

## Keeping Up with the Times: Supporting Family Caregivers with Workplace Leave Policies

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Millions of Americans face financial difficulties or risk losing their jobs if they must take time off to address family needs, especially when adult and aging family members have a serious illness or disability. As our population ages, the need for more supportive workplace leave policies becomes even more important. This paper highlights three public policy solutions: unpaid family and medical leave, paid family and medical leave insurance, and earned sick time.

### Recognizing the Need for Family Caregiving Leave

A growing proportion of Americans will need to provide what is known as eldercare for an older relative at some point during their working lives. Many others may need to provide care for younger adult family members with disabilities. Such family care and support often necessitates taking either scheduled or unscheduled time off from work, which some employers allow. However, these workplace leave benefits are not available to all workers in all work settings.

This report is the third in a series of AARP Public Policy Institute papers on issues of eldercare in the workplace.<sup>1,2</sup> Workplace leave policies can be applied to workers caring for family members of any age, including those caring for family members with disabilities. However, this report focuses on workers with eldercare responsibilities to specifically address the needs of an aging population and workforce.

The report highlights three public policy solutions to extend protections for working caregivers: unpaid family and medical leave, paid family and medical leave insurance, and earned sick time.

It presents an overview of each policy area, explains why workplace leave policies matter, and highlights states and localities that have adopted these protections. The report also offers policy recommendations to strengthen family and medical leave policies in the workplace and better support working caregivers.

The best protection for working caregivers is having ample access to paid leave to care for an older relative or a family member with a disability, but more than 1 in 3 workers (34 percent) in a recent national survey who took family or medical leave in 2012 received no pay.<sup>3</sup> Most workers in middle and lower income families cannot afford to take unpaid leave from their jobs.

Currently, the only major federal public policy that addresses the need to take

time off from work to care for family members is the 1993 Family and Medical Leave Act (FMLA), which guarantees up to 12 weeks of job-protected leave for a worker's own health needs or for family care. However, only some workers are covered by the FMLA, and even those who are covered only have the right to unpaid leave. In addition, some covered workers cannot use the FMLA because the relationship of the person they care for (such as a grandparent) is not covered under the law.

Leave policies that enable workers to take time off from work to care for a family member (or for their own health needs) help working caregivers maintain their jobs, health, and financial security. But many workers, especially low-income workers, do not have access to even a few paid sick days, and family leave for extended care for ill relatives is even less common.

**Substantial numbers of mid-life and older workers currently have caregiving responsibilities for an aging or other adult relative.**

A recent AARP survey found that nearly two-thirds (62 percent) of workers aged 45 to 74 provide care for a spouse or partner (37 percent), parent or parent-in-law (16 percent), another adult relative (6 percent), or a friend (3 percent).<sup>4</sup> An estimated 17 percent of workers aged 45 to 74 have taken leave from a job in the past 5 years to care for an adult family member. African American (19 percent) and Hispanic (21 percent) workers were the most likely to have taken leave to care for an adult family member. Additionally, 1 in 5 (20 percent) of these mid-life and older workers expects to take time off from their job in the next 5 years because of caregiving responsibilities. For African American workers, 1 in 4 (25 percent) expects to take leave from their job due to caregiving concerns.<sup>5</sup>

**Key Terms**

**Working caregivers** include anyone employed in an organization or business who also provides care for an older relative or friend, or an adult family member with a disability—the library administrative assistant, the hospital nurse, the factory worker, the government agency policy analyst, the hardware store clerk, or the company chief executive officer, for example.

**Caregiving** means providing a broad range of assistance for an older person or other adult with a chronic or disabling condition. Such assistance can include help with personal care and daily activities (such as bathing, dressing, paying bills, or providing transportation), carrying out medical/nursing tasks (such as complex medication management or wound care), arranging and coordinating services and supports, and communicating with health and social service providers.

**Paid sick days—also referred to as earned sick days**—generally means a limited number of paid days off a year (typically between 3 and 9 days) to allow workers to stay home when they are sick with short-term illnesses, such as the flu. It also means limited paid days off a year to care for sick family members, or to accompany a family member to a medical appointment.

**Medical leave** is defined as workers' extended time off to recuperate from their own serious health condition.

**Family leave** refers to longer-term time off to care for either new children or ill family members.

In fact, most (74 percent) adults with eldercare responsibilities have been in the workforce at some point in their caregiving experience.<sup>6</sup> The “average” U.S. caregiver is a 49-year-old woman who works outside the home and spends nearly 20 hours per week—the equivalent of another part-time job—providing unpaid care to her mother for about 5 years.<sup>7</sup>

Employee absences for eldercare can include both planned and unplanned leave. Accompanying a mother to a doctor’s appointment scheduled in advance is an example of a *planned leave* from work. Spending time in the hospital with a father who has suffered a stroke is an example of an *unplanned leave* that occurs in response to an immediate crisis.

It can be stressful to juggle caregiving with work and other family responsibilities, especially for those working caregivers who are performing complex medical and nursing tasks like managing multiple medications or caring for wounds.<sup>8</sup> When asked if they felt that they had a choice in being a family caregiver, nearly 6 in 10 (57 percent) working caregivers in a recent national study felt they did not have a say in becoming the caregiver for their relative.<sup>9</sup>

Workers who do not have access to family or medical leave experience additional stress if they fear losing their job because they need time off for caregiving tasks. Long-distance caregivers (generally defined as caregivers who live at least 1 hour away from the care recipient) experience even greater disruptions to their work life because of the time required to travel to where their family member lives.

Not surprisingly, a 2013 national survey shows that nearly 1 in 4 (23 percent) retirees left the workforce earlier than planned to care for an ill spouse or other family member.<sup>10</sup>

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**The need to balance work and family across the generations is a growing issue for families and for employers in the modern workplace.**

When families worked together long ago on farms or in small businesses, work and family were not perceived as separate issues. Once work was separated from the home, however, the issue of responsibility of the employer to the employee and his or her family arose.<sup>11</sup>

Family members—mainly wives and adult daughters—have always been the mainstay for providing care to aging and other relatives or friends. But as more women have worked at a paying job outside the home, the demands placed on working families to balance work, caregiving, and other family responsibilities have grown. In 1950, women made up about 30 percent of the labor force.<sup>12</sup> Today, women make up half of all workers in the United States.<sup>13</sup> Women in their 40s and 50s are most likely to have eldercare responsibilities, and the great majority (76 percent for women aged 40–49; 71 percent for women aged 50–59) are employed.<sup>14</sup>

Policies to support better employer-provided benefits to address the competing pressures of paid work and family responsibilities have traditionally focused on taking time off to care for oneself when sick or, as a parent, to bond with a new child. Less well understood is that, as family and work patterns have changed in recent decades, many workers need to take time off to assist their aging family members.

Five key factors underlie the need for modernizing workplace leave policies: (1) the dramatic increase in women's labor force participation over the past few decades; (2) the aging of the workforce; (3) the growing demand for eldercare to meet the needs of an aging population that has multiple chronic conditions; (4) the increasing number of men who are family caregivers; and (5) a fragmented and complex system of health care and long-term services and supports (LTSS) that relies heavily on family caregivers to arrange, coordinate, and provide needed care.

For more background on working caregivers, see the AARP Public Policy Fact Sheet on *Understanding the Impact of Family Caregiving on Work*.<sup>15</sup>

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## Unpaid Family and Medical Leave

### **Federal policy offers unpaid leave for some workers with family caregiving responsibilities.**

Twenty years ago, the **Family and Medical Leave Act of 1993** (FMLA) was enacted, guaranteeing access to *unpaid* job-protected family and medical leave for some workers under certain conditions. The FMLA protects a worker's continued employment status and health insurance coverage. To be covered, an employee must have worked at least 1 year and at least 1,250 hours (about 24 hours per week) in the year prior to the leave. Employees must also work at a location where the employer

has at least 50 employees within a 75-mile radius to be eligible under the FMLA.

The FMLA allows eligible employees to take up to 12 weeks of unpaid leave in a year to bond with a new child; to care for themselves due to a serious health condition; or to care for a parent, spouse, or child with a serious health condition. Grandparents raising grandchildren<sup>16</sup> are covered under certain circumstances.

Military leave provisions, added as amendments to the FMLA in 2008, provide for military caregiver leave under particular conditions. Unpaid leaves of up to 26 weeks can be taken for military family members caring for a wounded service member. Up to 12 weeks of unpaid leave can be taken for military family members addressing needs arising from the deployment of a service member.<sup>17</sup>

In February 2013, the U.S. Department of Labor implemented revised regulations to statutory changes to the FMLA. The federal agency expanded FMLA protections to families of eligible veterans with the same FMLA leave available to military caregivers. The protections also clarify a special eligibility provision under the FMLA for airline flight crew employees.<sup>18</sup>

Employers are prohibited from interfering with a covered employee's request for FMLA leave. For example, an employer cannot deny or discourage an employee from taking FMLA leave, or retaliate against someone who has taken it.<sup>19</sup>

FMLA leaves may be continuous or intermittent based on the working caregiver's situation. The federal law also allows for the substitution of paid leave, if that is offered by the employer and the employer consents.

**Twenty years after enactment, some workers are still unaware of the FMLA.**

About 16 percent of covered and eligible workers used the FMLA in 2011, amounting to some 14 million workers.<sup>20</sup> Employers need to know that FMLA leave is an available and accessible option, for those who qualify. About 1 in 3 (34 percent) workers remains unaware of the FMLA as a workplace standard.<sup>21</sup>

**Employers have integrated FMLA administration into their ongoing operations with little burden, and with positive benefits for workers who have taken leave.**

A 2012 survey of the FMLA prepared for the U.S. Department of Labor found that most employers (91 percent) report that complying with the law had a positive effect (37 percent) or no noticeable effect (54 percent) on business operations such as employee absenteeism, turnover, and morale.<sup>22</sup> Ninety percent of workers return to their employer after taking FMLA leave.<sup>23</sup>

**Some states exceed the minimum requirements of the FMLA.**

Although the FMLA applies to eligible worksites and employees in every state, more than one-quarter (14) of the states have expanded protections beyond the minimum federal requirements.<sup>24</sup> (See Appendix A).

States have enacted laws to expand federal provisions in three main ways:

- Covering workers in businesses with fewer than 50 employees;
- Allowing a more inclusive definition of “family member,” including domestic partners, grandparents, parents-in-law, or siblings; and
- Expanding uses of FMLA leave, allowing workers to take family members to medical appointments.

*Workers who take unpaid leave can sacrifice their family’s income security and peace of mind.*

**Many working caregivers are ineligible for the FMLA or cannot afford to miss a paycheck.**

The FMLA covers more than half (59.2 percent) of the workforce, leaving about 40 percent (about 60 million workers) with no such protection under federal law.<sup>25</sup> Even among covered workers, many caregivers do not fall into a relationship that is protected by the FMLA (caring for a spouse, parent, or child with a serious health condition) because they are caring for other aging relatives, such as a grandparent or a parent-in-law.

Other working caregivers cannot afford to take unpaid leave. Low-income workers covered by the FMLA are especially vulnerable: they often cannot afford to take time off because they have no alternative source of income to take unpaid leave, or do not have enough savings to support them through the time off. One national study found that nearly half (48 percent) of family caregivers who took time off for eldercare responsibilities lost income.<sup>26</sup>

Most workers (66 percent) receive some pay when they need to take time off to care for themselves or a loved one.<sup>27</sup> However, more than half (54 percent) of workers in middle and lower income families do not receive any pay, compared to just 18 percent of workers in higher income families.<sup>28</sup> Workers who take unpaid leave can sacrifice their family’s income security and peace of mind.

Given the recent economic downturn, it is not surprising that workers are reluctant to use FMLA leave. In 2011, two and one-half times as many workers

as in 2000 needed leave but did not take it (6.1 percent in 2011, compared to 2.4 percent in 2000). Nearly two-thirds of the workers who were eligible for the FMLA but did not take it said they could not afford to take unpaid leave (46 percent) or they feared losing their job (17 percent).<sup>29</sup>

An AARP survey<sup>30</sup> found that the majority (88 percent) of workers aged 50 and older regarded the FMLA protections as personally important to them. About 1 in 4 (24 percent) of the older workers who took FMLA leave indicated that they might have lost or quit their job (11 percent), taken less time off (7 percent), or taken no time off (7 percent) in the absence of this benefit.

## **Paid Family and Medical Leave Insurance**

### **Paid family and medical leave benefits help workers remain in the workforce and continue as family caregivers.**

The United States has no national public policy that requires employers to provide paid family leave (PFL) benefits. Only 12 percent of U.S. workers have access to PFL benefits through their employers.<sup>31</sup> Some employers voluntarily offer this option, typically through a combination of regular paid vacation leave, sick leave, or other “paid time off” hours, but access to PFL for caregiving reasons is especially limited for low-wage workers.

### **Access to paid family and medical leave has health and economic benefits for the employee and employer.**

When workers are faced with a serious illness of their own or a caregiving responsibility for a family member that conflicts with their work schedules, those who do not have access to paid leave often must reduce their work hours or quit their jobs. This has a negative impact

not only on themselves, their families, and their income and retirement security, but on their employers as well.<sup>32</sup>

Among workers who want to provide care to ill family members but cannot afford adequate time off to do so, PFL can improve their quality of life and benefit those they care for.<sup>33</sup>

Paid family and medical leave can increase labor force participation among working caregivers, resulting in greater economic security.<sup>34</sup> In a recent national survey, financial worries about taking leave from work was the top concern of workers who needed to take time off for medical reasons or caregiving concerns.<sup>35</sup>

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Evidence suggests that PFL provides benefits to businesses: it saves dollars by reducing the costs of turnover and improving morale and productivity. It also can reduce health costs to the employee and employer. In one study, stressed workers who continue to work for fear of losing income when a family member is hospitalized are 9 percent more likely to experience a severe workplace injury.<sup>36</sup>

One particular model for paid family and medical leave is known as paid family leave insurance. This model offers full or partial income replacement while a worker is away from work due to a serious personal health condition, to bond with a new child, or to care for certain family members with serious health needs. This benefit guarantees that workers will have at least some income stability when they must provide family care.

**Some states have modernized their work-family policies for a changing workforce.**

Between 1942 and 1969, five states (California, Hawaii, New Jersey, New York, and Rhode Island) and Puerto Rico adopted Temporary Disability Insurance (TDI) programs. These TDI programs provide workers a portion of their wages for *medical leave* for a worker’s non-work-related serious health condition or illness.

Two of these states—California and New Jersey—have added paid *family leave* to their TDI programs, including caring for spouses, domestic partners, or aging parents. These states have extended their TDI programs beyond the employee’s own non-job-related illness to cover family caregiving through partial wage replacement, structured as an insurance benefit.

The PFL programs in these states impose no direct costs on employers. They are funded solely by an employee-paid payroll tax with benefit levels indexed to inflation.

The PFL benefits in California and New Jersey provide covered workers with family leave insurance benefits—a monetary benefit, not a leave entitlement. The PFL benefit does not protect a worker’s job. However, a covered worker’s job may be protected if the employer is subject to the federal FMLA. For more detail on the California and New Jersey programs, see Table 1 on page 8.

Washington State also passed family leave legislation in 2007, but implementation of the law has been delayed until 2015 because of state budget concerns.<sup>37</sup> It was the first state without a TDI program to establish such legislation. The existing law covers paid parental leave but does not include workers with eldercare responsibilities. Legislation introduced in January 2013 builds upon Washington’s paid parental

leave law to encompass family caregiving for a parent, spouse, or domestic partner.<sup>38</sup>

**Although paid leave has positive benefits for employers and workers, public awareness is limited, especially regarding care for an ill family member.**

Research shows that employer and worker experiences with paid leave in California are positive and not burdensome. One study found the following:<sup>39</sup>

- Employers reported that PFL had either a positive or no noticeable effect on morale (99 percent), turnover (96 percent), employee productivity (89 percent), or profitability and performance (91 percent).
- Employees reported that the use of PFL enhanced their ability to care for ill family members, strengthened their loyalty to their employer, and increased their likelihood of returning to work with the same employer after taking leave.
  - PFL increased retention among workers in lower-wage jobs by 10 percent.
  - Most workers surveyed (79 percent) were “very satisfied” or “somewhat satisfied” with the length of their family leaves.

Yet many workers in both states who have experienced a family caregiving situation that the program was designed to cover do not know that their state has a PFL program.

A September 2011 poll of Californians found that 7 years after the state’s PFL program was implemented, only about 4 in 10 (42.7 percent) residents surveyed had seen, read, or heard of the PFL program.<sup>40</sup> Among those surveyed who had heard of the PFL program, more than 1 in 5 (22.3 percent) were unaware that the PFL program could be used to care for an ill family member.<sup>41</sup>

**Table 1**  
**Best Practices in the States: Paid Family Leave Insurance Programs**  
**in California and New Jersey**

Provisions	California	New Jersey
<b>Program Name</b>	Paid Family Leave (PFL)	Family Leave Insurance (FLI)
<b>Month/Year Enacted</b>	September 2002 PFL program began providing benefits in July 2004.	May 2008 FLI program began providing benefits in July 2009.
<b>Administering State Agency</b>	California Employment Development Department	New Jersey Department of Labor and Workforce Development
<b>Reasons for Paid leave</b>	To care for a child, spouse, parent, or registered domestic partner, or to bond with a new child (by birth, adoption, or placement in foster care).	To care for a child, spouse, parent, or domestic/civil union partner, or to bond with a new child (by birth or adoption).
<b>Length of Leave</b>	<ul style="list-style-type: none"> <li>▪ For caregiving leave, up to 6 weeks in any 12-month period.</li> <li>▪ Leave may be taken intermittently.</li> <li>▪ Leave must be taken for more than 7 days.</li> <li>▪ Includes provisions for workers to return to work part time.</li> </ul>	<ul style="list-style-type: none"> <li>▪ For caregiving leave, up to 6 consecutive weeks, intermittent weeks, or 42 intermittent days in any 12-month period.</li> <li>▪ Leave must be taken for more than 7 days.</li> </ul>
<b>Waiting Period</b>	7-day waiting period before benefits can be paid.	7-day waiting period before benefits can be paid.
<b>Eligible Workers</b>	<ul style="list-style-type: none"> <li>▪ Covers all private and non-profit sector workers.</li> <li>▪ Public employees may be covered if the agency or unit that employs them opts into the program.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Covers all private, non-profit, and public sector workers.</li> </ul>
<b>Employee Earnings for Eligibility</b>	<ul style="list-style-type: none"> <li>▪ Employee must have earned \$300 in gross wages within a base period (the 5- to 18-month period before filing).</li> <li>▪ Part-time workers are covered if they meet all other requirements.</li> </ul>	<ul style="list-style-type: none"> <li>▪ Employee must have earned at least \$145 per week during 20 calendar weeks, or at least \$7,300 total, in the base year (the 52 weeks immediately before the week of leave begins).</li> <li>▪ Part-time workers are covered if they meet all other requirements.</li> </ul>
<b>Mechanism for Funding</b>	<ul style="list-style-type: none"> <li>▪ Leaves are financed by employees only, through worker payroll deductions.</li> <li>▪ The combined payroll tax for State Disability Insurance (SDI) and PFL is 1.0% of wages in 2012 and 2013.</li> <li>▪ The average annual worker contribution was \$428.81 in 2012.<sup>1</sup></li> </ul>	<ul style="list-style-type: none"> <li>▪ Leaves are financed by employees only, through worker payroll deductions.</li> <li>▪ In 2012, each worker contributed .08% of wages. In 2013, each worker contributes .001% of wages.</li> <li>▪ The maximum annual worker contribution for FLI is \$30.90 in 2013.<sup>2</sup></li> </ul>

**Table 1 continued**

Provisions	California	New Jersey
<b>Benefit Amount</b>	<ul style="list-style-type: none"> <li>▪ Maximum \$1,067/week in 2013.</li> <li>▪ The weekly benefit is 55% of average weekly wages.</li> <li>▪ In 2012, the average weekly benefit was \$497.<sup>3</sup></li> </ul>	<ul style="list-style-type: none"> <li>▪ Maximum of \$584/week in 2013.</li> <li>▪ The weekly benefit rate is two-thirds of average weekly wages.</li> <li>▪ In 2011, the average weekly benefit was \$482 (most recent data).<sup>4</sup></li> </ul>
<b>Taxability</b>	Subject to federal income taxes. The benefits are not subject to California state income tax.	Subject to federal income taxes. The benefits are not subject to New Jersey state income tax.
<b>Job Protection</b>	Provides partial wage replacement, not job-protected leave.	Provides partial wage replacement, not job-protected leave.
<b>Care Claims</b>	<p>Total claims filed increased from 139,593 in 2005 to 204,893 in 2011.<sup>5</sup></p> <ul style="list-style-type: none"> <li>▪ 87.8% of claims over the first 7 years of the program were for bonding with a child;</li> <li>▪ 12.2% were caregiving claims to care for a seriously ill family member.</li> </ul> <p>Caregiving claims in 2011:</p> <ul style="list-style-type: none"> <li>▪ 35.8% for parent;</li> <li>▪ 33.8% for spouse;</li> <li>▪ 20.0% for child;</li> <li>▪ 1.3% for registered domestic partner;</li> <li>▪ 9.1% for other.</li> </ul>	<p>100,000 claims approved in the first 3 years of the program.<sup>6</sup></p> <ul style="list-style-type: none"> <li>▪ 81.1% of claims were for bonding with a newborn or newly adopted child;</li> <li>▪ 19.9% of claims were to care for a seriously ill family member (data not available on care for a parent);</li> <li>▪ 60% of family care claims in 2011 were made by working caregivers aged 45+.</li> </ul>

Source: Adapted from the National Partnership for Women & Families, *Paid Family and Medical Leave: Security, Financial Stability and Good Health for Working Families*, Washington, DC: 2012.

<sup>1</sup> State of California, Employment Development Department, *Average SDI Contributions* (2013). [http://www.edd.ca.gov/about\\_edd/pdf/qsd\\_i\\_Avg\\_SDI\\_Contributions.pdf](http://www.edd.ca.gov/about_edd/pdf/qsd_i_Avg_SDI_Contributions.pdf).

<sup>2</sup> State of New Jersey, Department of Labor and Workforce Development, *Your Guide to Family Leave Insurance in New Jersey* (January 2013), [http://lwd.dol.state.nj.us/labor/forms\\_pdfs/tidi/WPR-119.pdf](http://lwd.dol.state.nj.us/labor/forms_pdfs/tidi/WPR-119.pdf).

<sup>3</sup> State of California, Employment Development Department, *Quick Statistics* (2013). Accessed at [http://www.edd.ca.gov/Disability/pdf/qspfi\\_PFL\\_Program\\_Statistics.pdf](http://www.edd.ca.gov/Disability/pdf/qspfi_PFL_Program_Statistics.pdf).

<sup>4</sup> State of New Jersey, Department of Labor and Workforce Development, *Annual Report for 2011: Family Leave Insurance and Temporary Disability Insurance Programs* (December 2012). Accessed at [http://lwd.dol.state.nj.us/labor/forms\\_pdfs/tidi/ANNUAL\\_FLI-TDI\\_REPORT%202011.pdf](http://lwd.dol.state.nj.us/labor/forms_pdfs/tidi/ANNUAL_FLI-TDI_REPORT%202011.pdf).

<sup>5</sup> California Employment Development Department, State Disability Insurance (SDI) Statistical Information, Paid Family Leave (PFL) Program Statistics. Accessed at [http://www.edd.ca.gov/Disability/pdf/qspfi\\_PFL\\_Program\\_Statistics.pdf](http://www.edd.ca.gov/Disability/pdf/qspfi_PFL_Program_Statistics.pdf).

<sup>6</sup> K. White, L. Houser, and E. Nisbet, *Policy in Action: New Jersey's Family Leave Insurance Program at Age Three* (New Brunswick, NJ: Rutgers Center for Women and Work, January, 2013). Accessed at <http://www.nitimetocare.com/sites/default/files/FLI%20Report%201-31%20release%202-5-13%20posted.pdf>.

Although results from an August 2012 poll in New Jersey found that 3 of every 4 respondents (76.4 percent) gave a favorable opinion about FLI, less than 40 percent were aware of the state's FLI program (42.5 percent of women and 36.4 percent of men).<sup>42</sup> Among those who were aware of the FLI program, 16.8 percent did not know that the program could be used to care for an ill family member. Workers earning less than \$50,000 annually were the least likely to know about the FLI program.<sup>43</sup>

In this same New Jersey poll, a small proportion of respondents with some employment in the labor force (14.7 percent) considered, but did not take, family leave. These working caregivers relied on other arrangements to manage care, including having another family member provide care to an ill relative (66.4 percent); relying on friends or neighbors (39.3 percent); paying a direct care worker (22.2 percent); and "other" arrangements (19.6 percent) such as taking a second job to be able to hire paid help, placing a family member in a nursing home, or quitting a job to give care.<sup>44</sup>

## Earned Sick Time

### **Current federal policy does not require employers to offer paid sick days as an employment benefit.**

Nearly 40 percent of private sector workers—and 80 percent of low-wage workers—lacked access to paid sick days in 2011.<sup>45</sup> In businesses with fewer than 100 employees, nearly half (47 percent) of all workers lack paid sick days.<sup>46</sup> Research shows that almost 4 in 5 (79 percent) of the highest-paid workers have access to earned sick time, compared with only 15 percent of the lowest-paid workers.<sup>47</sup> In most cases, paid sick leave is voluntarily offered by employers.

Laws and proposals to require paid sick days—also referred to as earned sick days—allow workers some paid time off to stay home when they are sick. Paid sick days policies also allow workers earned sick time to care for certain family members with a short-term illness or to accompany a family member to a medical appointment.

Earned sick days policies differ from paid family and medical leave policies. These public policies generally cover a limited number of paid days off a year (between 3 and 9 days, depending on the state or locality) with full wage replacement.

### **Some localities and only one state have enacted laws that require employers to provide paid sick days.**

Connecticut is the only state to require a minimum standard of earned sick days for certain employees. However, this state law does not currently cover workers with eldercare responsibilities, even for aging parents.

Other earned sick days laws have been enacted in several cities, including San Francisco, California; Washington, DC; Seattle, Washington; and, most recently, Portland, Oregon. Portland enacted a paid sick days law in March 2013. Workers in Portland will earn paid sick time starting in 2014. Philadelphia, Pennsylvania, covers paid sick days for city contractors only.<sup>48</sup>

The New York City Council passed legislation in May 2013 requiring private businesses with 20 or more employees to provide paid sick time. The legislation has not yet been enacted. Milwaukee, Wisconsin, passed a referendum to require paid sick days for all private sector employees in 2008, but the ordinance<sup>49</sup> was preempted by the state legislature in 2011.

### Connecticut's Paid Sick Days Law

Effective January 2012, the Connecticut law requires most employers with 50 or more employees to provide up to a maximum of 5 paid sick days per year (based on a 40-hour work week) to eligible “service workers.”

“Service workers” are broadly defined and based on the U.S. Department of Labor’s occupational classification system. Covered “service workers” receive an hourly wage and include occupations such as food service managers, community health workers, home health aides, waiters, bus drivers, and security guards.

Under the law, the sick leave can be used for the worker’s own illness, injury, and related treatment, or to care for the worker’s child or spouse. Workers caring for their parents are not covered under this law.

Results of an evaluation<sup>50</sup> of San Francisco’s PSLO found that the ordinance provides benefits at low cost to both employees and their families, and employers:

- The typical San Francisco worker used only 3 paid sick days during a year, and 1 in 4 workers used no paid sick days, despite the availability of either 5 or 9 sick days allowed under the PSLO.
- More than half of San Francisco workers surveyed reported that their employer became more supportive of using paid sick days if needed, their number of paid sick days provided increased, or the worker was better able to care for themselves or their family members.
- 6 of 7 (86 percent) employers surveyed did not report any problems in implementing the PSLO, or any negative effect on profitability of their business.
- 1 of 6 workers (16 percent) who used paid sick days used the benefit to care for an adult relative.
  - Of those workers aged 55 and older, nearly 1 in 5 (19 percent) used paid sick days to care for an adult relative, typically to accompany them to a doctor visit.

#### **Earned sick days yield public health, social, and economic benefits for workers, employers, and communities.**

Benefits of paid sick days for employers include improvements in productivity, reductions in workplace contagion, and reduced worker turnover.

- Workers without access to paid sick days are more likely to attend work

### San Francisco's Paid Sick Leave Ordinance

In 2007, San Francisco, California, enacted the nation’s first policy allowing all workers to earn and use paid sick days. The Paid Sick Leave Ordinance (PSLO) allows workers to earn paid sick days after 3 months on the job, to earn up to a maximum of 5 days per year in small firms (with fewer than 10 employees) and 9 days per year in larger firms (with 10 or more employees).

Paid sick days may be used for the workers’ own illness, health conditions, and medical appointments, and to care for family members or a “designated person.”

*Benefits of paid sick days for employers include improvements in productivity, reductions in workplace contagion, and reduced worker turnover.*

while ill, increasing the spread of illness to co-workers, customers, and the general public.<sup>51</sup>

- The issue of “presenteeism”—inability to focus on the job when coming to work ill, or being distracted and preoccupied with family caregiving concerns—results in less than full productivity on the job, costing employers an estimated \$160 billion per year—twice as much as the cost of absenteeism.<sup>52</sup>
- Workers who can afford to stay home when sick because of paid time off are more attached to employers, suggesting that paid sick days are an important employer benefit for retention of workers.<sup>53</sup>
- Workers without paid sick days are more than twice as likely as those with paid sick days to seek emergency room care because they are unable to take time off during normal work hours. Lack of paid sick days can lead to avoidable use of emergency room visits and delays in obtaining health care treatment for workers or family members.<sup>54,55</sup>

## Conclusions

Policies to support employees with workplace leave for family caregiving responsibilities are important for maintaining economic growth and are a sound investment for America’s working families and employers.

Maintaining a job while providing care to a frail older relative or friend can be a challenging balancing act, a financial hardship, an emotional rollercoaster, and a health risk as well. Workers should not have to choose between work and family caregiving.

## Policy Recommendations

- Increase the reach of the Family and Medical Leave Act (FMLA) by expanding the relationships covered by the law to include domestic partners, parents-in-law, grandparents, and siblings. Require employers to protect workers in businesses with fewer than 50 employees.
- Adopt policies at the state level that exceed the current federal eligibility requirements for the FMLA.
- Optimize worker productivity and retention at the federal, state, and local levels by promoting access to paid family leave insurance. This would permit working caregivers who cannot afford to take unpaid leave to take time off to care for an ill child, spouse, domestic partner, parent, or grandparent, and receive needed financial support while on leave.

*Maintaining a job while providing care to a frail older relative or friend can be a challenging balancing act, a financial hardship, an emotional rollercoaster, and a health risk as well. Workers should not have to choose between work and family caregiving.*

- Advance public awareness campaigns at the federal, state, and local levels to educate the public about all aspects of family leave policies, including the FMLA and paid family and medical leave in states with these policies.
- Require employers to provide a reasonable number of earned sick days that can be used to deal with personal or family illness.
- Implement “family-friendly” and flexible workplace policies, referral to supportive services in the community, and caregiver support programs in the workplace. Such policies and benefits can enhance employee productivity, lower absenteeism, enhance recruitment and retention, reduce costs, and positively affect profits.
- Improve data collection on working caregivers with eldercare responsibilities, including surveys conducted by the Department of Labor, Department of Health and Human Services, and Department of Commerce, to ensure that challenges about work-family conflict and access to workplace leave benefits and protections are addressed.
- Conduct policy research in the public and private sectors to show evidence of the connections between workplace leave for employed caregivers and access to and utilization of health care and long-term services and supports.

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## Appendix A

### States That Have Expanded Federal Provisions of the Family and Medical Leave Act (FMLA) to Benefit More Working Caregivers

State	Lowers Threshold to Cover More Workers (beyond employers with 50 or more employees)	Broadens Definition of Family for Caregiving (beyond child, spouse, and parent)	Expands Uses of FMLA Leave
California		Domestic partner, <sup>1</sup> stepparent <sup>2</sup>	
Colorado		Civil union or domestic partner <sup>3</sup>	
Connecticut		Civil union partner, <sup>4</sup> parent-in-law, stepparent <sup>5</sup>	
District of Columbia	20 or more employees <sup>6</sup>	Related to the worker by blood, legal custody, or marriage; person with whom the employee lives and has a committed relationship <sup>7</sup>	
Hawaii		Grandparent, parent-in-law, grandparent-in-law, <sup>8</sup> or an employee's reciprocal beneficiary <sup>9</sup>	
Maine	15 or more employees (private employers); <sup>10</sup> 25 or more (public employers) <sup>11</sup>	Domestic partner, <sup>12</sup> siblings <sup>13</sup>	Death of employee's family member if that family member is a service member killed while on active duty <sup>14</sup>
Massachusetts			To take family members to routine medical visits <sup>15</sup>
Minnesota		Sibling, stepparent, grandparent <sup>16</sup>	
New Jersey		Civil union partner, <sup>17</sup> parent-in-law, stepparent <sup>18</sup>	
Oregon	25 or more employees <sup>19</sup>	Domestic partner, <sup>20</sup> grandparent, parent-in-law <sup>21</sup>	
Rhode Island	30 or more employees (public employers) <sup>22</sup>	Domestic partner of state employees, parent-in-law <sup>23</sup>	
Vermont	15 or more employees <sup>24</sup>	Civil union partner, <sup>25</sup> parent-in-law <sup>26</sup>	To take family members to routine medical visits <sup>27</sup>

**Appendix A (continued)**

State	Lowers Threshold to Cover More Workers (beyond employers with 50 or more employees)	Broadens Definition of Family for Caregiving (beyond child, spouse, and parent)	Expands Uses of FMLA Leave
Washington		Domestic partner, parent-in-law, grandparent <sup>28</sup>	
Wisconsin		Domestic partner, parent-in-law <sup>29</sup>	

Source: Adapted from the National Partnership for Women & Families (NPWF), *Expecting Better*, second edition (Washington, DC: NPWF, May 2012), and new state laws in Colorado and Minnesota enacted in 2013.

- <sup>1</sup> CAL. FAM. CODE § 297.5.
- <sup>2</sup> CAL. FAM. CODE § 12945.2(c)(7).
- <sup>3</sup> CO. REV. STAT. § 8-13.3-202.
- <sup>4</sup> CONN. GEN. STAT. §46b-38nn.
- <sup>5</sup> D.C. Code § 32-516(2).
- <sup>6</sup> CONN. GEN. STAT. §31-51kk (7).
- <sup>7</sup> D.C. Code § 32-501(A), (B), (C).
- <sup>8</sup> HAW. REV. STAT. § 398.1.
- <sup>9</sup> HAW. REV. STAT. § 398.3.
- <sup>10</sup> 26 ME. REV. STAT. ANN. § 843 (3)(A).
- <sup>11</sup> 26 ME. REV. STAT. ANN. § 843 (3)(C).
- <sup>12</sup> 26 ME. REV. STAT. ANN. § 843 (4)(D).
- <sup>13</sup> 26 ME. REV. STAT. ANN § 843 (4)(E).
- <sup>14</sup> 26 ME. REV. STAT. ANN. § 843 (4)(F).
- <sup>15</sup> MASS. GEN. LAWS. Ch. 149 § 52(D) (b)(2)&(3).
- <sup>16</sup> MN. REV. STAT. § 181.9413.
- <sup>17</sup> N.J. STAT. ANN § 34:11B-3(a), 37:1-31.
- <sup>18</sup> N.J. STAT. ANN § 34:11B-3(h).
- <sup>19</sup> OR. REV. STAT. § 659A. 153(1).
- <sup>20</sup> OR. REV. STAT. § 839-009-0210.
- <sup>21</sup> OR. REV. STAT. § 659A. 150(4).
- <sup>22</sup> R.I. Pub. Laws § 24-48-1(3)(iii).
- <sup>23</sup> R.I. Pub. Laws § 24-48-1(5).
- <sup>24</sup> 23 VSA § 471(3).
- <sup>25</sup> 23 VSA § 1204(a).
- <sup>26</sup> 23 VSA § 471(3)(B).
- <sup>27</sup> 23 VSA § 472a(a)(2).
- <sup>28</sup> RCW § 49.12.265.
- <sup>29</sup> WIS. STAT. § 103.10(1)(f).

## Endnotes

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## Keeping Up with the Times: Supporting Family Caregivers with Workplace Leave Policies

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