



The United States Department of Labor
Via Electronic Submission

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Commissioner

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RE: Request for Information; Paid Leave
RIN 1290-ZA03

The New York City Department of Consumer and Worker Protection (formerly known as the New York City Department of Consumer Affairs) submits this comment in response to the Department's request for information concerning the effectiveness of current state- and employer-provided paid leave programs, and how access or lack of access to paid leave programs impacts America's workers and their families. As New York City's central resource for workers, the New York City Department of Consumer and Worker Protection's Office of Labor Policy & Standards has years of firsthand experience developing, implementing, and enforcing paid leave policies that meet the needs of both workers and employers. With the country navigating a global pandemic, such policies are more important than ever in ensuring that workers do not have to choose between their families' health and their economic security, and that businesses can maintain healthy and productive workplaces. For the reasons explained below, long-term paid leave policies are essential for families, business and the economy, and the Family and Medical Insurance Leave Act (H.R. 1185/S. 463) (the FAMILY Act), which has been introduced in Congress, offers a promising structure for keeping workers and businesses healthy.

Paid Leave is Good for Workers and their Families, Businesses, and the Economy

Workers and Their Families

Paid leave benefits workers by creating a way for them to serve as both economic providers and caregivers for their families, two roles that have historically been at odds. While some Americans are technically eligible for unpaid leave from work under the Family and Medical Leave Act (FMLA), for many, going without income for any amount of time is

unrealistic given their lack of financial cushion.¹ Less than half of respondents to a 2016 survey conducted by the Federal Reserve stated that they believed they would be able to survive for three months without their main source of income on their personal savings alone.² The dichotomy between work and caregiving duties has been particularly harmful for women, who are more likely than men to interrupt their careers to provide care for their families.³ Such interruptions have lasting effects on women's economic stability, as they affect women's ability to maintain employment, let alone advance in their careers, increase their earnings, and save for retirement.⁴ Paid leave allows women to stay in their jobs while tending to their families' needs, and may also encourage men to take on caregiving roles by ensuring they have the ability to remain employed.⁵

Paid leave has medical and economic benefits across society as well. When workers have the opportunity to play the role of caregiver for their families, healthcare costs go down, as hospital stays are shorter and recoveries are faster when workers are under the care of family members.⁶ These lower costs correspond with improved outcomes: for example, when new mothers take paid leave, their children are more likely to receive the immunizations they need to stay healthy in the long term.⁷

Businesses

Businesses benefit from paid leave because when employees are healthy and able to focus on their work, they are more productive.⁸ Additionally, when businesses have paid leave programs, they are more likely to retain their workers, reducing the often high cost of worker turnover for

¹ JEFF LARRIMORE ET AL., BOARD OF GOVERNORS OF THE FED. RES. SYS., REPORT ON THE ECONOMIC WELL-BEING OF U.S. HOUSEHOLDS IN 2016 (2017), available at <https://www.federalreserve.gov/publications/files/2016-report-economic-well-being-us-households-201705.pdf>.

² *Id.*

³ Kim Parker, *Women More Than Men Adjust Their Careers for Family Life*, PEW RESEARCH CENTER (October 1, 2015), available at <https://www.pewresearch.org/fact-tank/2015/10/01/women-more-than-men-adjust-their-careers-for-family-life/>.

⁴ Claire Cain Miller, *Paid Leave Encourages Female Employees to Stay*, THE NEW YORK TIMES (July 28, 2014), available at <https://www.nytimes.com/2014/07/29/upshot/how-paid-leave-helps-female-employees-stay-.html>.

⁵ *Id.*

⁶ Courtney Harold Van Houtven and Edward C. Norton, *Informal Care and Health Care Use of Older Adults*, 23 J. OF HEALTH ECON. 1159 (2004), available at https://www.researchgate.net/profile/Courtney_Van_Houtven/publication/8171549_Informal_Care_and_Health_Care_Use_of_Older_Adults/links/5a10b6aa0f7e9bd1b2bf314f/Informal-Care-and-Health-Care-Use-of-Older-Adults.pdf.

⁷ Jody Heymann et al., *Paid Parental Leave and Family Wellbeing in the Sustainable Development Era*, 38:21 PUB. HEALTH REVIEWS 1 (2017), available at https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5810022/pdf/40985_2017_Article_67.pdf.

⁸ Eileen Appelbaum and Ruth Milkman, *LEAVES THAT PAY: EMPLOYER AND WORKER EXPERIENCES WITH PAID FAMILY LEAVE IN CALIFORNIA* (2011), available at <https://cepr.net/documents/publications/paid-family-leave-1-2011.pdf> (citing a study that found that most businesses reported that California's paid leave program had either no noticeable effect or a positive effect on productivity, profitability, turnover, and employee morale).

employers.⁹ Employers in states with paid leave programs have reported that it has been easy to adjust to and comply with program requirements.¹⁰

The Economy

Government spending on paid leave creates savings in other areas. One study found that mothers who use paid leave to care for a newborn are 39% less likely to enroll in public assistance programs in the year following childbirth than those who do not use leave.¹¹ Men who use paid leave are less likely to enroll in public assistance programs as well.¹² Keeping money in workers' pockets not only helps them financially support their families, but it also gives them the opportunity to stimulate the economy in their role as consumers.

Government Should Set the Standard for Paid Leave

The government is best equipped to provide standards for paid leave, as democratically elected representatives have the best understanding of how to balance the needs of both workers and employers in their jurisdictions. Moreover, without the government setting standards for paid leave, the benefit does not materialize for workers. Left to their own devices, some private employers may offer leave programs that are haphazard, discriminatory, or ineffective, in addition to being inconsistent across industry and geographic location. Without paid leave required throughout the country, 81% of American workers do not have access to family leave through their employers, and 60% do not have access to paid medical leave.¹³

The FAMILY Act Offers a Promising Structure for Paid Leave

The Family Act which builds upon the most successful aspects of state-level paid leave programs,¹⁴ would allow employees up to use 60 workdays each year to address their own or a

⁹ HEATHER BOUSHEY AND SARAH JANE GLYNN, CTR. FOR AM. PROGRESS, THERE ARE SIGNIFICANT BUSINESS COSTS TO REPLACING EMPLOYEES (NOVEMBER 16, 2012), *available at* <https://www.americanprogress.org/wp-content/uploads/2012/11/CostofTurnover.pdf>.

¹⁰ NAT'L P'SHIP FOR WOMEN & FAMILIES, PAID LEAVE WORKS: EVIDENCE FROM STATE PROGRAM (SEPTEMBER 2019), *available at* <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-leave-works-evidence-from-state-programs.pdf>.

¹¹ LINDA HOUSER, PH.D. AND THOMAS P. VARTANIAN, PH.D., RUTGERS UNIV. CTR. FOR WOMEN AND WORK, PAY MATTERS: THE POSITIVE ECONOMIC IMPACTS OF PAID FAMILY LEAVE FOR FAMILIES, BUSINESSES, AND THE PUBLIC (JANUARY 2012), *available at* <https://www.nationalpartnership.org/our-work/resources/economic-justice/other/pay-matters.pdf>.

¹² *Id.*

¹³ U.S. DEP'T OF LABOR, BUREAU OF LABOR STATISTICS, NATIONAL COMPENSATION SURVEY: EMPLOYEE BENEFITS IN THE UNITED STATES, MARCH 2019 (SEPTEMBER 2019), *available at* <https://www.bls.gov/ncs/ebs/benefits/2019/employee-benefits-in-the-united-states-march-2019.pdf>.

¹⁴ NAT'L P'SHIP FOR WOMEN AND FAMILIES, THE FAMILY AND MEDICAL INSURANCE LEAVE (FAMILY) ACT: FREQUENTLY ASKED QUESTIONS (FEBRUARY 2019), *available at* <https://www.nationalpartnership.org/our-work/resources/economic-justice/coalition/family-act-faq.pdf>.

family member's serious health issues.¹⁵ Employees – including self-employed workers, freelancers, and contractors – would be entitled to two-thirds of their wages, up to a cap of \$4,000 a month, during their time off.¹⁶ These disbursements would be issued from an insurance fund administered by a new Office of Paid Family and Medical Leave,¹⁷ and funded through a payroll tax of 0.2% on employees and employers each pay period.¹⁸ These shared contributions are an important distinction from other proposed paid leave plans, which would undermine workers by taking pay for their time off out of their future Social Security income.¹⁹

And crucially, under the FAMILY Act, benefits would be portable, so workers would be entitled to use paid leave they accrued under a different employer or in a different state while working for another employer.²⁰ Finally, employers would have the option of offering more generous benefits than the FAMILY Act requires,²¹ and retaliation against workers who use paid leave under the program would be banned.²²

The FAMILY Act has been recognized as the gold standard of paid leave programs for both workers and businesses by hundreds of national and local organizations, and already has the support of a majority of voters in both parties²³ and 70% of small business owners.²⁴ Small business owners, in particular, believe the FAMILY Act model would help level the playing field between small businesses and larger employers, who are currently better-resourced to provide paid leave through their own funds.²⁵

Conclusion

Paid leave is essential to ensuring that working Americans are able to both support their families financially and provide for their caregiving needs, particularly during the COVID-19 pandemic and accompanying economic turbulence. A strong government-run national paid leave program

¹⁵ NAT'L P'SHIP FOR WOMEN AND FAMILIES, FAMILY ACT COALITION LETTER (JANUARY 28, 2020), *available at* <https://www.nationalpartnership.org/our-work/resources/economic-justice/coalition/family-act-coalition-letter.pdf>.

¹⁶ NAT'L P'SHIP FOR WOMEN AND FAMILIES, VOTERS' VIEWS ON PAID FAMILY + MEDICAL LEAVE: FINDINGS FROM A NATIONAL SURVEY (OCTOBER 2018), *available at* <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/voters-views-on-paid-family-medical-leave-survey-findings-august-2018.pdf>.

¹⁷ NAT'L P'SHIP FOR WOMEN AND FAMILIES, *supra* note 14.

¹⁸ NAT'L P'SHIP FOR WOMEN AND FAMILIES, THE FAMILY AND MEDICAL INSURANCE LEAVE (FAMILY) ACT (SEPTEMBER 2019), *available at* <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/family-act-fact-sheet.pdf>.

¹⁹ NAT'L P'SHIP FOR WOMEN AND FAMILIES, *supra* note 16.

²⁰ NAT'L P'SHIP FOR WOMEN AND FAMILIES, *supra* note 14.

²¹ *Id.*

²² *Id.*

²³ NAT'L P'SHIP FOR WOMEN AND FAMILIES, *supra* note 16.

²⁴ SMALL BUS. MAJORITY, OPINION POLL: SMALL BUSINESSES SUPPORT PAID FAMILY LEAVE PROGRAMS (MARCH 30, 2017), *available at* <https://smallbusinessmajority.org/sites/default/files/research-reports/033017-paid-leave-poll.pdf>.

²⁵ *Id.*

like the FAMILY Act is the best way to guarantee that the benefits of paid leave reach workers and businesses around the country.

Respectfully Submitted,

A handwritten signature in black ink, consisting of a stylized initial 'L' followed by a long, horizontal, slightly wavy line.

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