Paid Family & Medical Leave:
Why We Need It, How We Can Get It

POLICY BRIEF

☆ ☆ ☆

September 2003

Lissa Bell
Senior Policy Associate
National Partnership for Women & Families

and

Sandra Newman, MPH
Policy Specialist
National Center on Caregiving
Family Caregiver Alliance

FAMILY CAREGIVER ALLIANCE®
National Center on Caregiving

FAMILY CAREGIVER ALLIANCE®
National Center on Caregiving

ACKNOWLEDGEMENTS

This Policy Brief was reviewed by Donna R. Lenhoff, J.D., Executive Director, National Citizens' Coalition for Nursing Home Reform.

Funded by the Archstone Foundation.

The opinions expressed in this policy brief are those of the authors and do not necessarily reflect the views of the Archstone Foundation.

ABOUT FCA

Founded in 1977, Family Caregiver Alliance serves as a public voice for caregivers, illuminating the daily challenges they face, offering them the assistance they so desperately need and deserve, and championing their cause through education, services, research and advocacy.

Long recognized as a pioneer among caregiver organizations, FCA operates programs at local, state and national levels. FCA is the lead agency and model for California's statewide system of Caregiver Resource Centers. In 2001, FCA established the National Center on Caregiving to advance the development of high-quality, cost-effective policies and programs for caregivers in every state in the country.

National Center on Caregiving
Family Caregiver Alliance
690 Market Street, Suite 600
San Francisco, CA 94104
(800) 445-8106
www.caregiver.org

POLICY BRIEF

Paid Family & Medical Leave:

Why We Need It, How We Can Get It

Lissa Bell and Sandra Newman

INTRODUCTION

Millions of Americans each year face a serious illness and rely heavily on family caregivers to help them recover from or manage this illness (Family Caregiver Alliance, 2002). More than half of these caregivers have full-time jobs (National Alliance for Caregiving and AARP, 1997). Too many families, however, must determine how to stay afloat financially while also ensuring that a seriously ill family member gets the care he or she desperately needs. While the state and federal governments have made some headway in implementing regulations supporting a family-friendly workplace, more can and should be done.

The Family and Medical Leave Act (FMLA) is the first national policy designed to help working caregivers meet both their work and family responsibilities. Thanks to the FMLA, many employees can take up to 12 weeks of *unpaid* leave to care for a new baby or a seriously ill family member or to recover from a serious illness without losing their job or their health insurance. In fact, more than 35 million Americans have taken leave under this law since it was passed in 1993 (U.S. Department of Labor, 2000).

"More than three in four employees need, but don't take, family and medical leave because they can't afford to miss a paycheck."

The benefits afforded under the FMLA are limited, however. For example, the FMLA doesn't cover all workers, only companies with 50 or more employees, and the leave is unpaid, forcing many people to make difficult decisions about how to simultaneously meet the caregiving needs of an ailing loved one and pay the family's bills. The national economic cost of family caregiving is estimated at $257 billion a year (Arno, 2002), much of which working caregivers and their families must shoulder during unpaid family leave (National Family Caregivers Association, 2000).[1] Over the course of a lifetime, caregivers sacrifice an average $566,000 in wages. Further, more than three in four employees need, but don't take, family and medical leave because they can't afford to miss a paycheck (National Center for Women and Aging & the National Alliance for Caregiving, 1999).

Kathleen Duffus is one such employee. The Boston resident had worked at a financial services company for eight years when her father was diagnosed with Alzheimer's disease at the age of 56. For the next eight years, Kathleen was one of

[1] Forty-three percent of caregiver respondents, as contrasted with 35 percent of all respondents, have an income of less than $30,000, according to a survey conducted for the National Family Caregivers Association, 2000.

her dad's main caregivers, even though he lived an hour and a half away.

A single woman, she could not afford to take the unpaid FMLA leave offered by her company. So for those eight years, she could use only her annual three weeks of vacation time to care for her father.

"During the time when my dad was sick, I had a lot of responsibilities and demands put upon me from both family and work," she said. "Paid family and medical leave would have allowed me to plan better for things, and it also would have given me more time with my dad. Paid family and medical leave helps out the caregiver, which in turn helps out the businesses, as the person can be more productive when he or she is at work."

While not universally supported by the business community, some businesses do see the benefits of providing paid family leave. For example, Rishi Agarwal, the Chief Executive of Alyside Solutions, said employees' productivity suffers when they're not happy: "If your spouse or your child or your parent had a serious illness, how much attention would you focus on writing Java code?"

THE FAMILY-FRIENDLY WORKPLACE: PAID FAMILY LEAVE LAWS IN THE STATES

While only one state, California, has an explicit paid family leave law, other states have enacted provisions that provide at least some assistance to working caregivers. Although currently not available to many working men and women, the move towards workplace flexibility has manifested in a variety of ways. Despite different structures, many states have at least one program which allows certain types of leave while offering the employee some wage replacement. To summarize:

- Five states and Puerto Rico have state-administered Temporary Disability Insurance (TDI) programs or require employers to offer TDI (California, New York, New Jersey, Rhode Island, Hawaii). TDI provides partial wage replacement to employees who are temporarily disabled for medical reasons. (State-administered TDI benefits are generally funded through some combination of an employee/employer shared payroll tax.)
- California has a paid family leave insurance program. Through it, most employees can receive 55-60% of wages for up 6 weeks of leave per year to care for a seriously ill family member or a new baby.
- At least 40 states have laws or regulations allowing public employees to use sick leave to care for certain sick family members. These states include, but are not limited to: Arizona, California, Colorado, Florida, Idaho, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Montana, Nebraska, Nevada, New Hampshire, North Carolina, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee , Texas, Utah, Washington.
- At least three states require private employers to allow employees to use sick leave to care for certain sick family members (California, Minnesota, Washington).

These laws—California's in particular—provide models to make family and medical leave more accessible and affordable.

Building on these models, state policymakers, researchers, and advocates for caregivers, seniors, women and working families are mobilizing behind a range of innovative legislation.

In 2001-2002, bills before state lawmakers addressing the particular needs of caregivers and their families included proposals to:

- Extend temporary disability insurance systems, where they exist, to cover some or all types of family and medical leave (New Jersey, California, New York).
- Establish a new temporary disability family leave insurance fund out of which family leave benefits are financed (Hawaii, Massachusetts, New Hampshire, Washington).
- Allot general fund money (money from the state's budget) to provide income during family and medical leave (Illinois, Massachusetts, Minnesota, Vermont). Illinois and Minnesota's proposals require matching funds from employers.
- Establish tax credits for employers who provide paid leave (Colorado, Hawaii, Massachusetts, Missouri).
- Allow employees with sick leave to use this leave to care for sick family members (Connecticut, Hawaii, Arizona, Illinois).
- Allow employees to contribute accrued sick or annual leave to coworkers taking family and medical leave (Oklahoma).

SIGNIFICANT DEVELOPMENTS AND ADVANCES IN THE 2001 AND 2002 STATE LEGISLATIVE SESSIONS[2]

The move towards state paid leave laws has made progress in the last two years. The most significant advance was the paid family leave legislation signed into law in California in late 2002. This law creates the first comprehensive paid family and medical leave insurance program in the nation. Beginning in June 2004, almost all California employees—over 13 million—will be able to take up to six weeks of paid family leave, receiving 55-60% of their salary up to a cap of $728 per week through a state-administered insurance program. The program is funded by the employees themselves, at an estimated cost of $27 per worker per year. This insurance program is an expansion of the state's temporary disability insurance program, which provides partial wage replacement to employees who must take leave due to serious illness. Nearly ten percent of the nation's workforce will now have paid family and medical leave under these combined systems.

> ***"The most significant advance was the paid family leave legislation signed into law in California in late 2002. This law creates the first comprehensive paid family and medical leave insurance program in the nation."***

Other states have made significant progress as well. Of particular interest for caregivers and their families is legislation passed in Washington State and Oklahoma. In Washington, the Family Care Act allows employees to use their existing leave to care for a child, spouse, parent or grandparent. In Oklahoma, a new law permits state employees to use their sick leave to care for family members. It also establishes a leave-sharing program in which state employees can donate their annual or sick leave to a fellow state employee in need of family and medical leave.

SIGNIFICANT DEVELOPMENTS AND ADVANCES IN THE 2003 – 2004 STATE LEGISLATIVE SESSIONS

The 2003-2004 state legislative session has also seen some progress. At the federal level, the Family and Medical Leave Expansion Act (S. 304) would provide grants to states that assist families by providing wage replacement to care for a loved one with a chronic disease or disability.

[2] For a detailed, state-by-state description of paid family and medical leave initiatives, see the National Partnership for Women & Families, *State Round-Up of Paid Family and Medical Leave Initiatives,* Washington, DC, 2000, *www.nationalpartnership.org.*

State legislatures have taken some action as well. For example, Hawaii enacted provisions (H.B. 389) in May 2003 that would require an employer who provides sick leave to allow their employees to use up to 10 days of sick leave for family leave purposes. Bills in Arizona (S.B. 1334), Massachusetts (H. 2383) and Missouri (S.B. 44) would provide up to six weeks of paid family leave, similar to the California initiative. New Jersey's legislation (A. 224) would provide up to 12 weeks of paid leave.

FAMILY AND MEDICAL LEAVE: IMPROVING THE BOTTOM LINE FOR EMPLOYERS

Paid family and medical leave laws aren't just appealing to employees. Employers can benefit in several ways. For example, surveys show that 94 percent of leave-takers who receive full pay during their leave return to their same employer. In contrast, 76 percent of employees who are not paid return to the same job. Better employee retention means lower hiring and training costs. In fact, California's new legislation is projected to save employers up to $89 million a year in turnover costs alone (Dube & Kaplan, 2002).

While some members of the business community were skeptical about the burden of FMLA before its passage, its merits have become clear. More than four in five employers report that the benefits of providing leave offset or outweigh the costs (Families and Work Institute, 1998). And nine in ten say the FMLA has had either a neutral or a positive effect on their organization's profitability and growth.

The culture of the American workplace needs to catch up to our nation's changing demographics, and as it does, both employees and employers will benefit. "When employees can take family and medical leave they need, employers get a workforce that is more focused at work, more stable and most importantly, more productive," said Melanie McEvoy, a small business owner and legislative committee chair of the National Association of Women Business Owners (NAWBO) New York City. "Family leave benefits, in other words, are good for the bottom line" (McEvoy, 2002).

POLICY RECOMMENDATIONS

While there has been some activity at the state level to improve workplace policies for working caregivers, more needs to be done. Considering the success of the FMLA, the federal government should take several steps to make this a more viable option for families who cannot afford to take the leave as it currently stands.

Enacting a federal paid family leave bill is likely not a politically viable option at this time (2003) for several reasons. Currently, state legislatures are confounded by significant and growing budget shortfalls. And many businesses are struggling to stay afloat. Although analyses indicate that the California law has had little revenue impact on businesses, and indeed may actually improve recruitment and retention, the climate simply does not support a broad federal initiative. Incremental steps can and should be taken, however. For example:

- Enacting the Family and Medical Leave Expansion Act (S. 304) would provide incentives to states to implement paid family leave policies.
- Requiring the Office of Personnel Management (OPM)—the government office that oversees labor policies and standards for federal employees—to allow federal agencies the option to provide paid family leave to their employees. In a 1997 report to Congress regarding the use of sick leave for "family care" reasons, OPM notes that, "the Federal Government recognizes the importance of family responsibilities and is committed to assisting Federal employees in balancing their work and family responsibilities" (Office of Personnel Management, 1997). Allowing paid family leave simply builds on this principle.

- Creating a tax credit for companies which voluntarily provide some measure of paid family leave, or create significantly more flexibility in the workplace for employee caregivers.
- Commissioning a Department of Labor report on the cost implications of various workplace-friendly programs, including California's paid family leave bill.

CONCLUSION

The aging of our nation's population has been widely documented. What remains to be seen, however, is how American families will deal with the growing burden of juggling work and family needs. This will become even more challenging as our health and long-term care systems struggle to meet the needs of the Baby Boomers. Managed care has shortened hospital stays, meaning that more and more families spend a greater amount of time providing intensive, ongoing care to a loved one. Meanwhile, the pool of family caregivers will dwindle: in 1990, there were 11 potential caregivers for each person needing care. By 2050, that ratio will drop to four to one (Institute for Health and Aging as cited in National Family Caregivers Association, 2003).

Policies like paid family and medical leave can help bridge this widening gap by ensuring that family caregivers don't need to sacrifice either the care or the financial security their loved ones need.

States such as California have shown that family and medical paid leave insurance programs can be inexpensive, good for employers, and most important of all, supportive of families.

REFERENCES

Arno, P.S. (2002, February 24). *The Economic Value of Informal Caregiving, U.S. 2000*. Updated figures presented at the American Association for Geriatric Psychiatry meeting, Orlando, FL.

CBS Market Watch, August 11, 2002.

Dube, A., & Kaplan, E. (2002, June). *Paid Family Leave in California: An Analysis of Costs and Benefits*. Berkeley, CA. *www.nationalpartnership.org*

Family Caregiver Alliance (2002, September). *Fact Sheet: Work and Eldercare*. San Francisco, CA: Family Caregiver Alliance. *www.caregiver.org*

Families and Work Institute (1998). *The 1998 Business Work-Life Study*. New York, NY: Families and Work Institute. *www.familiesandwork.org*

The Family and Medical Leave Act, Senate Committee hearing (March 7, 2003). New York, New York (testimony of Melanie McEvoy, National Association of Women Business Owners.

National Alliance for Caregiving and AARP (1997). *Family Caregiving in the U.S.: Findings from a National Survey*. Washington, DC: author.

National Center on Women & Aging at Brandeis University & the National Alliance for Caregiving (1999, November). *The Metlife Juggling Act Study: Balancing Caregiving with Work and the Costs Involved*. For a copy of the study, contact the MetLife Mature Market Institute, *MMI_MetLife@metlife.com*.

National Family Caregivers Association (2003). *Family Caregiver Statistics*. Kensington, MD: National Family Caregivers Association. Retrieved March 6, 2003 from *www.nfcacares.org*.

National Family Caregivers Association (2000, October). *Caregiver Survey 2000*. Kensington, MD: National Family Caregivers Association. *www.nfcacares.org*.

U.S. Department of Labor. (2000). *Balancing the Needs of Families and Employers: Family and Medical Leave Surveys*. Washington DC: U.S. Department of Labor.

U.S. Office of Personnel Management. (June, 1997). *Report to Congress on the "Federal Employees Family Friendly Leave Act (Public Law 103-388)*. Washington, DC: U.S. Office of Personnel Management. Retrieved June 26, 2003 from *www.opm.gov/oca/leave/HTML/FEFFLA.HTM*