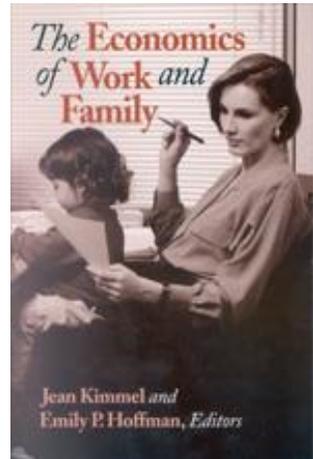

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Working for All Families? Family Leave Policies in the United States

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Over the past 20 years, two demographic trends in the United States have captured the attention of social scientists and policymakers. First, the percentage of mothers with young children who are in the workforce has increased. Today most children with married parents see both their mother and father go to work each week, and single parents are more likely to work full time than either part time or not at all (Ross Phillips 2002). As parents become increasingly attached to the labor market, pressures build within employers and across governments to develop working environments that facilitate the combination of caregiving and market work responsibilities. Adding to these pressures is the second major demographic trend of the late twentieth century: the aging of the population. As they age, workers' need for leave from work to tend to their own health or to care for their parents or spouses intensifies.

In 1993, the United States passed legislation aimed at easing the tension many employees feel as they face the challenge of trying to care for themselves and their families while maintaining an attachment to the workforce. The Family and Medical Leave Act (FMLA) provides job-protected leave to eligible workers for a variety of caregiving and medical reasons. Throughout the 1990s state governments and private employers also experimented with different leave policies.

Policies that allow workers time to take care of their own and their families' health needs can improve employment security in the short-term and, as a result, help raise family earnings and income in the long-term. Explicit in the FMLA is a goal to promote economic security for all families (U.S. Department of Labor 1993). The ability of family policies, both public and private, to improve economic security

depends both on benefit generosity and the number of workers who have access to the benefits. If access to family leave is negatively related to income status, then the economic security derived from family leave may not reach low-income working caregivers. For example, poor mothers who leave the welfare system for employment may find they are not protected by the FMLA.

Just three years after passing the FMLA, the United States enacted the Personal Responsibility and Work Opportunities Reconciliation Act of 1996 (PRWORA). Commonly referred to as “welfare reform,” a goal of the legislation is to convert welfare into a transitional, work-focused assistance program. The law requires most participants to work after two years of benefit receipt and imposes a five-year lifetime limit on a family’s receipt of the federal portion of welfare benefits. As a result, the PRWORA will move mothers who previously relied on public support into the workforce. Given that federal policy is directing some welfare recipients into employment, it seems reasonable to ask if federally guaranteed employment supports, such as the FMLA, are available to these mothers.

This chapter examines whether leave provided under the FMLA, as well as through private employers and state policies, works for all families in the United States. After reviewing the forms of leave that workers might use to address their family and medical needs, the chapter looks at whether access to these benefits is related to family income or occupations status. Research suggests that in the years directly after leaving welfare for work, most mothers will be employed in blue-collar or service occupations and will live in families with incomes less than twice the poverty line. The analysis highlights these occupation and income groups. The chapter concludes with some policy recommendations aimed at improving access to family leave benefits among low-income workers.

PUBLIC AND PRIVATE FAMILY LEAVE POLICIES

The Family and Medical Leave Act of 1993

The FMLA was the first major piece of legislation signed into law by President Clinton. The act provides eligible employees with up to 12 unpaid work weeks of job-protected leave during any 12-month period for the birth or adoption of a child, the foster care of a child, to care for a seriously ill child, spouse, or parent, or for an employee's own serious illness.

Leave mandated by the FMLA is job-protected but unpaid. After an FMLA leave the employer must allow a leave-taker to return either to the same position held before the leave or to a position with equivalent pay, benefits, terms of employment, and seniority. An employer may deny reinstatement to an employee who is among the highest paid 10 percent of the employer's workforce if reinstatement would cause "substantial and grievous economic injury" to the business. Furthermore, if the employee would have been laid off, terminated, or downgraded had she not taken leave, her job will not be protected during her leave.

The FMLA does not require remuneration during the leave period. An employer, however, may require its employees to use accrued vacation and/or sick leave as a portion of FMLA leave. An employee can use paid vacation or annual leave for a portion of FMLA leave and will usually be permitted to use paid, accrued sick leave as well. The total amount of FMLA leave, however, cannot exceed 12 weeks within a 12-month period. For example, if an employee substitutes two paid vacation weeks for FMLA leave, then she is only entitled to 10 unpaid weeks.

The use of FMLA leave cannot result in the loss of any employment benefit earned prior to the leave, although benefits need not accrue during the leave. Under the FMLA, an employer must maintain health insurance coverage during the leave period in the same manner as if the employee had continued employment. If the employee fails to return to work after the specified leave period an employer can stop paying for health insurance and recover premiums paid to maintain the health insurance during the leave period. If the employee cannot return

to work due to a continued health condition or a reason beyond the employee's control, however, the employer cannot recover health insurance premiums paid during the leave period.

Family and medical leave is available to an employee who 1) has at least 12 months of tenure with the employer from whom she will take leave; 2) has worked at least 1,250 hours during the 12 months preceding the leave period for the employer; and 3) works for an employer who employs at least 50 people within a 75-mile radius of the employee's worksite. The FMLA applies to private establishments, federal, state, and local governments, and Congress. The FMLA does not replace any state legislation that was more generous than the FMLA's provisions.

According to a recent Department of Labor survey, of the six possible reasons for taking family leave, a worker's own serious health condition is the most common (Cantor et al. 2001).¹ Among workers who took family leave over an 18-month period ending last year, the majority (52 percent) of the workers took leave for their own serious illnesses. Less than one in five workers took parental leave (19 percent), and 8 percent took leave for maternity disability.² Similar percentages of workers took leave to care for a seriously ill parent (13 percent) or child (12 percent). Only 6 percent of workers used leave to care for an ill spouse.

State Family Leave Policies

Some state laws provide family leave that is more expansive than the FMLA. For example, a number of states allow longer maternity and parental leave periods, some states mandate that small employers also provide maternity leave, and a few states allow parents some time away from market work to participate in their children's education. State Temporary Disability Insurance (TDI) programs in California, Hawaii, New Jersey, New York, and Rhode Island provide partial wage replacement during maternity disability leaves. Typically, TDI leaves are not job-protected, and eligibility criteria for TDI programs can limit their reach. Minnesota's At-Home Infant Child Care program allows some low-income working families to collect child care subsidies while parents stay at home to care for their own infants under one

year of age. Participation in the program and funding have been quite limited.

Over the past three years, there has been a lot of activity at the state level to pass a variety of family leave laws. Most states have focused on developing ways to provide some remuneration during FMLA leaves. To date, however, no state has enacted comprehensive family leave legislation.³ Some of the recent state proposals are discussed in the policy options section at the end of this chapter.

Employer Policies

Employer policies have often provided some workers with leave that they could take for a subset of family leave purposes. Employers might offer paid sick leave that an employee can use for her own illness and, in some cases, to care for her sick child; short-term disability leave that can often be used for maternity leave purposes; paid vacations that can generally be used for any purpose provided the employee gives sufficient notice; and paid personal leave that typically allows workers to take time off for reasons not covered by other leave policies. Increasingly, employers have begun to offer some employees packages of “unrestricted leave.” Under this benefit, employees have access to a specified number of paid days of leave that they can use for any reason.

In place of formal leave policies, firms may also permit leaves of absence for some family leave purposes on a case-by-case basis. Although data on informal family leave policies are not consistently collected, maternity leave coverage estimates increase when they include the informal mechanisms for maternity leave provision. While 36 percent of firms surveyed in a study during the mid 1980s had formal policies, an additional 50 percent had informal policies (Raabe and Gessner 1988).

Informal policies and the use of sick leave, vacation time, and personal leave to provide family leave may restrict access to leave. Sick leave and vacation time accrue slowly and are often capped at a relatively small number of weeks. Caregivers who have short job tenures may not be able to accrue a sufficient number of weeks of leave for family leave purposes—especially for childbearing and parental leaves. Using accrued vacation and sick leave for family leave also

reduces the opportunities for additional time off in a year during which a caregiver experiences the stresses of childbirth, new parenthood, or illness. Workers who use accrued vacation and sick leave for family leaves are not guaranteed to have their jobs available when they return to market work unless the leaves are covered under the FMLA.

Both public and private family leave policies can help covered and eligible workers combine their family and work responsibilities. The following sections examine who is covered and who is eligible for family leave. To gauge whether low-income workers, particularly recent welfare-leavers, have equal access to family leave benefits, the analyses focuses on the income status and occupations of workers who have and who do not have access to family leave benefits.

ACCESS TO FAMILY LEAVE: COVERAGE

Family and Medical Leave Act

Family and medical leave is only available to persons who work for relatively large firms. At the end of the twentieth century, about 58 percent of workers in private establishments were covered under the FMLA (Cantor et al. 2001). Research suggests that women who successfully transition from welfare to market work will remain low income in the short term. Table 1 compares the firm sizes of workers

Table 1 Percent of Workers in Different Firm Sizes, by Income Status, 1999

	Family income less than twice the poverty line	Family income above twice the poverty line
Number of employees at worksite		
Less than 25	43.3	30.4
25–49	13.0	11.3
50–100	12.6	11.8
More than 100	31.1	46.5

SOURCE: Author's calculations of the 1999 National Survey of America's Families.

with family incomes less than twice the poverty line to the firm sizes of high-income workers.⁴ More than 56 percent of low-income workers are employed at worksites with fewer than 50 employees compared to less than 42 percent of higher income workers. The data in Table 1 suggest that the majority of low-income workers are probably not covered by the FMLA.⁵

State Policies

A primary way state policies provide more generous leaves than the FMLA is through expanded coverage. The District of Columbia, Oregon, and Vermont all provide some form of family leave to employees of firms that are smaller than firms covered by the FMLA. Laws in California, Connecticut, Hawaii, Iowa, Louisiana, Maine, Massachusetts, Minnesota, Montana, and New Hampshire mandate that smaller employers than are covered under the FMLA provide maternity benefits to working women in their states. States that set very low firm-size thresholds for leave coverage (e.g., below 10 employees) may increase the share of low-income workers that are covered by public family leave policies.

Private Establishment Policies

Each year the Bureau of Labor Statistics (BLS) surveys private establishments to gather information about the types of benefits they provide to their workers. In even years the BLS surveys small establishments, firms with fewer than 100 employees; in odd years, the BLS surveys medium and large establishments, firms with at least 100 employees. Tables 2 and 3 summarize some of the data collected in these surveys for full-time employees in 1996 and 1997. Patterns are similar for part-time employees, but coverage rates are substantially smaller.

The differential impact of the FMLA by firm size is noticeable in the first two rows of Table 2. Some proportion of the small firms in Table 2 are covered by the FMLA either because they employ 50 to 100 employees or because they have a number of worksites within a small geographical area. However, fewer than half of workers in small establishments have access to unpaid family leave, compared to 93 percent of workers in large firms. Blue-collar and service workers are the

Table 2 Full-Time Employees Covered by Various Leave Policies, by Occupation

	Types of employees			
	All	Professional, technical, and related	Clerical and sales	Blue-collar and service
Unpaid family leave				
Large firms ^a	93	95	96	91
Small firms ^b	48	53	52	43
Paid family leave				
Large firms	2	3	3	1
Small firms	2	3	3	1
Paid sick leave				
Large firms	56	73	73	38
Small firms	50	66	64	35
Short-term disability				
Large firms	55	54	52	58
Small firms	29	32	33	25
Paid vacations				
Large firms	95	96	97	94
Small firms	86	90	95	79
Paid personal leave				
Large firms	20	23	33	13
Small firms	14	21	18	8

^a Large firms are establishments with at least 100 employees. The Bureau of Labor Statistics refers to these as medium and large establishments. Data for large firms are from 1997.

^b Small firms are establishments with fewer than 100 employees. Data for small firms are from 1996.

SOURCE: U.S. Bureau of Labor Statistics (1999a,b).

least likely to have unpaid family leave. Only 2 percent of workers in either small or large firms receive paid family leave. Across all other leave types, employees in larger firms are more likely to have access to leave than employees in small establishments and blue-collar and service employees are the least likely occupation group to have access to all forms of leave.

Average length of leave available for covered employees varies by firm size and occupation (Table 3). In general, full-time employees in small private firms are covered under leave policies that are shorter in duration than the policies found in larger private firms. Within large firms, blue-collar and service employees are covered by leave policies that have shorter average durations than policies that apply to the other occupation groups. For example, after one year of service, professional/technical employees in private establishments with more than 100 employees are entitled to an average of 13.3 paid sick days while blue-collar and service employees in large, private establishments are entitled to an average of 9.9 days of sick leave. Blue-collar and service workers are the least likely to be allowed to carry over their sick leave from year to year and are the most likely to end up in a “use or lose” situation at the end of the plan year (U.S. Bureau of Labor Statistics 1999a,b).

Within private establishments, blue-collar and service workers are less likely to have access to leave that may be used for family leave purposes. Some firms allow workers to use their sick leave to care for a sick child. The percentage of workers who can use sick leave to care for a sick child varies by the size of the firm and occupation and ranges from a low of 43 percent for blue-collar and service workers in large firms to a high of 63 percent of professional and technical workers in small establishments (U.S. Bureau of Labor Statistics 1999a,b).

A few patterns emerge from the BLS data. Establishments that employ fewer than 100 people are typically less likely to provide leave to their workers than larger employers. Among the small firms that do provide leave, average available leave length is generally shorter. Workers in blue-collar and service occupations have less access to private family leave policies than workers in other occupations. Low-income workers tend to work for smaller firms than higher-income workers (see Table 1). Using data from the National Survey of America’s Families (NSAF), Table 4 demonstrates that low-income and

Table 3 Average Length of Leave Available For Covered Full-Time Employees, by Occupation

	Types of employees			
	All	Professional, technical, and related	Clerical and sales	Blue-collar and service
Unpaid family leave (weeks)				
Large firms ^a	14.0	14.8	14.3	13.4
Small firms ^b	12.5	12.4	12.6	12.4
Paid family leave (weeks)				
Large firms	NA	NA	NA	NA
Small firms	NA	NA	NA	NA
Paid sick leave (days) ^{c,d,e}				
Large firms	11.2	13.3	10.1	9.9
Small firms	8.0	7.6	7.6	8.8
Short-term disability (weeks) ^f				
Large firms	25	25	24	26
Small firms	25	24	24	26
Paid vacations (days) ^c				
Large firms	9.6	12.4	9.9	7.9
Small firms	8.1	10.0	8.6	6.8
Paid personal leave (days)				
Large firms	3.5	3.5	3.3	3.6
Small firms	3.0	3.1	2.9	2.9

NOTE: NA = not available.

^a Large firms are establishments with at least 100 employees. The U.S. Bureau of Labor Statistics refers to these as medium and large establishments. Data for large firms are from 1997.

^b Small firms are establishments with fewer than 100 employees. Data for small firms are from 1996.

^c Average number of days available after one year of service for covered employees.

^d Paid sick leave durations are calculated only for covered employees whose paid sick leave policy provides for a specific number of days. Nine percent of employees in large firms and 13 percent of employees in small firms are covered under sick leave policies that provide leave on an “as needed” or other basis. Most of these employees work in professional/technical occupations.

^e Data for sick leave durations are aggregated by white-collar and blue-collar in U.S. Bureau of Labor Statistics (1999a).

^f Short-term disability durations are calculated only for covered employees whose short-term disability policy is for a fixed duration. Three percent of employees in small businesses and 5 percent of employees in large firms are covered under policies that have a variable duration. Most of these employees work in the clerical or sales occupations.

SOURCE: U.S. Bureau of Labor Statistics (1999a,b).

Table 4 Percent of Employees in Different Occupations, by Income Status, 1999

Occupation	Family income less than twice the poverty line	Family income above twice the poverty line
Professional/technical	14.1	38.6
Clerical and sales	23.4	25.1
Blue-collar and service	62.5	36.3

SOURCE: Author’s calculations of the 1999 National Survey of America’s Families.

poor workers are more likely to work in blue-collar and service occupations. Nearly 63 percent of low-income workers are employed in blue-collar and service occupations, compared to just over 36 percent of higher-income workers.

Summary: Family Leave Coverage

Coverage of both public and private leave policies tends to disproportionately exclude low-income workers and workers in blue-collar and service occupations. Low-income workers are more likely to live

in families with children than higher-income workers (Acs et al. 2000). As a result they may have a greater need for family leave than higher-income workers. Assuming they look more like low-income than higher-income workers, former welfare participants who move into the workforce may not be covered by either private or public family leave policies that could facilitate their transition from focusing on caregiving toward combining caregiving with market work.

ACCESS TO FAMILY LEAVE: ELIGIBILITY

Family and Medical Leave Act

Although nearly 58 percent of all U.S. workers in private establishments are covered under the FMLA, not all of these workers meet the act's eligibility criteria. Only workers who have worked for their employers for at least 12 months and for at least 1,250 hours over the past year are eligible to take FMLA leave. Approximately 81 percent of all workers who report that they work at a worksite that meets the FMLA coverage restrictions also report that they meet the job tenure and hours requirements of the legislation (Cantor et al. 2001). Assuming that the estimated share of workers who meet the eligibility requirements applies to the subset of workers employed at private establishments, roughly 47 percent of workers in private industry are both covered and eligible for FMLA leave.⁶

Low-income workers are much less likely to meet the eligibility requirements than workers living in higher-income families. Only 54 percent of workers with annual family incomes less than \$20,000, who are covered under the FMLA, meet the eligibility criteria. In contrast, nearly 89 percent of workers with annual family incomes above \$50,000, who are covered under the FMLA, meet the eligibility criteria (author's calculations from data presented in Cantor et al. 2001).

State Policies

Eligibility for state family leaves differs from state to state. Typically, however, employees must work full time to be eligible. Many state laws also include a job tenure requirement. Both hours and job

tenure requirements tend to make more low-income workers ineligible for benefits than higher-income workers. Job tenure requirements will prevent recent welfare-leavers from accessing benefits.

Private Establishment Policies

Although no comparable data exist on employee eligibility for leave benefits provided through private employer policies in the late 1990s, the BLS does collect information about the length of service required before workers are eligible for vacation leave and paid sick leave. In firms with more than 100 employees, 91 percent of full-time blue-collar and service workers must meet a service requirement, generally one year on the job, before they are eligible to take vacation leave (U.S. Bureau of Labor Statistics 1999b). In contrast, only 78 percent of full-time professional and technical employees in large firms are required to meet a service requirement before they are eligible to take vacation leave. The service requirement for professional and technical occupations is, on average, only six months (U.S. Bureau of Labor Statistics 1999b). A majority of all workers in large firms must work at least three months before they are eligible to take sick leave. The share of blue-collar and service workers in large firms who must meet a tenure requirement before being eligible for sick leave is 73 percent; only 54 percent of professional and technical workers in large firms must meet a tenure requirement.

The data presented from the BLS surveys so far is for full-time employees. The BLS allows survey respondents to define full time. For the majority of workers full time is equal to 30 or more hours per week. Part-time workers are much less likely to have access to private leave policies than full-time workers. For example, only 15 percent of part-time blue-collar and service workers in large firms are covered under a paid sick leave policy. In Table 2 the comparable share among full-time workers is 35 percent.

Summary: Family Leave Eligibility

As was the case with coverage, low-income workers and workers in blue-collar and service occupations are less likely to be eligible for family leave benefits. The service requirements for both private leave

policies and the FMLA restrict access to family leave benefits to workers who have some job tenure. As a result, caregivers who are transitioning off of welfare and other new entrants into the workforce will not have family leave protections at their new jobs, even if they work full time.

Access to Family Leave: Take-up

Among workers who have access to some leave from work, taking family leave may be impracticable. For workers who are not covered under the FMLA, their private employer's leave policies may not provide job protection. While the caregiver is out on family leave, her job may be eliminated or given to another employee. Many workers fear that taking leave from work for family leave purposes, especially for caregiving reasons, will have a negative effect on how they are viewed by their supervisors. Research on workplace culture and parental leave suggests that these fears are reasonable (Fried 1998).

Leave guaranteed under the FMLA is unpaid. Low-income workers and primary earners in higher-income families may not be able to forego earnings in order to take family leave. In the Department of Labor's Survey of Employees, the most commonly reported reason for not taking a needed family leave is the inability to afford leave. Seventy-eight percent of leave-needers felt they could not afford to take family leave, and 88 percent of leave-needers said they would have taken leave if they could have received some or additional pay during the leave (Cantor et al. 2001).

Among workers who did take leave, more than one-third received no pay during their longest leave. Receipt of pay during family leave is positively related to income status. Nearly three-quarters of workers with annual incomes less than \$20,000 reported receiving no pay during their longest leave. This large percentage does not include low-income workers who were deterred from taking leave because they could not afford it. Among leave-takers who do not receive pay during their leave, nearly 9 percent report using public assistance to replace some of their lost income (Cantor et al. 2001).

POLICIES TO IMPROVE ACCESS TO FAMILY LEAVE

Public policy can address many of the gaps in access to family leave. Given the unequal distribution of family leave access across income strata and occupations, a case for public policy intervention on the grounds of equity could be made. Furthermore, in light of the rhetoric of responsibility and opportunity espoused in the PRWORA, it seems appropriate to provide caregivers transitioning into the workforce an equal opportunity to fulfill both their caregiving and their market work responsibilities.

Since enactment of the FMLA, there have been a number of proposals at the national and state levels to make family leave accessible. Some of these proposals, along with a few novel ideas, are summarized below. In general family leave can be improved to meet the needs of all working families in four broad ways: 1) expand coverage; 2) expand eligibility; 3) expand reasons for leave-taking; and, 4) provide remuneration during the leave.

Expand Coverage

In nearly every session of Congress since 1993, members have introduced a bill that would lower the FMLA establishment size threshold to 25. As stated above, many states provide maternity-leave coverage to women working in small firms. Estimates from the 1999 NSAF suggest that reducing the FMLA threshold to 25 could increase coverage rates by about 12 percentage points distributed fairly evenly across low-income and higher-income workers (see Table 1).⁷

Expand Eligibility

Removing or reducing the job tenure and hours requirements in the FMLA legislation would increase the proportion of covered workers who are eligible for FMLA. Expanding eligibility would be particularly beneficial for low-income workers. Recall that nearly half of covered low-income workers do not meet the FMLA eligibility requirements. New entrants to the workforce, such as recent welfare-leavers, would benefit from a loosening of the job tenure requirement.

Expand Benefits

Proposals at both the state and national levels have attempted to augment the allowable reasons for leave under the FMLA or similar state legislation. In particular, permitting parents to take short periods of time away from market work to attend parent/teacher conferences or to take children to doctors' appointments have been popular proposals. Eight states have successfully enacted leave statutes that allow parents to participate in their children's educational activities. Other proposals for expanding benefits include allowing workers to take leave to care for unrelated persons and for in-laws, expanding the length of leave, and permitting leave for acute, emergency medical conditions. Because low-income workers and welfare-leavers are more likely to have children than higher-income workers, benefits that are targeted toward parents could be particularly beneficial to them.

Provide Remuneration

Proposals to provide some wage replacement during family leaves have received the most public attention. Many states have proposed changes in their Unemployment Insurance (UI) systems or expansions of their Temporary Disability Insurance (TDI) programs. In addition to these two policy options, other public mechanisms for providing wage replacement during family leaves are discussed below.

Unemployment Insurance

In June 2000, the Department of Labor issued regulations allowing states to extend UI benefits to workers on parental leave. With revenue collected through payroll taxes, the UI system provides partial wage replacement for unemployed workers. Each state has its own system for determining both benefit amounts and program eligibility. Typically, workers must meet both job tenure and work hour thresholds before they are eligible for UI benefits. Many state legislatures are debating this option for providing paid leave. As of February 2001, only the Massachusetts legislature had passed "Baby UI" legislation; the governor, however, did not sign the bill.

Using the UI system to provide partial wage replacement during parental leaves would not benefit workers who are eligible for FMLA

leave but who do not meet a state's UI eligibility criteria, nor would it provide wage replacement for any other form of family leave. Women and low-income workers are less likely to be eligible for UI benefits than men and higher-income workers (Hobbie, Wittenburg, and Fishman 1999).

Temporary Disability Insurance

Five states and Puerto Rico have TDI programs that provide partial wage replacement to workers with nonwork related, short-term medical disabilities. According to the Pregnancy Discrimination Act of 1978, TDI policies must cover disabilities related to pregnancy and childbirth. TDI plans are funded by employee or employer contributions, or both, and benefit periods range from 26 weeks to 52 weeks. TDI does not guarantee job protection.

The California and New Jersey legislatures have considered expanding their state TDI programs to provide coverage during periods of leave taken for family medical reasons. In 1999, the New York legislature debated allowing workers to collect TDI benefits during any FMLA leave, during leaves for parent/teacher meetings, during bereavement leave, and during leaves to care for household members in medical situations not covered by the FMLA. To date, none of these TDI expansions have become law.

Other Insurance Programs

In Washington State, legislation was recently introduced to develop family leave insurance. The program would be funded through a small payroll tax that employees and employers would split. The insurance fund would provide a flat-rate, weekly stipend for five weeks of family or medical leave.

There is growing concern among some policymakers about the regressive nature of many payroll taxes. Insurance funds could have a progressive funding structure with low-income workers paying in less than higher-income workers. Some employers currently use a sliding-fee scale approach to providing health insurance. This model could be emulated in a family insurance plan.

Family leave insurance funds could also be experience rated.⁸ The Department of Labor Employee Survey provides a lot of data about leave-takers that actuaries could use to help develop a model of family

and medical leave-taking. With experience rating, public policy could mandate contributions to the family leave insurance fund from all workers. Contributions could be based on an employee's probability of taking leave and the expected amount of wages foregone during that leave. Mandated participation would ensure the largest risk pool and would help avoid problems associated with adverse selection. As a result, family leave insurance funds created through public policy may be preferable to private insurance plans. However, as more caregivers devote an increasing amount of time to the labor force and as the average age of workers increases, a private market for family leave insurance could develop.

Tax Credits and Tax-Preferred Savings

The United States uses its income tax system not only to generate revenue, but also as a means to provide income support to low-income workers and to encourage savings. A refundable tax credit, like the Earned Income Tax Credit, could help ease the financial strain of family leave for low-income families. Unless the tax credit has an advance payment option, the income from the tax credit will probably arrive months after a leave was taken and the income needed. The governor of Massachusetts has proposed a tax credit to employers who provide paid leave to help offset the costs of providing paid leave and to encourage more employers to provide the benefit.

Currently many workers use Flexible Spending Accounts (FSA) to save money for out-of-pocket medical costs and/or child care costs. Contributions to FSAs are made on a pre-tax basis and workers are not required to pay taxes on withdrawals. A tax-preferred savings vehicle modeled after FSAs could help workers save for family leaves. Without either employer contributions or government assistance, however, many low-income workers may not be able to save a sufficient amount to cover wages lost during family leaves.

Welfare Funds

Due to rapidly declining welfare rolls and the relatively fixed block-grant funding stream provided under PRWORA, most states currently have surplus welfare funds. States have considerable discretion in how they spend their surpluses, and they could use a portion of their excess welfare funds to provide paid family leave for low-income

workers. Low-income workers and workers in low-wage occupations are the least likely to have access to any paid leave. Targeting publicly funded paid leave at this group of workers could help offset gaps in privately provided leave policies. Using surplus welfare funds to provide welfare-leavers and other low-income workers with affordable access to family leave could help these workers maintain their labor force attachment and promote long-run economic security.

State welfare systems may not always have surpluses. When Congress begins its deliberations over PRWORA reauthorization, the formulas used to determine the size of federal block grants will receive a lot of scrutiny. Funding levels may not continue to exceed the cost of covering core welfare benefits. Furthermore, the rapid decline in welfare participation over the past five years occurred during a strong economy. If the economy weakens, demands on state welfare systems will likely increase. Given the uncertainty of welfare surplus funds, it does not make sense to develop a paid family leave program that relies solely on the existence of a surplus. Nevertheless, welfare surpluses could provide states with a means for testing paid leave programs targeted at low-income populations.

CONCLUSION

Public and private leave policies help many workers combine their caregiving and market work responsibilities. Access to leave benefits, however, is not equal throughout the income distribution and across occupations. Coverage limits, eligibility criteria, and benefit levels combine to limit access to family leave for low-income workers and workers in blue-collar and service occupations. As welfare reform continues to influence the labor market behavior of low-income caregivers, the need for family leave among the population of low-income workers will grow. Public policy can offer these vulnerable workers a better opportunity for a successful transition into the workforce by extending eligibility for family leave and replacing lost earnings during periods of leave.

Notes

Opinions expressed in the paper are those of the author and do not necessarily represent the position of the Urban Institute or its sponsors.

1. This is not necessarily leave taken under the FMLA. Many covered and eligible workers do not know about the FMLA, and very few leave-takers actually ascribe their leave to the FMLA.
2. Respondents could record reasons for more than one family leave. A share of the 8 percent of workers who took maternity leave probably took parental leave as well.
3. See the National Partnership for Women and Families Web site (<http://www.nationalpartnership.org>) for updated news about state legislative activity.
4. Tables 1 and 4 use data from the National Survey of America's Families (NSAF). The NSAF provides nationally representative estimates for the civilian, noninstitutionalized population under age 65 and their families.
5. The NSAF asks about the number of employees that work at the respondent's worksite. Some of these workers may actually be covered under the FMLA if their employers have additional worksites within a 75-mile radius of the respondent's worksite. In a recent Department of Labor report, more than 91 percent of all FMLA-covered workers were deemed covered because their worksites employed at least 50 workers; less than 9 percent were covered only after considering additional worksites close to the employee's worksite.
6. Data from the 2000 Survey of Employees commissioned by the Department of Labor provides a significantly higher estimate of the percentage of workers covered by the FMLA than data from the 2000 Survey of Establishments, also commissioned by the Department of Labor. The estimated share of covered workers from the Survey of Employees is 77 percent. Although this estimate includes workers in the public as well as the private sector, the estimate is substantially higher than the estimate generated from the Survey of Establishments (58 percent). The estimate derived from the Survey of Employees, if accurate, would suggest a significant increase in the proportion of workers employed in firms that met FMLA coverage criteria from 1995 to 1999. However, BLS data from a similar time period is not suggestive of such an increase. As a result, estimates of the percentage of covered and eligible workers derived from the Department of Labor survey are not reported here. (See Appendix C in Cantor et al. [2001] for a more detailed discussion of the inconsistent estimates.)
7. Most people who work for small businesses work for very small firms—those with fewer than 25 employees. For example, the data in Table 1 suggest that 77 percent of low-income workers employed in worksites with fewer than 50 employees work in firms with fewer than 25 employees ($77 \text{ percent} = 100 \times [(43.3 / (43.3 + 13.0))]$). The comparable rate for higher-income workers is 73 percent.
8. The two technical terms in this paragraph—experience rated and adverse selection—are often found in the field of public economics. Insurance companies and

programs use experience ratings to determine how much to charge their clients. Premiums are based on the probability that the insured will experience the activity that the insurance covers. For example, Unemployment Insurance programs determine the tax rate that a firm pays into the program from the firm's history with layoffs.

Adverse selection arises when people who are most likely to receive benefits from insurance are the people who are most likely to purchase insurance. For example, an individual with a chronic health condition that requires treatment may be more likely to purchase health insurance than a healthy person. Very high premium costs can result from adverse selection. Private insurance companies often exclude preexisting conditions from coverage to help dampen the effects of adverse selection.

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