies, which have more resources to cover the expenses of paid leave relative to smaller businesses.^{607, 608} Nonprofit organizations are unlikely to benefit from tax credits since these types of employers are typically exempt from federal taxes, and employer tax credits tend to be non-refundable.^{609, 610, 611} Government employers may be excluded from receiving the credit, as is the case with the 2017 Tax Cuts and Jobs Act (TCJA) employer tax credit.⁶¹² Further, employer tax credits will likely leave out self-employed workers and workers whose employers are unable to afford to provide paid leave even with the tax credit.⁶¹³

An employer tax credit for PFML was established in the 2017 Tax Cuts and Jobs Act (TCJA).⁶¹⁴ The nonrefundable credit compensates employers who replace at least 50 percent of their employees' wages based on income from the year before (beginning in 2017) for up to 12 weeks of paid leave in accordance with the FMLA, and can be claimed for years 2018 and 2019.⁶¹⁵ The TCJA tax credit covers 12.5-25 percent⁶¹⁶ of paid leave benefits paid to employees who earned \$72,000 or less in 2017, in an effort to target paid leave benefits toward middle-class and low-paid workers.⁶¹⁷ Since the TCJA tax credit only covers up to a quarter of paid leave costs and would be paid at the end of the year, it provides limited incentives and resources for companies to start providing paid leave.⁶¹⁸

Employer tax credits have been put forth in national paid leave proposals, including that of Senator Marco Rubio during his presidential run.³ Rubio's proposal called for an employer tax credit at 25 percent of wages

³ The Rubio proposal was the forerunner to what ended up in the TCJA. Rubio walked away from this proposal after his presidential run, concluding that social insurance (albeit through Social Security "pull forward") would be more effective. See: "Rubio, Romney, Wagner, Crenshaw Introduce Bill Giving Parents an Option for Paid Family Leave." Marco Rubio, U.S. Senator for Florida, 27 March 2019. Available at <https://www.rubio.senate.gov/public/index.cfm/2019/3/rubio-romney-wagner-crenshaw-introduce-bill-giving-parents-an-option-for-paid-family-leave>.

paid to employees taking leave for up to 12 weeks,⁶¹⁹ capped at \$4,000 per employee per year.⁶²⁰ An analysis of Rubio's proposal found that the benefits would tend to accrue to employers who were already providing paid leave.^{621, 622} A similar tax credit was proposed in the Strong Families Act, introduced by Senators Deb Fischer (R-NE) and Angus King (I-ME).⁶²³ The proposal would provide employers with a tax credit if they offer at least two weeks of paid leave time, separate from vacation or sick leave, to their employees.⁶²⁴ Under the proposal, employers would receive 25 percent of the wages paid to employees on leave capped at \$3,000 per employee per year.⁶²⁵ The tax credit would be available to all employers regardless of size, and the proposal includes anti-retaliation protection for workers who participate in the program.⁶²⁶

Recommendation 7: Structure Financing to Pool Risk & Limit Hiring Discrimination

Paid leave programs should be structured as social insurance models (involving payroll taxes on employees, employers, or both) and/or funded through general revenues. The social insurance model pools risk and is more likely to provide continuity in access to benefits for workers. Employer mandates are more likely to result in hiring discrimination, and employer tax credits reward voluntary employer behavior rather than create a guarantee of access to paid leave for workers.

BOX 3: THOUGH BENEFICIAL TO WORKERS, TAX CREDITS CANNOT ENSURE INCLUSIVE & COMPREHENSIVE PAID LEAVE

In recent years, policymakers and experts have put forth proposals that leverage the tax code to either explicitly or implicitly expand access to paid leave for workers. For example, the proposed Earned Income Leave Benefit (EILB) is modeled after the Earned Income Tax Credit (EITC) and would provide paid leave. Evidence that married women with children work fewer hours when someone in their household receives the EITC⁶²⁷ has led some policymakers to suggest that a sufficiently high Child Tax Credit (CTC) could eliminate the need for paid leave for parents.

The EITC and CTC are not a replacement for paid leave programs, however. They are not designed to provide wage replacement, job protection, or other important aspects of paid leave programs. What's more, tax credits are usually dispersed annually, which limits their usefulness for covering monthly expenses like rent.⁶²⁸ Further, workers who operate in the informal sector (e.g., some domestic workers) and are unable to file taxes do not have access to tax credits.⁶²⁹

Nonetheless, efforts to expand tax credits are important. Indeed, a significant body of evidence indicates that the EITC and CTC combat poverty, boost employment, and improve child development outcomes.⁶³⁰ Additionally, the EITC helps to offset payroll taxes,⁶³¹ which may help low-paid workers who contribute to paid leave programs through taxes on their wages. Policymakers have proposed to expand access to tax credits to include unpaid caregivers and others who do not earn wages. Such expansions could be especially important for households that do not include a worker who is eligible for paid leave (e.g., households with a single, stay-at-home parent).

The Earned Income Leave Benefit (EILB)

Modelled after the EITC, the EILB would create a paid leave benefit capped at \$3,500 over 12 weeks of leave for workers with annual incomes below \$28,000.⁶³² Workers who qualify for leave under the FMLA would be eligible.⁶³³ The EILB was proposed in 2016 by the American Action Forum as a less expensive alternative to the FAMILY Act,⁶³⁴ and leave benefits are projected to accrue primarily to individuals with incomes below 200 percent of the federal poverty line (FPL).⁶³⁵

Strengthening the EITC and the CTC

The EITC supports low-paid workers by providing a lump sum payment each year to qualifying individuals and families after filing their tax returns.⁶³⁶ The CTC works in a similar way. Structuring paid leave benefits as taxable income could support low-paid workers who qualify for the EITC and CTC by increasing the tax credit they would receive.⁶³⁷

Policymakers have endeavored to expand these important tax credits. Introduced by Senator Michael Bennet (D-CO) and Representative Rosa DeLauro (D-CT), the American Family Act would increase funding for the Child Tax Credit (CTC), expand eligibility, and make the credit fully refundable.^{638, 639} Unlike the current structure, which provides the lump sum payment annually, the payment would be disbursed monthly to more effectively support families in meeting their monthly expenses.⁶⁴⁰ The Working Families Tax Relief (WFTR) Act, proposed by Representatives Dan Kildee (D-MI) and Dwight Evans (D-PA), would expand both the EITC and CTC.⁶⁴¹

Caregiver EITC

While the EITC and CTC exclude those who do not receive wages for work, a caregiver EITC would modernize the EITC to provide credits to millions of unpaid caregivers in low-income households, many of whom are stay-at-home parents, caregivers for adult loved ones, or parents enrolled in school full-time.⁶⁴² A caregiver EITC would enable caregivers of children and vulnerable adults to receive a full EITC refund (up to \$4,000 a year),⁶⁴³ recognizing that caregiving is a form of work.⁶⁴⁴ However, childless adults who face barriers to employment and adults who do not have custody of their children would be excluded.⁶⁴⁵ The caregiver EITC idea has been included in a number of legislative proposals including the Cost-of-Living Refund and the EITC Modernization Act.⁶⁴⁶

Cost-of-Living Refund

Spearheaded by the Economic Security Project, the Cost-of-Living Refund proposal includes a caregiver credit, similar to a caregiver EITC, which would provide benefits for unpaid caregivers, along with full-time students with low incomes.⁶⁴⁷ EITC recipients could also opt to receive their benefits monthly.⁶⁴⁸ It is estimated that the Cost-of-Living Refund would reach about 40 percent of households (153.7 million people), lift an estimated 14.7 million out of poverty, and cut the poverty rate by a third.⁶⁴⁹ A number of policymakers have embraced the Cost-of-Living Refund in policy platforms and proposed bills—including Senator Cory Booker (D-NJ), Senator Sherrod Brown (D-OH) and Representative Ro Khanna, along with Representative Bonnie Watson Coleman (D-NJ) who proposed the EITC Modernization Act.⁶⁵⁰

ADMINISTRATION

When enacting PFML, an administrative body will need to be either created or, if an existing agency is chosen, expanded to administer the PFML program. This decision is linked to other key decisions regarding how the program will be structured and delivered, and whether states or the federal government will have ultimate administrative responsibilities. Regardless of the specifics, the chosen administrative body should be well-suited to undertake the following core functions:

1. Conduct outreach and education;
2. Determine whether a worker is eligible based on rules for program participation;⁶⁵¹

3. Determine whether a worker is experiencing a leave-qualifying event;⁶⁵²
4. Calculate, process, and disperse benefits;⁶⁵³ and
5. Process and address appeals claims where a worker's benefits are initially denied.⁶⁵⁴

Paid leave programs should be administered through a public agency rather than private industry to leverage access to a wider base of contributions and existing payroll tax-collection systems. One option is to have the Social Security Administration (SSA) administer a new national program. Indeed, this is the approach that is proposed in the FAMILY Act.

States vary in how they administer existing paid leave programs. A few administer their programs through employment security agencies and rely on the administrative infrastructures of existing TDI programs—others rely on existing UI infrastructures. The paid parental-only leave plan put forth in the Trump Administration's FY 2018 budget would be administered jointly through states' UI programs and the federal government starting in 2020.⁶⁵⁵ States would have the flexibility to set benefit levels.⁶⁵⁶

A National Paid Leave Program

A national program could use SSA's existing administrative infrastructure (though the FAMILY Act does propose creating a new office within the SSA to run the program).⁶⁵⁷ This would build upon the agency's existing expertise in the five core functions noted above. As the agency administering a number of programs that range from retirement benefits to disability insurance,⁶⁵⁸ SSA houses considerable expertise in determining eligibility, calculating and dispersing benefit payments, and processing appeals claims. Additionally, SSA already collects earnings data for almost all workers in the U.S., allowing for the SSA to determine eligibility and calculate paid leave benefits amounts while minimizing reporting burdens on employees and self-employed workers.⁶⁵⁹ SSA has numerous processing centers and regional offices, as well as field offices in all 50 states, the District of Columbia, and the U.S. territories.⁶⁶⁰ SSA conducts outreach and promotes public awareness of programs through its various regional offices,⁶⁶¹ and produces general information materials in various formats and languages.⁶⁶²

Primary administrative responsibility is best-placed at the federal level—and SSA is an ideal option. Placing the primary administrative responsibility at the state level, on the other hand, could result in uneven implementation and, where funded at the state level, structural underfunding. The UI experience suggests that state competition may result in inadequate financing and, consequently, more modest benefits, especially for low-paid workers.⁶⁶³ While the primary administrative responsibilities should lie at the federal level, a national policy may allow for and encourage state and employer programs to augment the national policy by, for example, providing higher wage replacement rates or extended paid leave durations.⁶⁶⁴

State-Level Paid Leave Programs

The first adopters of state PFML used social insurance models and delegated administrative responsibility to existing bodies that already administered other social insurance programs.⁶⁶⁵ California, New Jersey, Rhode Island, and New York relied on the administrative structures of their long-standing TDI programs and administer their paid leave programs through state employment security agencies⁶⁶⁶ or state departments of labor.⁶⁶⁷

In some cases, states have used the administrative body that runs their UI programs.⁶⁶⁸ For example, in the District of Columbia⁶⁶⁹ and Massachusetts,⁶⁷⁰ the programs are administered through separate offices inside

the state departments of labor—which also administer the UI programs. Similarly, in Washington, both the paid leave program and the UI program are administered by the Employment Security Department.⁶⁷¹ Connecticut, however, has a quasi-public agency (made up of both public and private entities) that runs its paid leave program and is not housed under any other state agency.⁶⁷²

Recommendation 8: Build Upon Existing Administrative Infrastructures

A national PFML program should be administered at the federal level, rather than through a state-federal partnership, and could be administered by a new office within the SSA. SSA likely offers the best administrative structure for ensuring adequate benefits levels and access for all workers. Using the SSA could also reduce reporting and documentation burdens—which is especially important for low-paid workers. Net new staff should be hired to alleviate the administrative burden of implementing a paid leave program when using existing infrastructure.

BOX 4: WHAT WE CAN LEARN FROM THE UI EXPERIENCE?

In developing a national PFML program, policymakers can draw from the experience of our unemployment insurance (UI) system. Established in the 1930s, the modern UI program temporarily replaces a portion of wages lost by job seekers who, “through no fault of their own,” are separated from employment.⁶⁷³ In turn, the program also helps stabilize the economy during economic downturns.⁶⁷⁴ States administer unemployment insurance benefits and largely fund the programs through payroll taxes on employers.⁶⁷⁵ The federal government pays the administrative costs of the programs.⁶⁷⁶ The UI program’s long history—and its challenges related to reaching disadvantaged workers—offer insights into how to design and implement an inclusive, national PFML policy.

UI is designed as a federal-state partnership. The U.S. Department of Labor oversees the states’ programs to ensure they meet minimal federal requirements,⁶⁷⁷ but states have much freedom to define eligibility, employer tax rates, benefit levels, and duration.⁶⁷⁸ As a result, UI programs differ considerably by state⁶⁷⁹ and, to attract and retain businesses, some states may lower UI taxes by tightening eligibility standards in ways that disproportionately affect workers with low incomes.⁶⁸⁰ A national paid leave program should be administered at the federal level, rather than through a federal-state partnership, to avoid these problems.

UI also demonstrates the pitfalls of a program that is too tightly structured around formal, full-time employment.⁶⁸¹ Depending on the state, part-time and seasonal employees are excluded—and, even when included, the system largely disadvantages them.⁶⁸² For example, many states do not cover job seekers who are seeking part-time work rather than full-time work.⁶⁸³ Improving access to UI for part-time workers would especially benefit women and workers with low incomes.⁶⁸⁴ Independent contractors and self-employed workers are typically excluded as well.⁶⁸⁵ A national paid leave policy should cover all worker types, including those who work part time.

Most states determine the value and duration of unemployment insurance benefits a worker qualifies for based on both the worker’s prior wages and their recent work history.⁶⁸⁶ As a result, many working in the informal economy and those first entering or recently returning to the formal labor market are at a disadvantage. The workers who often fall into these categories include those with caregiving responsibilities, formerly discouraged workers, and workers with unpredictable schedules and pay.⁶⁸⁷ A national paid leave program should have low minimum earnings requirements and cover all workers with a modest work history.

OUTREACH, EDUCATION, & APPLICATION PROCESS

To be truly inclusive, paid leave programs must provide outreach, education, and application processes that are easy to navigate. It is not enough to rely on employers to communicate with workers about paid leave programs. Materials and application processes should be available in multiple languages and be accessible to people with disabilities. Materials and applications should also use plain language.

Outreach & Education

Targeted outreach and education campaigns, especially for low-paid and other marginalized workers, are essential components of any inclusive paid leave program. Evidence suggests that low-paid workers, women, and people of color are among those least likely to be aware of paid leave laws and benefits.^{688, 689} Many workers learn about programs through their employers. However, employers who have generous existing paid leave policies have an incentive to spread awareness about state-level programs,⁶⁹⁰ while smaller employers or employers with more part-time or nonstandard workers may not have such an incentive.^{691, 692} It is also likely that if paid leave policies do not include important features like job protection and adequate wage replacement, people of color and those in low-paying jobs will be less likely to take leave and share information about paid leave with their networks.

States have used various strategies to raise awareness and educate workers about their paid leave programs. New York developed a robust public advertising campaign which, according to the Community Service Society of New York, included “subway and bus ads, webinars, public service announcements, brochures, a website, a telephone helpline, posters, events, social media, fact sheets and FAQs geared to various constituencies, and earned media coverage.”⁶⁹³ Researchers at the Center for Economic Policy Research (CEPR) noted that advocates in California were able to successfully increase awareness of the state’s PFL program by providing information about it in federally qualified health centers (FQHCs), where advocates held community workshops, distributed flyers, and trained caseworkers to have one-on-one conversations about the program with clients.⁶⁹⁴

Despite the existing awareness efforts, disparities in awareness about paid leave programs persist. Studies of state paid leave programs have shown that people of color were least likely to know about the programs, benefits, eligibility requirements, and application

processes.⁶⁹⁵ In California, a study on the first decade of paid leave implementation in that state found that the workers who were most likely to need leave, including people of color, individuals with less educational attainment or low incomes, and individuals who did not already have employer-based paid leave benefits (such as part-time workers and nonstandard workers),⁶⁹⁶ were the least likely to know about the paid leave program.⁶⁹⁷ Only 18 percent of parents of children with special needs knew about the program, and only five percent had used it.⁶⁹⁸ In New Jersey, single adults and people of color were among the groups least likely to be aware of the state’s family leave program.⁶⁹⁹

Despite the existing awareness efforts, disparities in awareness about paid leave programs persist.

Application Processes

Even when workers know about existing state-level paid leave programs, the information they receive can often be unclear and the application process can be difficult to navigate. For example, English language-learners in California who received informational materials on the state’s paid leave program reported that the materials were hard to understand and sometimes poorly translated.⁷⁰⁰ A study of workers with disabilities and serious health conditions and their caregivers in California, New Jersey, New York, and North Carolina found that information from both the government and employers was unclear, incomplete,

or confusing, which led to workers being unsure about their eligibility.⁷⁰¹ Workers with disabilities in the study also had difficulty finding support to navigate the application process. For example, some workers had to make trips to the claims office because they could not get in touch with a program administrator by phone.⁷⁰²

Tight deadlines can be a barrier for those applying to programs. New Jersey's PFL program has a narrow timeframe for paid leave applications, for example, which has resulted in many claims being denied because they were submitted after the deadline.⁷⁰³ The state also will not process the paperwork until the applicant's period of paid leave has begun and many employees have started their leave without knowing if their application would be accepted.⁷⁰⁴

Online applications are generally the most user-friendly option and can provide administrative cost savings.⁷⁰⁵ Many states use online applications, though paper applications are still available by request in most states.^{706, 707} In California, the move to an online application has led to reduced time for processing claims, reduced paper and postage costs, more protection against fraud, and the convenience of an online confirmation that the application has been submitted.⁷⁰⁸ While California's paid leave website is available at all times for most services, including filing claims and submitting forms, online account creation for the website is only available from 6 A.M. to 6 P.M. Monday-Saturday and from 6 A.M. to 5:30 P.M. on Sundays.⁷⁰⁹ California also has an online portal that answers common questions about the program;⁷¹⁰ for disability insurance, the state has videos, tutorials, and tips for how to use the program.⁷¹¹ In New York, workers have reported that the state's PFML website was easy to understand and user-friendly⁷¹² and the state has a toll-free helpline that can assist anyone who wants more information about the program.⁷¹³

Online applications are generally the most user-friendly option and can provide administrative cost savings.

While online applications have demonstrated benefits in reducing administrative costs, an exclusively online system may leave out people who lack internet or technology access, of which people with disabilities make up a disproportionate share.⁷¹⁴ Inclusive paid leave programs should have options to file applications in person or by phone, along with accessible online options.⁷¹⁵

Recommendation 9: Employ Targeted Outreach Strategies & Simple, Accessible Application Processes

Paid leave programs should employ targeted outreach strategies that include accessible, multilingual materials written in plain language. This can help ensure that people with disabilities and those with limited English proficiency, in particular, can access the information they need. Information about programs should be complete, accurate, and presented in plain language. The paid leave application process should be simple, short, and accessible to all workers. Support should also be widely available to help workers in need of assistance.

CONCLUSION

In a nation where adults who are able to work are overwhelmingly expected to work, and caregiving needs are often met by loved ones, the need for paid leave is universal. Every worker, at one point or another, likely will need time off to care for themselves or a loved one. And research shows that paid leave supports workers in meeting their caregiving, health, and safety needs. Paid leave also supports better economic,

health, and child development outcomes for workers and their families, and can help ensure that workers do not have to choose between giving or receiving care and the earnings they need to maintain their families' financial security. The cost—to both workers and employers—of continuing to rely on the patchwork of existing policies is too high.⁷¹⁶

Caregiving is essential to society—and it is demanding work. In 2015, an estimated 43.5 million adults were informal (unpaid) caregivers, mostly for their family members.⁷¹⁷ These caregivers spent an average of 24.4 hours providing care each week.⁷¹⁸ Over half (56 percent) of those who were employed while providing care worked full time.⁷¹⁹ Although most caregivers are women, 40 percent are men.⁷²⁰ Despite the prevalence of working caregivers, our society does little to support them.

Our nation's workers need and deserve more. Access to paid leave should not be determined by what kind of job you have, where you live, or by the luck of the draw in the employer lottery. What's more, workers who are most likely to be left out are often those who would benefit the most from access to paid leave—including low-paid workers, immigrants, women, workers with disabilities, and workers of color. A comprehensive and inclusive national policy is long overdue. In the absence of a national policy, states must do more.

A substantial and growing body of research is available to inform decisions about how to design equitable paid leave programs that meet the needs of all workers. This means excluding requirements related to employer size and extending eligibility to all worker types—including part-time workers, domestic and agricultural workers, as well as independent contractors. Documentation requirements should not be prohibitive and family definitions should be broad and inclusive. Workers should be able to access leave for a wide variety of reasons, including DV/IPV. Paid leave durations should be sufficiently long, and workers should be able to use their leave intermittently and in small increments. Wage replacement rates should be progressive and high enough that all workers can afford to take leave, and when they do, their jobs should be protected and they should be guarded against retaliation.

A robust social insurance paid leave program may be most likely to meet these standards—and to support employers who might otherwise struggle to provide paid leave to their workers. Paid leave also supports a strong economy by increasing labor force participation and productivity—and by helping workers stay in jobs that match their skills.⁷²¹

To promote gender, racial, and economic equity and support workers in meeting their caregiving responsibilities, taking care of their own health, and maintaining financial security, we need a national paid leave policy that is designed to reach all workers in ways that make sense for them and their lives.

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