

Oregon Women Lawyers Membership Committee
Presents:

***Parental Leave Policies in Oregon:
For the Practitioner and Lawyer Parent***

APRIL 28, 2015

12:00-1:00

Presenters:

Andrea Paluso, Executive Director-Family Forward Oregon

Heather Bowman, Partner, Bodyfelt Mount, LLP

- International landscape--with US being among the worst when it comes to paid family leave policy
- History of FMLA and OFLA and recent efforts in some states to do more.
- Technicalities of how FMLA and OFLA work.
- Plans to pass a statewide paid family leave policy in Oregon
- Law Firm written policies
- Women vs. Men
- Practical concerns of the employer to consider
- Paid leave considerations
- Recommendations for negotiating family leave when there is no policy in place

Intro

Heather Bowman hails from the desert hills of Eastern Washington. After college, she moved to northern China, where she put her degree to use teaching English literature at Qiqihar University, and her sense of adventure to the test traveling by bus, train, and boat to the far ends of the People's Republic. Heather is an avid bike commuter and organic gardener. In her spare time, she knits, sews, and manages a flock of urban chickens.

Practice and Experience

Heather joined Bodyfelt Mount LLP in 2008 and became a partner in 2015. Before joining the firm, she externed with the Honorable Richard D. Eadie in King County Superior Court and served as an Executive Articles Editor for the *Pacific Rim Law & Policy Journal*.

Heather's civil litigation practice focuses on employment discrimination, professional malpractice, products liability, personal injury, business litigation, and insurance coverage disputes. She has tried and arbitrated cases in both Oregon and Washington.

Admitted to Practice

Oregon
Washington
U.S. District Court, District of Oregon
U.S. Ninth Circuit Court of Appeals

Education

J.D., University of Washington School of Law, 2007
B.A. (English Literature), Seattle Pacific University, 2001

Professional and Community Activities

American Bar Association
Defense Research Institute
Multnomah Bar Association
Oregon Association of Defense Counsel
Oregon Women Lawyers

Heather volunteers as a member of the Multnomah County Local Professional Responsibility Committee and is a professional mentor for Lewis & Clark Law School. In 2012, she was awarded the Andrea Swanner Redding Outstanding Mentor award for her mentorship of a Lewis & Clark Law School student. She has also coached Mock Trial with Saint Mary's Academy, participated in the Multnomah Bar Association's Imprint Program, and volunteered with the United States District Court, District of Oregon, Pro Bono Program.

Andrea Paluso, MPH, MSW

3115 NE 47th Avenue
Portland, OR 97213

(503) 284-6482
andrea.paluso@gmail.com

Summary

An effective, innovative and passionate professional with experience in campaign management, policy development, community organizing, program management and fundraising. Expertise in online and offline organizing and advocacy. Collaborative team-player with strong commitment to coalition and community-building. Exceptional organizational and interpersonal skills. Excellent written and oral communication skills.

Professional Experience

Family Forward Oregon & Family Forward Action– Portland, OR

Co-founder, Executive Director

2009-Present

Family Forward Oregon and Family Forward Action are “sister” nonprofit organizations that are working together to create an Oregon where all women and families are economically secure and where family caregiving is not a barrier to financial stability.

- Directs programs that:
 - Educate policy-makers, employers and others about the impact of family-supportive workplace and public policies.
 - Empower and mobilize women and families in social change advocacy efforts.
 - Develop public policies and research to support their effective implementation.
- Manages organizational fundraising activities, including: grant writing, individual donor solicitations, event planning, and membership.
- Supervises communications, media strategy and social media outreach.
- Chairs a statewide economic justice coalition working to improve the economic security of Oregon families, with a focus on racial and gender justice.
- Develops effective partnerships with community organizations and other leaders in support of a long-term, family-friendly policy agenda.
- Coordinates with national partners to share best state-based practices and coordinate on national advocacy efforts.

The Mother PAC

Co-founder, Director

2010-Present

The Mother PAC is a political action committee that supports candidates who support families. We raise awareness and money in order to elect candidates who will work to promote a family-friendly policy agenda.

- Directs PAC operations and manages state-reporting compliance.
- Coordinates volunteer-recruitment, board engagement and advocacy efforts.
- Facilitates candidate outreach and directs endorsement process.
- Develops and maintains partnerships with community advocacy organizations.
- Creates fundraising strategy and coordinates events.
- Supervises communications and media strategy.

Parents for Paid Leave - Portland, OR

Co-founder, Spokesperson

2008-2009

Parents for Paid Leave is a volunteer-run, grassroots group that worked to pass paid family leave legislation in Oregon and supported efforts to create paid leave at the federal level.

- Collaborated with local and national partners to develop and execute campaign plan.
- Managed the grassroots organizing, lobbying and policy-development efforts.
- Served as media spokesperson and developed earned media opportunities.
- Developed educational materials, fact sheets, and outreach materials.

Activistas - Portland, OR

Community Organizer, Blogger

2008

Activistas is a blog and community-organizing tool designed to inform, inspire and connect parents who want to create change on the issues that matter to families.

Institute for Urban Family Health COMPASS Program – New York, NY

2005-2006

Social Work Intern

The COMPASS Program provides medical care, counseling, case management, and health education services to people who are living with HIV/AIDS.

Community Health and Information Advisory Network (CHAIN) - New York, NY

2004-2005

Center for Applied Public Health, Columbia University

Research Assistant

CHAIN is a longitudinal cohort study of persons living with HIV/AIDS in New York City. The research project evaluates service utilization, the effectiveness of program interventions, and the effect of interventions on health outcomes.

Peace Corps - Niger, West Africa

2002 - 2004

Community Health Development Volunteer, PLAN International

2003-2004

Community Health Agent, Peace Corps

2002-2004

- Assisted with designing, managing and monitoring health programs related to malnutrition, safe childbirth, malaria prevention, HIV/AIDS prevention, importance of vaccinations, and maternal/child health.
- Organized community health services networks in order to better promote health services within village-based health centers.
- Coordinated trainings for local health personnel, including: village doctors, midwives, and nutritionists.

Outside In Medical Clinic - Portland, OR

2000–2002

Clinic Manager

Supervised a multi-disciplinary community clinic for homeless youth and adults, at-risk adolescents, and other low-income patients.

For Love of Children - Washington, DC

1995-1999

Assistant Manager

1997-1999

Assisted in the management of a neighborhood based tutorial program serving 300 at risk children and youth.

Community Involvement

Oregon Voice, Board Chair

Family Values at Work, Board Vice-Chair

Oregon Working Families Party, Board Member

Working Families Organization (national), Advisory Board Member

Voice of Oregon Innovation and Sustainability (VOIS) Business Alliance, Policy Team (2008-2012)

National Organizations of Women, Oregon NOW Vice-President (2010-2015)

Emerge Oregon Graduate, Class of 2010

Education

Columbia University, New York, NY

2006

Master of Public Health and Master of Science in Social Work

The George Washington University, Washington, DC

1998

Bachelor of Arts – Majors: Psychology & Biology

For Your Reference

The Oregon Family Leave Act (“OFLA”), ORS 659A.150 to 659A.186, OAR 839-009-0200 et seq., requires employers of 25 or more employees to provide unpaid protected leave to eligible workers to care for themselves or family members in cases of death, illness, injury, childbirth and adoption.

The Federal Family Medical Leave Act (“FMLA”), 29 U.S.C. 2601, et seq., 29 CFR Part 825, requires employers of 50 or more employees to provide up to 12 weeks of unpaid, protected leave to eligible employees to care for themselves or family members in cases of serious illness or injury, childbirth, and adoption.

Form Policy Example

PERSONAL LEAVES OF ABSENCE

The Company is not covered by the Oregon Family Leave Act or the Federal Family Medical Leave Act and is, therefore, not legally required to provide employees with leave pursuant to those laws. However, at the Company's discretion, the Company will provide up to 12 weeks of unpaid leave in a 12 month period to employees for personal or medical reasons.

Requests for leave should be submitted in writing to _____ as far in advance of the anticipated leave date as possible. If circumstances prevent you from submitting an advance written request, you must orally inform _____ and follow the oral notification with a written request. Employees seeking to take a personal leave of absence for a health condition must provide certification from their health care provider verifying the employee's need for leave. All requests for leave must indicate the date you anticipate returning to work. In the event an employee is unable to return to work as planned, the employee must submit a written request for an extension. Extensions of leave will be considered on a case-by-case basis and granted or denied at the Company's discretion.

Personal leaves of absence are unpaid. The Company, however, requires that employees use any accrued [paid vacation/paid sick leave/PTO] during the otherwise unpaid portion of the leave. At the time leave is approved, the Company will provide information about what paid leave is going to be applied to the requested personal leave. No [paid vacation/paid sick leave/PTO] will accrue during the otherwise unpaid portion of personal leave. Employees will retain credit for [seniority, pension plan], and [paid vacation/paid sick leave/PTO] earned prior to the leave of absence, except for the amount of [paid vacation/paid sick leave/PTO] used during the leave.

During unpaid leave employees may continue group health or other insurance benefits at their expense, to the extent allowed by the Company's benefit plans. Note, if an employee fails to pay for benefits, insurance will be cancelled. Employee contributions are due _____ and should be submitted to _____.

Employees must notify the Company at least ____ days prior to the expected date of return, to verify intent to return from a personal leave of absence. Employees who take a personal leave of absence for a health condition must provide certification of fitness for duty to return to work before returning from leave.

The Company will try to place employees returning from personal leave in their original position if such position remains and is available. If the Company had to eliminate or fill the position while the employee was on leave, the Company will try to assign the employee to an open position for which the employee is properly qualified. If no such position exists, the employee will be laid off.

A failure to return promptly to work at the conclusion of a personal leave of absence will be treated as a voluntary resignation.

Miller Nash Leave Policy Explanatory Statement

Miller Nash's leave policy is attached. The following additional comments are offered to explain the policy and the mechanics of how it works in conjunction with the firm's other policies to put in context the full range of benefits for the attorney taking parental leave.

Although the policy itself provides the paid time contained in it, when it is overlaid with the firm's sick leave, short term disability, and vacation policies, it can add up to as much as five months paid time for a female lawyer (a bit less paid time for a male lawyer because, since he does not physically have the baby, he cannot access short term disability benefits).

Parental Leave

Eligibility

To be eligible for parental leave under this policy, an employed attorney must have worked for the firm for at least one year immediately prior to the commencement of the leave. An employed attorney may take up to a total of 24 consecutive weeks of parental leave for the birth or adoption of a child, unless the employed attorney's Team Leader or Practice Group Leader determines, in his or her discretion, that any leave (in excess of the amount to which the employed attorney is entitled under applicable law) is inconsistent with the best interests of the firm or the needs of its clients. Employed attorneys may also be entitled to leave as stated in the Family and Medical Leave Policy, although leave under this policy will run concurrently with leave under the Family and Medical Leave Policy.

Pay and Benefits

An employed attorney will be paid during a parental leave based on the schedule below. This pay is in addition to any accrued sick or vacation leave and/or payment under the firm's salary continuation policy to which the employed attorney may be entitled. Paid parental leave will normally commence upon the birth or adoption of the child. Arrangements may be made to begin the leave earlier or later, depending on the employed attorney's needs. In most cases, however, it is contemplated that the leave will be taken during the first six months of the birth or adoption.

| Years of Employment | Amount of Paid Leave |
|--------------------------------------|----------------------|
| 1 year or more but less than 3 years | 1 month full pay |
| 3 years or more | 2 months full pay |

In no event is parental leave payable upon termination of employment for any reason. Employed attorneys may also use any accrued vacation and sick leave during a parental leave.

During a parental leave, the firm will continue an employed attorney's group health insurance coverage for up to 24 weeks, but the employed attorney will be responsible for any applicable dependent insurance premiums during that 24-week period. If an employed attorney does not return from parental leave, the attorney may be required to reimburse the firm for all but 12 weeks of group health insurance plan premiums paid by the firm.

Request for Parental Leave

To request parental leave, an employed attorney must submit a request in writing to the employed attorney's Team Leader or Practice Group Leader and the Director of Human Resources at least two months prior to the commencement of the planned leave.

Parental Leave for Equity Partners

The policy stated above does not apply to Equity Partners of the firm. Equity partners wishing to take parental leave need to confer with the appropriate Practice Group Leader regarding the Equity Partner's expected length of absence, coverage of work during the parental leave, and other logistics as needed. The Practice Group Leader will then discuss the arrangements with the Executive Committee.

O. PARENTAL LEAVE

- The firm understands that new parents may wish to spend a period of time with a newborn or a newly-adopted child. This time is important for the emotional and psychological well-being of both the parent and the child. In recognition of the disabilities arising from childbirth and the physical and emotional demands relating to childbirth or adoption, the firm has adopted the following paid parental leave policy for full-time exempt employees:
 - Summary of Available Paid Leave. Available paid parental leave is divided into two periods: disability leave and childcare leave. Disability leave relating to childbirth is available only to exempt employees who give birth. Childcare leave is available to both men and women and is unrelated to any disability associated with childbirth.
 - Disability Leave. An exempt employee, who is medically disabled due to pregnancy or childbirth, will be entitled to paid disability leave. The firm will assume a disability period of three (3) weeks for exempt employees who have given birth, with the understanding that medical complications may extend the period of disability. With regard to this policy, an exempt employee's compensation and benefits will not be adversely affected by a disability leave so long as it does not exceed the three (3) weeks and so long as the employee returns to the firm after the disability leave and any approved childcare leave. Disability leave beyond three (3) weeks will not be compensated under this policy but exempt employees may be eligible under FMLA and/or OFLA, or may use banked paid sick and vacation leave and/or may be entitled to benefits under firm's group disability insurance.
 - Childcare Leave. An exempt employee will also be entitled to up to twelve (12) weeks of childcare leave. Childcare leave shall run concurrently with leave available to the employee under FMLA and/or OFLA. Childcare leave, if taken, must be taken within twelve (12) months after birth or placement for adoption. Childcare leave must be taken in one consecutive period of time. Taking childcare leave will not affect an exempt employee's benefits other than compensation. Childcare leave is compensated as follows:
 - Five (5) weeks of paid childcare leave so long as the employee returns to the firm after the approved childcare leave; and

- Following the five (5) weeks paid childcare leave, banked paid sick and vacation leave must be used during this period. Use of paid sick and vacation leave during childcare leave will not extend beyond the twelve (12) week leave.
- Approval Procedure. Except in cases of medical emergency or unexpected adoption, an exempt employee must notify the firm in writing not later than thirty (30) days prior to the anticipated start date of a parental leave. Any such notice should be directed to the Human Resources Manager, with a copy to the employee's Practice Group Leader. In addition to the anticipated starting date of the leave, the notice should specify the anticipated length of the leave and the anticipated return date. Approval of parental leave will be automatic if the proposed leave is within the parameters set forth above. Approval for any leave in excess of that contemplated by this policy will be discretionary and will be made by the Management Committee, in consultation with the employee's Practice Group Leader, taking into account the needs of the employee and his or her family, the employee's workload, specific client needs, the unique skills of the requesting employee, and any other facts considered by the Management Committee to be relevant.
- Transition Prior to and Upon Return from Leave. Not less than one month prior to an anticipated parental leave, if appropriate, the exempt employee in question will prepare a leave memorandum directed to appropriate individuals in the firm outlining the background and status of all ongoing work for which the employee is responsible and identifying who will be responsible for handling this work during the leave.
- Two weeks prior to departure, the exempt employee taking parental leave will schedule a meeting with each individual who is responsible for handling work during the leave, to review the status of the work personally.
- Two weeks prior to returning from leave, the exempt employee will give a reminder memo regarding their anticipated date of return to the Human Resources Manager and a copy to the Practice Group Leader.
- Availability During Leave. To the extent reasonably possible and consistent with medical needs and condition, an exempt employee on parental leave will generally be expected to be available by telephone and, in unusual circumstances, in person, to address specific client and/or firm needs and concerns. The firm anticipates that the need for such availability will be

infrequent, and reasonable efforts will be made to avoid interrupting parental leave.

P. PERSONAL LEAVE OF ABSENCE

- The firm recognizes an employee may need to request extended time off for personal reasons. The firm considers this leave to be a personal leave of absence, which is an authorized unpaid absence from regular employment. Personal leaves of absence are generally leaves that do not qualify under the Family Medical Leave Act (FMLA) or the Oregon Family Leave Act (OFLA). Personal leaves of absence may be considered for, but are not limited to, the following purposes:
 - To care for an ill family member, who does not qualify for leave under OFLA or FMLA;
 - To care for a non-family member with an illness or disability;
 - To extend leave beyond a 12-week OFLA and/or FMLA leave;
 - To resolve dependent care/personal issues;
 - To pursue educational/professional goals; or
 - To pursue extraordinary travel opportunities.
- Personal leaves of absence may not exceed 90 consecutive calendar days in length. Employees will not accrue additional paid leave benefits while on an approved personal leave of absence. Employees requesting a personal leave of absence should do so in writing, stating the reason for needing the leave. Requests should be made as far in advance as possible to the Department Manager or Practice Group Leader, who will consider each request on a case by case basis and make recommendation to the Management Committee for final approval. Please note there is no job protection guarantee offered with this benefit, nor will the firm continue to pay for insurance benefits unless required to do so by law.

Q. LEAVE FOR CRIME VICTIMS TO ATTEND CRIMINAL PROCEEDINGS

- An employee who is a victim of or whose family member is a victim of a felony involving financial, social, psychological, or physical harm may be eligible for crime victim leave to attend criminal proceedings when the employee has been employed for at least 180 days immediately before the date of leave and when the employee has worked an average of at least 25 hours per week. Leave may be limited where it would impose undue hardship upon Ball Janik LLP. Employees are required to use all available paid vacation leave accrued prior to taking any leave without pay if you are a crime victim and are taking leave to attend a criminal proceeding.

1. *Necessary short term absences ("NSTA")*

Employees will be paid up to a maximum of 3 weeks each employment year for necessary absences from the office for any of the following reasons:

Employee's medical care due to illness, injury or childbirth;

Family medical care due to illness, injury or childbirth requiring the employee's personal presence;

Death of family members or friends; and

Personal or family emergencies.

The value of NSTA pay will be calculated using the employee's current regular weekly salary or their average weekly salary over the past year, whichever is less.

Employees may exchange NSTA time for a dollar amount equal to the cost of hiring a substitute to perform the function which would otherwise necessitate the employee's absence from the office. For example, an employee whose child is ill may opt to hire a babysitter to stay home with the child so the parent may come to work. If the child is sick one day, the parent will be reimbursed for the cost of the sitter for the day in exchange for one day of his/her NSTA leave. If the cost of obtaining a substitute exceeds \$50.00 per day, the employee must get approval in advance from the managing shareholder or his/her designee.

Necessary short-term absences will be charged in increments of less than one day.

2. *Long term disability*

If, after necessary short term absences are fully utilized, an employee is unable, due to illness, injury, or childbirth, to carry out the normal functions of his/her job, the firm will give the employee additional paid leave as follows:

| <u><i>Length of Employment</i></u> | <u><i>Length of Paid Leave</i></u> |
|------------------------------------|------------------------------------|
| Less than 1 year | None |
| 1 year - 5 years | 30 calendar days |
| 5 years or more | 75 calendar days |

Payment for more than one long-term disability in any five-year period will be at the discretion of the managing shareholder.

The value of long term disability pay will be calculated using the employee's current regular weekly salary or their average weekly salary over the past year, whichever is less.

3. *Pregnancy and post-natal recovery*

Pregnancy and post-natal recovery will be treated as any other disability, with a presumption that disability begins one week before expected delivery and continues for six weeks after delivery, unless medical considerations extend the length of disability.

Small Firm Example Policy

Oregon Family Leave

THE FIRM provides eligible Employees family leave in accordance with, and subject to, the Oregon Family Leave Act, and the regulations promulgated thereunder (collectively, the "Act").

Eligibility

Subject to and except as otherwise provided in the Act, an Employee may be eligible to take family leave if the Employee meets the following requirements: (a) the Employee has been employed by THE FIRM for at least 180 calendar days immediately preceding the date on which family leave is to begin; and (b) the Employee has worked an average of at least 25 hours per week during such 180 calendar day period. For the purpose of taking parental leave, the Employee does not need to satisfy the 25 hour per week requirement but must be employed by THE FIRM for at least 180 calendar days immediately preceding the date on which family leave is to begin.

Purposes for Which Family Leave May be Taken

Subject to and except as otherwise provided by the Act, an eligible Employee may take leave under this policy for any of the following purposes:

i. Parental Leave

Parental leave is family leave taken to care for the Employee's newborn, newly adopted, or newly placed foster child under 18 years of age, or for a newly adopted or newly placed foster child 18 years of age or older who is incapable of self care because of a physical or mental impairment. Parental leave also includes leave time to effectuate the legal process required for placement of a foster child or the adoption of a child.

ii. Serious Health Condition Leave

Serious health condition leave is family leave taken to (i) provide care for a family member (as defined under the Act) with a serious health condition (as defined under the Act), or (ii) recover from or seek treatment for a serious health condition that renders an Employee unable to perform at least one essential function of the Employee's regular position.

iii. Pregnancy Disability Leave

Pregnancy disability leave is family leave taken by a female Employee for a disability related to pregnancy or childbirth, occurring before or after the birth of the child, or for prenatal care. Pregnancy disability leave is a form of serious health condition leave.

iv. Sick Child Leave

Sick child leave is leave taken to care for an Employee's child (as defined under the Act) suffering from an illness or injury that requires home care but is not a serious health

condition. THE FIRM is not required to grant leave for routine medical or dental appointments.

Length of Leave

Subject to and except as otherwise provided by the Act, an eligible Employee may take up to 12 weeks of family leave during any twelve-month period. The twelve-month period will be measured forward from the date the Employee uses any family leave. If medically necessary, family leave may be taken on a reduced or intermittent schedule.

Family Leave Notice Procedures

Subject to and except as otherwise provided by the Act, an eligible Employee desiring to take family leave must provide THE FIRM 30 days advance written notice (which notice must include an explanation of the need for family leave) before commencing family leave. If THE FIRM deems necessary or appropriate, THE FIRM may request additional information to determine whether an Employee's requested leave qualifies for designation as family leave, except in cases of parental leave (no medical certification is required) or sick child leave (no medical verification may be required until after three occurrences). THE FIRM may provisionally designate an absence as family leave until sufficient information is received to make a determination. If an Employee requires family leave due to an unanticipated or emergency situation, the Employee (or a person on behalf of the Employee) must give verbal or written notice to THE FIRM within 24 hours of the commencement of the family leave; provided, however, the Employee must provide THE FIRM written notice within three days of the Employee's return to work. Failure to comply with THE FIRM's family leave notice requirements may result in disciplinary action.

Verification

Subject to and except as otherwise provided by the Act, an Employee requesting family leave is required to provide medical verification of the need for family leave before the family leave commences (medical verification will not be required if the family leave is for parental leave). THE FIRM will pay the cost of the medical verification to the extent not covered by insurance or other benefit plan. If an Employee's need for family leave is due to an unanticipated or emergency situation (or otherwise precludes the Employee's giving of 30 days' advance written notice), the Employee must provide THE FIRM medical verification within 15 days of THE FIRM's request for verification. Failure to comply with THE FIRM's family leave verification requirements may result in disciplinary action.

Pay While on Leave

Family leave is unpaid leave. However, a qualifying Employee may use any earned but unused PTO during his or her family leave. After an Employee has exhausted his or her PTO, any remaining family leave will be unpaid.

Status of Benefits

THE FIRM will continue to pay its share of the Employee's medical insurance premiums during family leave. The Employee must pay his or her share of the medical insurance premiums before they are due. An Employee may continue other insurance benefits by paying the full cost of the premium for any leave

exceeding four workweeks. Premium payments must be received by the due date or coverage will be discontinued. An Employee on family leave does not accrue seniority or other benefits (e.g., PTO) that may otherwise accrue while the Employee is working.

Reinstatement

An Employee on family leave will be required to provide periodic status reports to THE FIRM. Subject to and except as otherwise provided by the Act, an Employee returning from family leave is entitled to return to the Employee's former position if such position still exists; provided, however, if the position held by the Employee at the time of family leave has been eliminated, THE FIRM will restore the Employee to any available, equivalent position. An Employee may be required to present a fitness-for-duty certificate before being reinstated.

Accepting Other Employment While on Leave

Subject to applicable law, if an Employee accepts employment with another or goes into business while on a leave of absence, the Employee will be considered to have voluntarily resigned from employment with THE FIRM as of the day on which the Employee began his or her leave of absence.



THE ECONOMICS OF PAID AND UNPAID LEAVE

The Council of Economic Advisers

June 2014



Executive Summary

Since the beginning of his Administration, President Obama has focused on creating real, lasting security for the middle class by encouraging our nation's workplaces to better support working families. As part of this commitment to an economy that works for everyone, including those balancing work and family, the President has included funding for the Department of Labor to create a State Paid Leave Fund to help states with start-up costs of establishing paid leave programs in his budget every year since taking office. In addition, the Department of Labor worked with the Bureau of Labor Statistics to better understand who has access to paid and unpaid leave in the workplace and commissioned an additional survey that focused on those who have taken, took, or had unmet need for leave. We report the findings of that data collection and summarize research that shows that paid and unpaid leave can help workers balance obligations at home and in the workplace—and help parents and those with medical needs remain in the workforce.

The latest data demonstrate that a significant fraction of the population lacks access to leave policies, especially paid leave:

- According to the latest survey of employees, 77 percent of workers report having some ability to take unpaid leave. Nearly three-quarters (73 percent) can take unpaid leave if they have an illness, and 60 percent can do so for the birth of a child.
- Only 53 percent of workers report being able to take some type of paid leave for their own illness and only 39 percent report being able to take some type of paid family leave for the birth of a child. More workers report access to paid leave than employers report providing it—only 11 percent of workers are covered by formal paid family leave policies according to employers. The gap between workers' and employers' reports suggests that informal arrangements with managers and the use of other forms of leave, like paid vacation, may currently be playing an important role.
- There are large disparities in access to paid leave across groups, with access to paid leave being particularly low among Hispanics, less educated workers, and low wage workers. Taking into account this “benefits gap,” inequality in total compensation between more and less advantaged groups is even greater than inequality in income alone.
- In addition to paid leave, workers also use the equivalent of about five days of unpaid leave per year, including low-wage workers who are the least able to afford unpaid leave.
- There is widespread need for more leave, both paid and unpaid. For every 5 workers who used leave in a typical week, one additional worker reported that he or she “needed to take leave but could not do so” in 2011. High wage workers reported “too much work” as the principal reason while low wage workers were more likely to report that they “could not afford loss of income.”

There is growing evidence that policies that support working families can benefit families without imposing a cost on businesses:

- This report examines the cost and benefits of family leave programs from an employer's perspective and finds that leave, whether paid or unpaid, can have a positive effect on long-term productivity by improving recruitment, retention, and employee motivation.
- Three states have adopted and implemented paid family leave and a number of state and local governments have introduced paid sick leave. We review the effects of these policies on both working families and businesses. A survey of 253 employers affected by California's paid family leave initiative found that the vast majority – over ninety percent – reported either positive or no noticeable effect on profitability, turnover, and morale.¹

¹ Appelbaum and Milkman (2011).

² Klerman, et al. (2013). In order to be eligible for FMLA leave, an employee must have worked at an employer for at least a year, worked at least 1,250 hours over the prior year, and work at a location with 50 or more

I. Introduction

The composition of the workforce has drastically changed over the last half-century. Almost half of the workforce is now women, married couples are increasingly sharing childcare responsibilities, and people are living—and working—longer than in the past. Given the growing number of dual-earner families, today's workers are trying to balance work, childcare, and eldercare, as well as other responsibilities. In particular, families increasingly need to take time off around the birth or adoption of a child, for their own medical needs, or when a family member becomes ill.

This evolving need for caregiving, whether for self or family, requires the ability to take time off from work. Formal sick leave policies allow workers to take a leave, usually for a short period, to recover from an illness, attend a doctor's appointment, or care for sick family members. Formal family leave policies—both maternity leave and paternity leave—allow recent mothers and fathers to take an extended absence from work while guaranteeing that they can return to their job and continue progressing in their careers.

Even when unpaid leave is available, workers may be unable or unwilling to forego lost wages. Paid family leave allows mothers and fathers to take extended periods off work while receiving replacement wages, an important distinction, especially for lower income parents who would not be able to take time off otherwise.

Despite the increasing need for leave policies, many American workers still lack access to unpaid and paid leave. The Family and Medical Leave Act (FMLA) of 1993 guarantees up to twelve weeks of unpaid leave with employer benefits for qualified medical and family reasons. Moreover, due to a number of exemptions, the FMLA only covers about 60 percent of American workers and less than a fifth of all new mothers.² However, even if workers are covered, many cannot afford to take advantage of the FMLA's guarantee of 12 weeks unpaid leave given the large loss of income it entails. The United States is currently the only developed country that does not offer government-sponsored paid maternity leave. Many of these countries also provide paid paternity leave, elder care benefits, and generous paid sick leave. In the United States some businesses have voluntarily adopted leave policies, and three state governments – California, New Jersey, and Rhode Island – have enacted legislation implementing paid family leave. As this report documents, however, far too many Americans lack access to the kind of leave policies that meet the evolving needs of today's families.

This report examines the composition of workers with access to paid and unpaid leave using the 2011 American Time Use Survey (ATUS), the best available source for detailed data on workers' access to and experience with leave. The survey confirms, that a large fraction of American workers lack access to paid leave, including paid leave for an illness or for the birth of a child. Use of unpaid leave is more common, even among low wage workers who may be least able to afford such an interruption of income. The time use data also demonstrate that the unmet need for paid leave is particularly acute among the most disadvantaged

² Klerman, et al. (2013). In order to be eligible for FMLA leave, an employee must have worked at an employer for at least a year, worked at least 1,250 hours over the prior year, and work at a location with 50 or more employees.

populations. In addition, we find large disparities among workers with different educational attainment and between Hispanics and non-Hispanics, even after controlling for differences in wages.

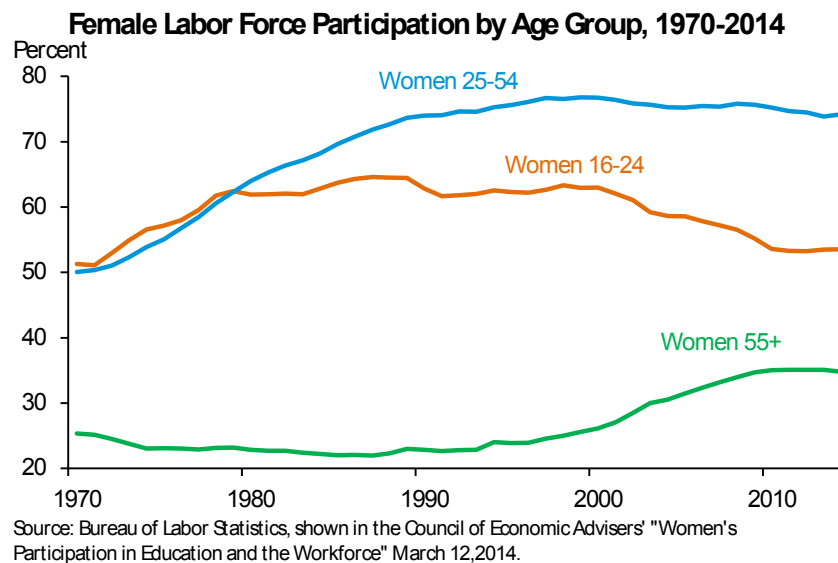
The National Compensation Survey, a survey of employers, also provides information on workers' access to leave policies. While the employee survey asks about access to leave for the birth of a child, which may include a variety of ad hoc policies or the ability to use other forms of leave, this survey asks specifically about formal family leave programs, as well as other types of paid leave. The survey finds that a small minority of private-sector workers—only 11 percent—have paid family leave at their job while 61 percent have access to paid sick leave. Overall, results from this employer survey confirm that many individuals lack access to paid leave.

This report also examines the economic implications of leave policies, and the effect on businesses in particular. By enabling workers who would have otherwise dropped out of the labor force to instead take short-term leave, such policies could benefit their employer's long-term productivity by improving recruitment, retention, and worker motivation. There is also increasing evidence that employers can offer greater flexibility to their workers, in terms of leave provisions and alternative work arrangements, without negative impacts on profitability.

In addition to examining the current state of paid and unpaid leave, this report sheds light on the role of state and local governments in expanding access to leave when businesses have not. In 2004, California became the first state to implement a paid family leave policy. Since then several other states have created similar programs and a number of state and local governments have introduced paid sick leave. Currently, even more state and local governments are currently considering ways in which they can ensure that all of their citizens have access to needed paid leave policies.

II. Changing American Family and the Need for Family Leave

Over the last few decades, the composition of the workforce and the composition of families have changed in important ways. Whereas about half of prime-aged women (age 25-54) were in the workforce in 1970, about three-quarters were in the labor force by the early 1990s. At the same time, the labor force participation rate for prime-age men fell slightly (from about 96 to 93 percent), but remains high. As a result, the number of dual-earner couples increased over this period.³ Since the 1990s, female participation in the labor force has stalled, but due in part to their increasing educational attainment and increasing hours worked, women's earnings have become an increasingly significant share of total household earnings: currently, women are breadwinners or co-breadwinners in two-thirds of families with children.⁴



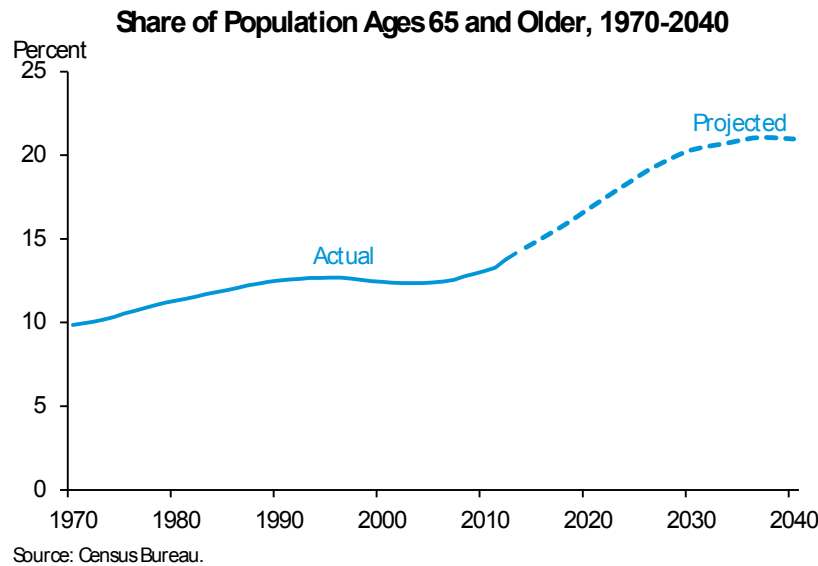
Over the same period that women were entering the workforce, the fraction of children living in a family with married parents fell from 77 percent in 1970 to 69 percent by 2013, while the fraction of children living with a single mother or single father increased. This trend, combined with the rise of dual-earner households, has resulted in 63 percent of children living in a family where all parents work.

The challenges of juggling work and family are particularly acute in single parent households. Not only have these types of households become more prevalent as marriage rates have fallen, single mothers today are more likely to be working relative to twenty years earlier. In 2013, 56 percent of single mothers with children younger than 3, and 65 percent of all single mothers, had a job.⁵ Balancing these two jobs – work for her employer and work for her family – often requires the type of flexibility that leave offers.

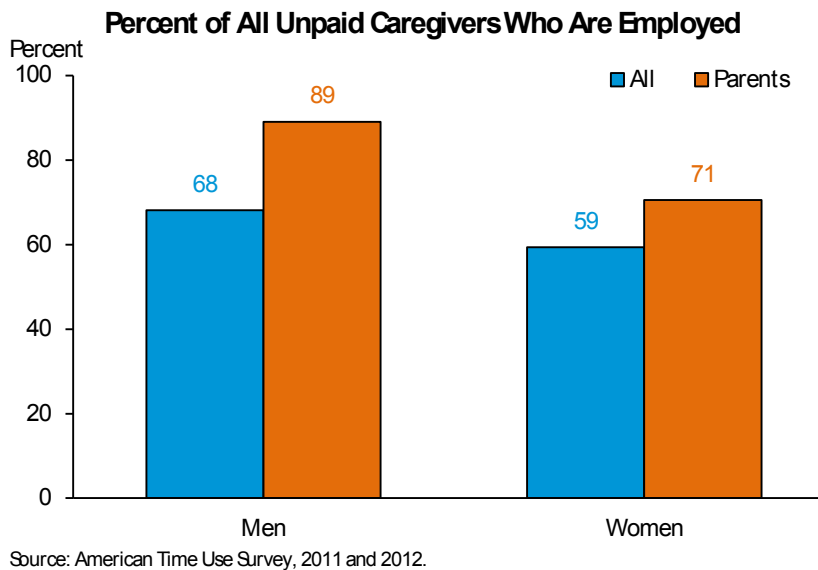
³ Waldfogel (2001).

⁴ Boushey, O'Leary, and Glynn (2013). Breadwinners are defined as single working mothers or married working mothers who earn at least as much as their spouse. Co-breadwinners are married mothers who earn at least 25 percent of the couple's earnings.

⁵ BLS (2014).



Caregiving extends beyond just children—eldercare is a growing responsibility of workers due to the fact that the American population is getting older. The share of the population age 65 and older is larger today than it was at any point during the 20th century. For people at advanced ages, unpaid family caregiving is the most common source of long-term care.⁶ Each year in 2011-2012, about 16 percent of the population ages 15 and older provided unpaid eldercare.⁷



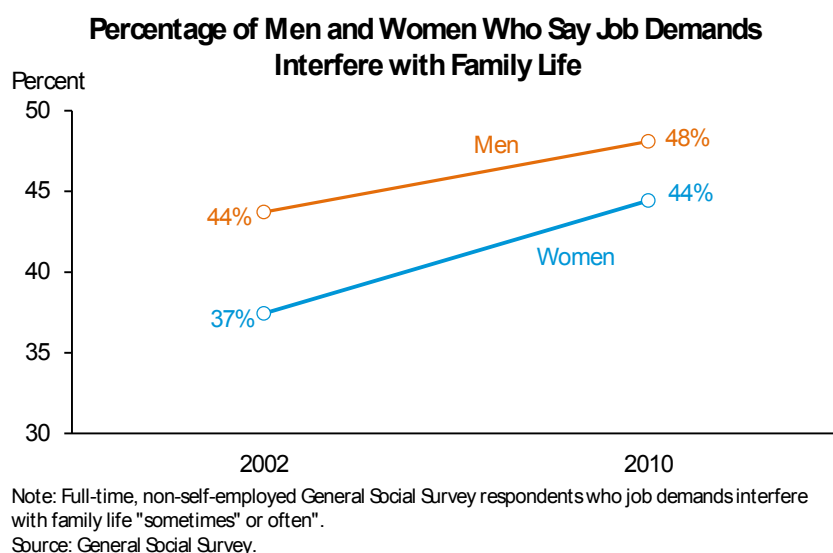
Almost half (45 percent) of individuals who provided eldercare are part of the “sandwich generation”—meaning that they care for both their elderly parents and their young children. Members of the sandwich generation are often employed and work full-time: more than three-quarters (78 percent) were employed, and 62 percent worked full-time.⁸ As Americans live

⁶ Houser, Gibson, and Redfoot (2010).

⁷ BLS (2013a)

⁸ BLS (2013b)

longer and the number of elderly family members increases, more episodic events that require time away from work to care for loved ones will occur, further necessitating policies that help the working-age population more effectively balance family and career demands.



Surveys confirm that the changing nature of the American family means that workplace flexibility, and the ability to take leave in particular, is increasingly important. The percent of non-self-employed full-time men and women who said that their job was interfering with family life increased between 2002 and 2010. In 2010, 44 percent of women and 48 percent of men said that work interferes with family “sometimes” or “often.”⁹ This is larger than the percent that say family interferes with work: less than one-third of women and less than one-fourth of men say it is difficult to take time off for personal or family matters. Moreover, 9 out of 10 Americans believe that employers should try to offer workers flexibility to meet their families’ needs, so long as the work gets done.¹⁰ Moreover, more than half of workers think that they could do their job better if they were allowed a more flexible schedule.¹¹

The ability to take paid or unpaid leave has important implications for both families and employers, especially for new mothers and fathers. There is increasing evidence that having access to maternity leave increases the likelihood that mothers return to work and continue progressing in their careers. Recent research has examined the implementation of California’s paid family leave and found that it increased the weekly hours and pay of employed mothers of 1- to 3-year-old children by almost 10 percent.¹² Similarly, researchers have found that access to paid leave increased the likelihood of a new mother returning to her employer in the US, Britain, and Japan.¹³ This research demonstrates that maternity leave, particularly when there is job protection required by law, can positively impact mothers’ wages and employment in the long-run by encouraging them to return to their prior job and by

⁹ CEA analysis of General Social Survey

¹⁰ Harris Poll of 4,096 U.S. adults (aged 18+), conducted online May 27-30, 2014.

¹¹ Harris Poll of 4,096 U.S. adults (aged 18+), conducted online May 27-30, 2014.

¹² Rossin-Slater, Ruhm, and Waldfogel (2011).

¹³ Waldfogel, Higuchi, and Abe (1999).

protecting against the loss of specific human capital. It also highlights how paid leave contributes to higher labor force participation and a stronger economy.

The Impact of Leave on Health

The benefits of leave also extend to workers' children and a number of researchers have identified a positive impact of maternity leave on infant outcomes such as birth weight and infant mortality. In particular, for college educated mothers able to take advantage of it, an expansion of unpaid leave has been found to increase birth weight, decrease premature birth, and lead to a substantial decrease in infant mortality.¹⁴ An examination of European leave policies found that paid leave programs are a relatively cost-effective way to reduce infant mortality because family leave allows parents to better care for their child and monitor their child's health.¹⁵ Moreover policies supporting parents often work together to benefit children. For instance, as part of the Affordable Care Act, employers must now provide a reasonable break time, as well as a private place for nursing mothers to express breast milk.¹⁶ This both helps nursing mothers go back to work and makes it easier for mothers to continue nursing. Other studies have found that maternity leave increases women's likelihood of successfully nursing their infants.¹⁷ There is also evidence that children have shorter hospital stays when their parents are able to stay home and care for them.¹⁸ The current evidence on children's outcomes emphasizes the importance of the early childhood and prenatal environment, so there are likely large long-term benefits of policies that improve infant health.¹⁹ One study found higher educational attainment, lower teen pregnancy rates, higher IQ scores, and higher earnings in adulthood for children whose mothers used maternity leave, suggesting paid leave policies can have long-term benefits as well.²⁰

Children who do not have adequate parental care are more likely to show up sick to school and infect others. Studies also suggest that those with paid sick leave are more likely to utilize preventative health care such as cancer screening.²¹ Researchers have also examined the impact of sick leave policies and found a number of health benefits. This implies that these policies provide wider benefits to society since workers with access to paid sick leave are more likely to utilize cost-effective methods to keep themselves (and those around them) healthy.

¹⁴ Rossin (2011).

¹⁵ Ruhm (2000).

¹⁶ Department of Labor

¹⁷ For instance, see Roe et al. (1999) and Baker and Milligan (2008).

¹⁸ Heymann (2001).

¹⁹ Almond and Currie (2012).

²⁰ Carneiro, Loken, and Salvanes. (2011).

²¹ Peipins et al. (2012).

III. The State of Leave Access and Leave Use in the United States

The 2011 American Time Use Survey (ATUS) included a module providing detailed information on leave access, leave use, and unmet need for leave.²² Workers were also asked whether they could adjust their work schedule or location instead of taking leave. Because the American Time Use Survey is linked to the Current Population Survey, it contains rich data on the characteristics of people surveyed. Previously, the best information on leave came from the National Compensation Survey (NCS), a survey of employers. While the NCS survey is informative about the total number of people with access to formal leave policies provided by their employer, it does not provide comprehensive information on the characteristics of people who lack access to leave or information on actual use of leave. The ATUS survey also provides unique data on workers' ability to adjust their schedules or location, each of which could help in balancing work and family obligations.

Access to Paid and Unpaid Leave

The ATUS leave module asked workers whether they could take paid or unpaid leave for any the following reasons: own illness or medical care, illness or medical care of a family member, childcare other than illness, eldercare other than illness, vacation, errands or personal reasons, or the birth or adoption of a child. Although workers may have access to general leave, it cannot always be used for all purposes. For instance, paid vacation days may be impractical to use for illness because an employer might require scheduling the time in advance. In the case of unpaid leave, the survey asks respondents whether they believe that they can take leave assuming they receive their employer's approval. To the extent that employers do not approve of unpaid leave, these statistics overstate the availability of unpaid leave.

| Table 1 Access to Leave | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|----------|
| Reason | % Paid | % Unpaid |
| Family | 48% | 71% |
| Own Illness | 53% | 73% |
| Vacation | 56% | 60% |
| Source: ATUS 2011, CEA calculations. Family leaves refers to the ability to take leave for a family illness, eldercare, childcare, or the birth of a child. | | |

For all types of leave, paid leave is less common than unpaid leave. After vacation, sick leave is the most common type of paid leave provided –approximately 53 percent of workers report having access to paid sick leave to cover their own illness, but only 43 percent said they thought that they would be able to use paid leave to take care of family members who were ill. Even fewer workers reported being able to use paid leave to care for young or elderly family members – approximately 28 percent of workers reported being able to use paid leave

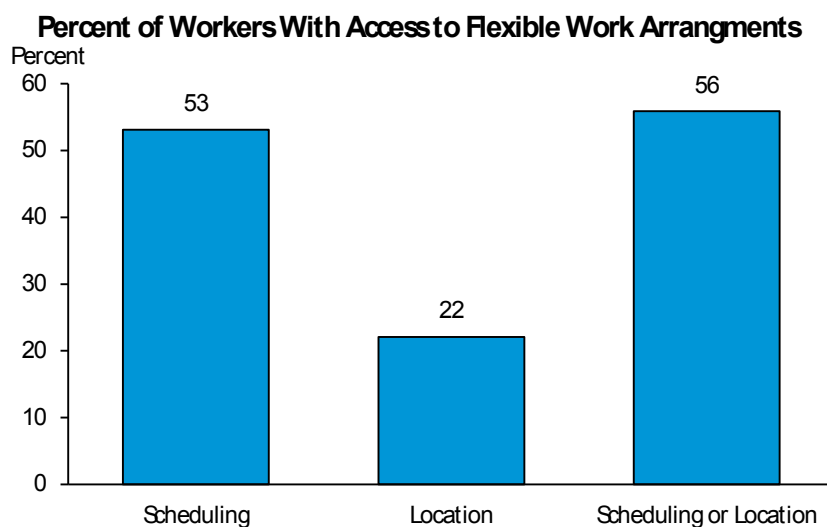
²² In the survey, workers were asked whether they could take leave for a variety of reasons. If respondents answered “yes” they were assumed to have access to leave. A number of workers did not answer survey questions related to access to leave and were assumed to not have access, however it is possible some workers learn about access to leave when they need to take it.

for childcare, while 26 percent reported being able to use paid leave for eldercare. Overall, less than half of workers (48%) reported being able to take paid leave for any family-related reason.

The Family Medical Leave Act (FMLA), passed in 1993, made significant progress by requiring unpaid leave for covered workers. Under FMLA, employers are required to give 12 weeks of unpaid leave for qualifying reasons, including the birth of a child. The FMLA exempts many workers from coverage, however, including those at private businesses with fewer than 50 employees and those that work part-time. Due to the FMLA requirement, as well as businesses that voluntarily provide unpaid leave, 60 percent of workers in the survey reported that they could take unpaid leave for the birth of a child.

Fewer workers – only 39 percent – reported access to paid family leave for the birth of a child. Mothers reported only slightly more access to paid family leave than fathers. Overall, 38 percent of working men reported access to paid leave they could take for the birth of a child while 40 percent of working women reported such access. At the time of the survey, only residents of California and New Jersey, covering about 15 percent of the U.S. population, had state-implemented paid leave policies. The remainder of those with access to paid leave either had employers that voluntarily provided paid family leave, or could utilize other forms of paid leave such as vacation time or comp time for the birth of a child. Some of those who reported access to paid family leave likely take only minimal time off—in some cases access to paid leave for the birth of a child might mean using only a few paid vacation days.

Access to Scheduling and Location Adjustments



Source: ATUS2011.

Scheduling adjustments and ability to change location of work may be another important tool to help workers balance work and family responsibilities. Often leave has to be planned in advance, which limits its usefulness in coping with unexpected emergencies. Scheduling adjustments can be an important tool to address unexpected issues outside of work. For instance, if a family member is sick, location flexibility—allowing workers to work from home—can be a good alternative to taking paid leave. Currently, about 56 percent of the workers reported that they could adjust their schedule or location, with the ability to adjust

schedules being far more common (53 percent) than the ability to change location (22 percent) (Figure 1).²³

Unequal Access to Paid Leave

| Table 2 | | | |
|-----------------------------------------------------------|----------------------|------------------------|----------------------------------|
| Access to Leave by Selected Worker Characteristics | | | |
| Leave Type | Access to Paid Leave | Access to Unpaid Leave | Schedule Adjustment for Location |
| Total | 59% | 77% | 56% |
| Demographic Characteristics | | | |
| Male | 60% | 75% | 56% |
| Female | 57% | 78% | 56% |
| White, non-Hispanic | 62% | 78% | 58% |
| Black, non-Hispanic | 61% | 77% | 50% |
| Asian, non-Hispanic | 62% | 72% | 60% |
| Hispanic | 43% | 71% | 48% |
| Educational Attainment (Workers 25 and Older) | | | |
| Less than high school | 35% | 70% | 37% |
| High school | 61% | 76% | 48% |
| Some college | 66% | 78% | 56% |
| Bachelor's degree or higher | 72% | 75% | 60% |
| Weekly Earnings | | | |
| \$0-\$540 | 50% | 78% | 48% |
| \$541-\$830 | 77% | 79% | 49% |
| \$831-\$1230 | 81% | 75% | 51% |
| \$1230+ | 83% | 75% | 60% |
| All Workers | | | |
| Paid hourly | 56% | 80% | 52% |
| Salaried | 62% | 73% | 59% |
| Source: ATUS 2011; CEA calculations. | | | |

The distinction between paid and unpaid leave is important, especially for low wage workers, since although unpaid leave may provide some flexibility, it is not a realistic option if workers

²³ The fraction of workers who report they have the ability to adjust their schedule is considerably higher than the share of workers who report having flexible schedules in the special supplement of May 2004 Current Population Survey (Council of Economic Advisers, 2010, "Work-Life Balance and the Economics of Workplace Flexibility" <http://www.whitehouse.gov/files/documents/100331-cea-economics-workplace-flexibility.pdf>). In the May 2004 supplement, 28 percent of full time workers reported having flexible schedules that allowed them to vary the start and end time of work. The difference is likely due to conceptual differences between the two surveys. The CPS question is more geared towards finding people with regular flextime schedules while the ATUS survey specifically asks respondents if they could adjust their schedules instead of taking leave (for those with access to leave) or because they need to take time away from work (for those without access to leave).

cannot afford to take it. The extension of paid family leave in California illustrates this point. While unpaid leave guaranteed by FMLA induced some educated mothers to take leave, the extension of paid maternity benefits especially increased leave taking among less advantaged mothers.²⁴

The rich detail on worker characteristics available in the ATUS survey allows us to assess the extent to which unequal access to benefits further amplifies the inequality in wages and income. Using the National Compensation Survey, one study found that higher wage workers were significantly more likely to have access to leave. Total compensation inequality was about 10 percent higher than wage inequality alone and unequal leave access accounted for roughly one-third of this additional gap.²⁵ Using ATUS, we can examine disparities across gender, race, ethnicity, and education, in addition to wages. Table 2 examines access to paid leave, unpaid leave, and scheduling adjustments by various worker characteristics.

The analysis shows little disparity in access to unpaid leave. However, there are pronounced disparities in access to paid leave. Interestingly, according to ATUS, there is little difference in access to paid leave across gender, but there is big gap in access to paid leave, across Hispanics and non-Hispanics, with only 43 percent of Hispanics having access to paid leave in comparison to 61 percent among non-Hispanics. One question is to what extent these differences can be explained by differences in pay levels or by the concentration of Hispanic workers in particular occupations or industries. If Hispanics were in the same wage categories as non-Hispanics, approximately 53 percent would be predicted to have access to paid leave. In other words, wages can account for a great deal (54 percent) but not all of the difference. Controlling for differences in industries and occupations, 56 percent of the difference can be explained.

Approximately 50 percent of black workers have access to scheduling adjustments in comparison to 58 percent of white workers.²⁶ Again, this analysis demonstrates that total compensation inequality is greater than the inequality implied by take-home pay.

The most pronounced disparities in access to paid leave exist across education and wage levels. College-educated workers are twice as likely to have access to paid leave as workers without a high school degree (72 percent versus 35 percent). Comparing wage levels, full-times workers in the top income quartile are 1.7 times as likely to have access to paid leave as the workers in the bottom quartile (83 percent versus 50 percent). Access to scheduling adjustments also differ across education groups, again with the least educated having the least flexibility.

With child care-costs rising,²⁷ it is becoming harder for low-income parents to coordinate care for their children while working. Low-income parents are also less likely than other workers to

²⁴ Rossin-Slater, Ruhm, and Waldfogel (2011)

²⁵ Pierce (2001). The data refer to 1995-1997. According to the paper the 90-10 log differential in wages was 1.55 while the 90-10 log differential in total compensation was 1.71 with leave contributing .061 points to the difference. Unlike voluntary contributions to benefits such as leave, pensions, and health insurance, legally contributed benefits such as unemployment insurance and workmen's compensation tended to *reduce* inequality.

²⁶ Black, White, and Asian categories include only non-Hispanic individuals.

have access to either paid leave or scheduling adjustments, making it even harder to care for children while working. The lack of access to arrangements that help parents care for children while maintaining a connection to the labor force may ultimately have a negative effect on the health and education of children with low-income working parents, as well as increase the cost of social services.



Source: ATUS2011.

Across industries, there is substantial variation in access to paid leave and flexible scheduling arrangements (Figure 2). Certain jobs, such as manufacturing production or construction jobs, require workers to be physically present at certain times. In such cases, workplace flexibility resulting in employee absences may be especially costly to employers. Construction is one industry that has both low levels of paid leave and low levels of scheduling flexibility. Other industries, such as leisure and hospitality, which includes food service workers, have low access to paid leave but offer relatively high levels of flexibility. Finally, some industries have substantial access to paid leave but little flexibility. Manufacturing, transportation and utilities, and education and health services fall into this category. Paid leave access appears to be predominantly related to the pay level of the industry, with high wage industries offering more benefits. For example, in the leisure and hospitality sector where average hourly wage is about \$14, less than 25 percent of workers report having paid leave, compared to almost 80 percent of workers in the financial activities sector.

It is important to note that the characteristics of these jobs are not fixed. Certain sectors have found ways to allow workers to have more flexible schedules by making better use of

²⁷ Census Bureau (2012).

technology and innovative business practices.²⁸ In some cases, there may be a cultural stigma around taking significant leave in certain industries.

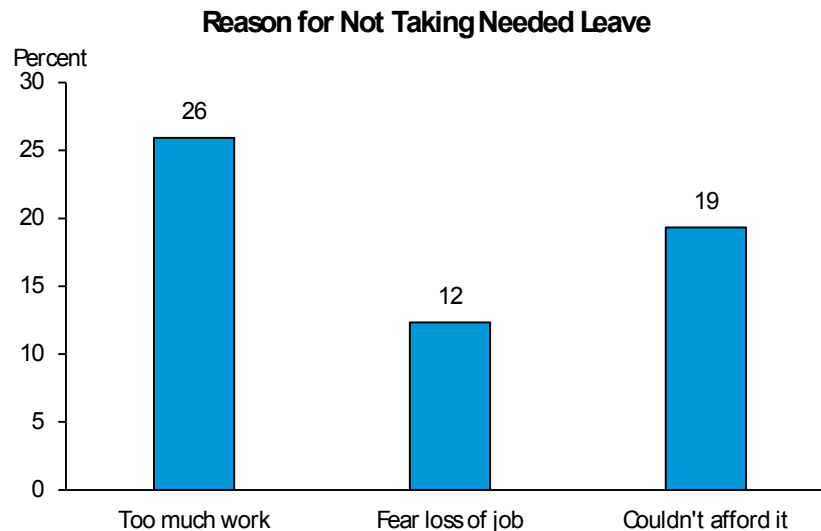
Use of Leave and Scheduling Adjustments

| Table 3 Leave Use and Hours | | |
|-----------------------------------------------------------|-----------------|----------------------------------------------------|
| Utilization | % Who use Leave | Hours of Leave Taken Among Those Using Leave |
| Overall | | |
| Access to Paid or Unpaid Leave | 23% | 15.1 |
| Access to Paid Leave | 25% | 15.8 |
| Access to Unpaid Leave | 23% | 15.3 |
| Access to Schedule/Location Changes | 21% | |
| Leave Use with No Access to Schedule/Location Adjustments | | |
| Access to Paid or Unpaid Leave | 23 % | 16.6 |
| Access to Paid Leave | 26% | 17.4 |
| Access to Unpaid Leave | 23% | 17.3 |
| Leave Use with Access to Schedule/Location Adjustments | | |
| Access to Paid or Unpaid Leave | 23% | 13.9 |
| Access to Paid Leave | 24% | 14.3 |
| Access to Unpaid Leave | 23% | 13.9 |
| Source: ATUS 2011. | | |

Even though workers may have access to leave, they may not be able to take it. Some workers, especially lower-income workers and those who are their family's primary breadwinner, cannot forego wages from taking unpaid leave. Other workers may be pressured by their employer not to take leave. For these reasons, it is important to also examine the actual use of leave. Approximately 23 percent of workers took either paid or unpaid leave during a typical week. While fewer workers took unpaid leave, the average hours among those who took unpaid leave were slightly higher than those who took paid leave.

While 23 percent of workers took paid or unpaid leave during a typical week, an additional 4.1 percent reported they wanted to take leave but could not do so. The most common reasons for not being able to take leave included "too much work" (26 percent) and "could not afford loss in income" (19 percent). An additional 12 percent reported not taking leave because they feared losing their job. Less educated and low wage workers were much more likely to cite "could not afford loss of income" as a reason they did not take desired leave while college educated and high wage workers were more likely to cite "too much work." Again, this demonstrates that there is unmet demand for leave policies, especially paid leave for low-income workers.

²⁸ Goldin and Katz (2011)



Source: ATUS2011.

Survey of Employers

The National Compensation Survey (NCS), a survey of employers, provides a picture of the availability of formal leave policies from the employer perspective. While ATUS respondents may say they have access to paid leave for the birth of a child, this may include a variety of informal policies and an ability to use other forms of leave for family reasons in addition to formal employer paid leave for family reasons.

According to the NCS, only 11 percent of private-sector workers have access to a formal paid family leave policy, including only 4 percent of part-time workers.²⁹ The NCS also reveals that workers at smaller firms have less access to paid leave—only 8 percent of those at establishments with fewer than 100 workers have access to paid family leave.³⁰

Among all civilian workers, 65 percent responded that their employees had access to paid sick leave. The contrast between private and public (state and local) responses was especially sharp – private employers reported that 61 percent of their employees had access to paid sick leave, while public employers reported 89 percent.

| Table 4 | | | |
|------------------------------------------------|------------------|----------------|----------------|
| Access to Leave (National Compensation Survey) | | | |
| Leave Type | %Paid Sick Leave | %Paid Vacation | %Paid Holidays |
| Civilian | 65% | 74% | 76% |
| Private Industry | 61% | 77% | 77% |
| State and Local Gov't | 89% | 59% | 67% |

Source: NCS.

In addition to the fact that NCS measures access to formal leave policies while ATUS measures the ability to take a leave of any length for a specific purpose, there are other

²⁹ Van Giezen (2013).

³⁰ Van Giezen (2013).

differences that explain why employers reported that less employees had access to paid family leave and more access to paid sick leave in the NCS than in ATUS. Some employees may lack the knowledge and understanding of their employer's leave policies, however lack of knowledge may mean de facto lack of access. Finally, many jobs have tenure thresholds, and new employees may report having no leave access even though they would be counted as having access in the employer survey.

Regardless of the reasons for the differences across the two surveys, there is one consistent message: a significant portion of American workers still lack access to paid sick leave.

IV. The Business Case for Paid Leave

A key argument posed by skeptics of paid family leave or flexible workplace policies is that such practices are costly and place an unfair burden on employers. However, the birth of a child or a serious illness is not a frequent event, and evidence from the states that have paid leave policies in place, as well as other developed countries, shows that these policies do not

cause undue interruptions in the workplace. In fact, a body of research finds that these practices can benefit employers by improving their ability to recruit and retain talent, lowering costly worker turnover and minimizing loss of firm-specific skills and human capital, as well as boosting morale and worker productivity.

Paid leave policies can help business recruit talented workers who plan to stay with a firm after having children. In a survey of two hundred human resource managers, two-thirds cited family-supportive policies, including flexible schedules, as the single most important factor in attracting and retaining employees.³¹ Paid leave has been shown to increase the probability that women continue in their job after having a child, rather than quitting permanently, saving employers the expense of recruiting and training additional employees.³² A review of 27 separate case studies found that the median cost of replacing an employee was 21 percent of that employee's annual salary – a substantial cost that can be reduced with family-friendly leave policies.³³

Following implementation of state programs, most businesses reported no negative effect on profitability. A survey of 253 employers affected by California's paid family leave initiative found that the vast majority – over ninety percent – reported no noticeable or a positive effect on profitability, turnover, and morale.³⁴

Paid sick leave also induces a healthier work environment by encouraging workers to stay home when they are sick. Workers who show up sick are likely to infect others and cause further productivity losses. A recent study investigating the effects of the 2009 H1N1 pandemic found that employee absences fell more rapidly after the peak of the pandemic among public sector workers (who had much higher access to paid sick leave) compared to private sector workers who were much less likely to have paid sick leave.³⁵

Evidence suggests that workers do not abuse paid sick days. A survey of 251 employers conducted after Connecticut implemented a paid sick leave program found that employees did not abuse the policy by taking unnecessary sick days. About two-thirds of employers reported no increase in cost (47 percent) or an increase of less than 2 percent (19 percent) and the report's authors conclude that there is no business case for opposing paid sick days.³⁶ Another study examining the implementation of San Francisco's paid sick leave law in 2007 found no evidence of a negative effect on the economy. Unlike surrounding areas that did not have a paid sick leave law, San Francisco saw an increase in total employment after the implementation of the law.³⁷ The number of businesses also grew more rapidly in San Francisco than in surrounding areas in the same time period.³⁸

Innovative, family-first companies have, of course, known about these advantages for some time now. A 1998 survey of large and medium-sized firms found that almost *half* of surveyed

³¹ Williams (2001).

³² Rossin-Slater, Ruhm, and Waldfogel (2011).

³³ Not including executives and physicians. Boushey and Glynn (2012).

³⁴ Appelbaum and Milkman (2011a).

³⁵ Drago and Miller (2010).

³⁶ Appelbaum (2014).

³⁷ Petro (2010).

³⁸ Petro (2010).

firms reported a positive return on investment in their flexible work arrangements or caregiving leave policies, and 80 percent found such policies to be at least cost-neutral.³⁹ In New York, following a survey of 120 employers in 2000 and 2001, researchers found that those with flexible leave policies experienced significantly lower turnover and concluded that “these results are more likely to reflect causal impacts, rather than simple correlations”.⁴⁰ In a 2002 survey, researchers from the University of Cambridge determined that businesses with family-friendly policies, which includes either paid or unpaid leave, were more likely to have above average labor productivity than those without such policies. In that same survey, 90 percent of respondents characterized their family-friendly policies as cost-effective.⁴¹

One question is why, if such practices can be beneficial to employers, they have not already been adopted. Businesses may be slow to adapt their business practices to changes in the workforce, even when modernizing their organizations would be profitable.⁴² One reason is that businesses may be reluctant to experiment with new initiatives and thus lack a full understanding of the long-run benefits, and instead focus on short-run cost-saving measures. This suggests that there is considerable scope for government to take a leadership role in spreading information about best management practices and that both workers *and* businesses can benefit as a result.

³⁹ Galinsky and Bond (1998)).

⁴⁰ Baughman, DiNardi, and Holtz-Eakin (2003).

⁴¹ Dex and Smith (2002).

⁴² For example, Bloom et al. (2013) demonstrate that informational barriers may be sufficiently large and manager time sufficiently scarce that firms do not always adapt profit-maximizing business strategies.

V. State and Local Leave Policies

Although some employers have voluntarily enacted paid leave policies, the results of this study confirm that many workers, especially those most in need, still lack access to these benefits.

Currently, three states have implemented paid family leave programs and Connecticut has implemented mandatory paid sick leave. In addition, Washington passed paid leave legislation but has not yet implemented the program. These programs are summarized in the table below. A number of states are also considering the feasibility of similar programs.

| Table 5 Current State Leave Policies | | | | | |
|-----------------------------------------|--------------|--------------------------------------------|--------------------------------------|--------------------------------|--------------------------------------------------|
| State | Type | Year Effective | Duration | Implementation | Replacement Rate |
| California | Family Leave | 2004 | 6 weeks | Temporary Disability Insurance | Up to 55% to a maximum of \$1,067 a week in 2014 |
| New Jersey | Family Leave | 2009 | 6 weeks | Temporary Disability Insurance | Up to 66% to a maximum of \$595 a week |
| Washington | Family Leave | Passed in 2009, scheduled to begin in 2015 | | | |
| Rhode Island | Family Leave | 2014 | 4 weeks; job protection also offered | Temporary Disability Insurance | Up to 60% to a maximum of \$752 a week |
| Connecticut | Sick Leave | 2012 | | Paid by employers | |

Paid Family Leave

In California, paid family leave benefits are available to almost all private sector workers, including non-profit workers and public-sector workers in agencies that opt into the program. The program provides six weeks of paid leave at approximately 55 percent of usual weekly earnings with a maximum weekly benefit of \$1,067 as of 2014, which is indexed to the state's average weekly wage. The paid family leave program extends the existing SDI system to create a paid family leave system, allowing California to capitalize on the existing administrative and revenue collection institutions. Pew estimates that 1.5 million workers have used the Paid Family Leave program since its inception.⁴³

New Jersey extended their own temporary disability insurance system to create its paid family leave program, called Family Leave Insurance (FLI), in 2009. FLI is available to workers with at least 20 calendar weeks of covered employment and earned at least \$145 per week (or \$7,300 annually) in the 52 weeks preceding leave. Covered workers are eligible for 6 weeks of partial wage replacement in the 12 months after becoming a parent or any time for the care of an ailing family member. The wage replacement is paid at two thirds of the worker's average weekly wage, up to \$595 per week.

⁴³ Pew (2014).

Rhode Island also followed California and New Jersey's lead by extending its temporary disability insurance program in 2014 to provide paid leave for new parents and workers that need to care for a sick family member. All private sector employers are covered by the law, in addition to some public employers. The Rhode Island program, called Temporary Caregiver Insurance (TCI), leverages the benefits of extending the temporary disability insurance program to incorporate new benefits for caregiving. Weekly TCI benefits are paid at a rate equal to 4.6% of weekly wages from the highest quarter of the claimant's base period, up to \$752. Additional benefits may be available to workers with children under the age of 18 and disabled children over 18. This weekly "dependency allowance" is paid as the greater of \$10 or 7% of the standard benefit rate.

New York, Hawaii, and Puerto Rico also have temporary disability insurance systems and could implement similar programs as California, New Jersey, and Rhode Island. Washington State was the first state to pass a paid leave law not administered through a disability insurance program. Although the bill was passed in 2007, it faced a number of budgetary issues and implementation has been delayed three times. It is now slated to be implemented in October 2015. The Administration recognizes that implementing family paid leave programs, particularly in states without disability programs, presents challenges and the President's budget includes a State Paid Leave Fund at the Department of Labor that will help cover start-up costs for states that choose to launch paid leave programs.

Paid Sick Leave

In 2012, Connecticut became the first state to implement legislation that required certain employers to offer paid sick leave to their workers. The law covers hourly (non-exempt) workers in the service sector employed by firms with at least 50 employees. Manufacturers and most non-profits are not required to provide paid leave; per diem and temporary workers are also not covered.⁴⁴ While only about 1 in 5 of Connecticut's workers are covered due to the many exceptions, a majority of part-time workers benefit from the earned leave law.

Covered workers in Connecticut earn one hour of paid leave for every forty hours worked, up to a total of forty hours of paid leave (five days) in a calendar year. In addition to personal illness, workers are able to use this leave to care for a sick spouse, a sick child, or in the wake of family violence.

Cities across the country have enacted statutes providing covered employees with the opportunity to accrue paid sick leave. In 2006, San Francisco became the first locality to pass a law enabling all workers in the city, including part-time and temporary workers, to accrue one hour of paid sick leave per every 30 hours worked beginning 90 days after employment. Under the law, San Francisco workers can earn up to a maximum of 5 to 9 days of sick leave per year, depending on employer size, to care for themselves, a family member, or another designated person.

⁴⁴ Manufacturers are classified as such if they belong to sector 31, 32, or 33 in the North American Industrial Classification System (NAICS). Exempt non-profits must be national chartered and provide recreation, child-care, and educational services.

The District of Columbia followed suit in 2008, enabling qualified workers to accrue paid sick leave from up to 3 to 7 days per calendar year depending on employer size. The District's law went a step further, enabling eligible workers to use sick leave to obtain social or legal services if they or their family member is a victim of domestic violence, stalking, or sexual abuse. The law was expanded in 2014 to allow tipped restaurant and bar employees, a group that was previously ineligible to accrue sick leave, to earn one hour of leave per every 43 hours worked, up to 5 days annually. The recent change to the law also enables workers to begin accruing leave as they are employed rather than after one year with the same employer and 1,000 hours worked, as had been required under the 2008 law.

As of May 2014, Seattle, WA, Portland, OR, New York City, NY, Jersey City, NJ, and Newark, NJ, have passed paid sick leave legislation. More than twenty other states and cities currently have active campaigns, paid sick leave legislation, or ballot initiatives. At the same time, at least ten states have passed legislation barring cities and counties from passing their

ADMINISTRATION INITIATIVES PROMOTING PAID LEAVE FOR WORKING FAMILIES

Since taking office, the President has taken a number of steps to promote paid family and medical leave for working families.

- **Supporting paid sick leave.** To facilitate caregiving without loss of income, the Administration endorsed the Healthy Families Act, which enables workers to earn up to 7 paid days per year to care for themselves or a sick family member.
- **Helping states establish paid family leave funds.** To support states that choose to launch paid leave programs, the President's Budget includes \$100 million in the Opportunity, Growth, and Security Initiative and \$5 million State Paid Leave Fund at the Department of Labor that will provide competitive grants to help states cover start-up costs.
- **Supporting parental leave for federal employees.** Recognizing the importance of family bonding for child development and new parents' caregiving responsibilities, the Administration issued a Statement of Administrative Policy in support of the goals of the Federal Employees Paid Parental Leave Act, when the bill was passed by the House of Representatives. The legislation provides federal employees with access to paid leave to care for children upon birth, adoption, or fostering.
- **Modernizing the Family and Medical Leave Act.** The Family and Medical Leave Act (FMLA) provides access to up to 12 weeks of unpaid, job-protected leave, but about half of all workers are in firms that are not covered by the Act. Millions more may work for employers covered by the Act but they aren't qualified as individuals for the Act's protections. The President signed legislation that made it possible for flight attendants and crewmembers to access FMLA and expanded coverage for military families. The White House Task Force on the Middle Class has recommended exploring opportunities to expand access to FMLA to more workers.

own paid sick leave legislation.

VI. Conclusion

With the rise in women's labor force participation, particularly among mothers, there are increasing demand on both men and women to balance work and family responsibilities. Relative to the pace of economic change, paid leave and flexible workplace policies have been slow to develop. There is still a substantial fraction of American workers without access to paid leave and workplace flexibility, and this gap is particularly severe among less educated and low wage workers. The U.S. lags all other advanced countries in providing paid family leave, an important reason why women's participation in the workforce has stalled in the U.S. and now lags many other developed nations.⁴⁵

As this report demonstrates many businesses would benefit from offering more workers paid family leave as it improves retention and helps workers be more productive on the job. American families would benefit, many businesses would benefit, and our economy overall would benefit since making full use of American talent requires policies that let workers better balance their family lives. This report demonstrates the important role of paid leave in keeping American workplaces competitive in the 21st century.

⁴⁵ International Labour Organization (2014).

References

- Almond, Douglas, and Janet Currie. 2011. "Killing Me Softly: The Fetal Origins Hypothesis." *The Journal of Economic Perspectives* 25, no 3: 153-172.
- Appelbaum, Eileen and Ruth Milkman. 2011. "Paid Family Leave Pays Off in California." *Harvard Business Review*. (<http://blogs.hbr.org/2011/01/paid-family-leave-pays-off-in/>).
- Appelbaum, Eileen. 2014. "Paid Sick Days in Connecticut Not a Burden for Employers." *Center for Economic and Policy Research*. (<http://www.cepr.net/index.php/op-eds-&-columns/op-eds-&-columns/paid-sick-days-in-connecticut-not-a-burden-for-employers>)
- Baker, Michael and Kevin Milligan. 2008. "Maternal Employment, Breastfeeding, and Health: Evidence from Maternity Leave Mandates." *Journal of Health Economics* 27, no. 4: 871-887.
- Baughman, Reagan, Daniela DiNardi, and Douglas Holtz-Eakin. 2003. "Productivity and Wage Effects of 'Family-friendly' Fringe Benefits." *International Journal of Manpower* 24, no. 3: 247-259.
- Bloom, Nicholas, et al. 2013. "Does Management Matter? Evidence from India." *Quarterly Journal of Economics* 128, no. 1.
- Boushey, Heather and Sarah Glynn. 2012. "There are Significant Business Costs to Replacing Employees." Center for American Progress. (<http://cdn.americanprogress.org/wp-content/uploads/2012/11/CostofTurnover.pdf>).
- Boushey, Heather, Ann O'Leary and Sarah Glynn. 2013. "Our Working Nation in 2013." Center for American Progress. (<http://cdn.americanprogress.org/wp-content/uploads/2013/02/OWNReport-INTRO.pdf>).
- Bureau of Labor Statistics. 2013a. "Employee Benefits in Private Industry," *National Compensation Survey*. (<http://www.bls.gov/news.release/ebs2.toc.htm>).
- _____. 2013b. "Unpaid Eldercare in the United States." *Economic News Release*. (<http://www.bls.gov/news.release/pdf/elcare.pdf>).
- _____. 2014. "Table 6: Employment Status of Mothers with Own Children Under 3 Years Old by Single Year of Age of Youngest Child and Marital Status, 2012-2013 Annual Averages." *Economic News Release*.
- Carneiro, Pedro, Katrine V. Loken, and Kjell G. Salvanes. 2011. "A Flying Start? Maternity Leave Benefits and Long Run Outcomes of Children." Institute for the Study of Labor (IZA) Discussion Paper 5793.
- Census Bureau. 2012. "2012 National Population Projections." (<http://www.census.gov/population/projections/data/national/2012.html>).

- Dex, Shirley and Colin Smith. 2002. "The Nature and Pattern of Family-Friendly Employment Policies in Britain." *The Policy Press*. (<http://www.jrf.org.uk/sites/files/jrf/jr116-family-friendly-employment.pdf>).
- Drago, Robert, and Kevin Miller. 2010. "Sick at Work: Infected Employees in the Workplace during the H1N1 Pandemic." *Institute for Women's Policy Research*. (<http://www.iwpr.org/publications/pubs/sick-at-work-infected-employees-in-the-workplace-during-the-h1n1-pandemic>).
- Galinsky, E and J.T. Bond. 1998. *The 1998 Business Work-Life Study*. New York: Families and Work Institute.
- Goldin, Claudia and Lawrence F. Katz. 2011. "The Cost of Workplace Flexibility for High-Powered Professionals." *The Annals of the American Academy of Political and Social Science* 638, no 1: 45-67.
- Heymann, Jody. 2001. *The Widening Gap: Why America's Working Families Are in Jeopardy—and What Can Be Done About It*. New York: Basic Books.
- International Labour Organisation (ILO). 2014. "Maternity and Paternity at Work: Law and Practice across the World." (http://www.ilo.org/wcmsp5/groups/public/---dgreports/--dcomm/documents/publication/wcms_242615.pdf).
- Houser, Ari, Mary Jo Gibson, and Donald Redfoot. 2010. "Trends in Family Caregiving and Paid Home Care for Older People with Disabilities in the Community: Data from the National Long-Term Care Survey." *AARP Public Policy Institute*. (<http://assets.aarp.org/rgcenter/ppi/ltc/2010-09-caregiving.pdf>).
- Jacob Alex Klerman, Kelly Daley, and Alyssa Pozniak. (2013). "Family and Medical Leave in 2012: Technical Report," Abt Associates, prepared for Department of Labor, <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>
- Peipins, Lucy A., et al. 2012. "The Lack of Paid Sick Leave as a Barrier to Cancer Screening and Medical Care-Seeking: Results from the National Health Interview Survey." (<http://www.ncbi.nlm.nih.gov/pubmed/22788387>).
- Petro, John. 2010. "Paid Sick Leave Does Not Harm Business Growth or Job Growth." *Drum Major Institution for Public Policy*. (http://everybodybenefits.org/wp-content/uploads/2011/01/Paid_Sick_Leave_Does_Not_Harm.pdf).
- Pew Charitable Trusts. 2014. "Paid Family Leave Hits a Snag in States." *Stateline*. (<http://www.pewstates.org/projects/stateline/headlines/paid-family-leave-hits-a-snag-in-states-85899543799>).
- Pierce, Brooks. 2001. "Compensation Inequality." *The Quarterly Journal of Economics* 116, no. 4: 1493-1525.

- Roe, Brian, et al. 1999. "Is There Competition between Breast-Feeding and Maternal Employment?" *Demography* 36, no. 2: 157-171.
- Rossin-Slater, Maya. 2011. "The Effects of Maternity Leave on Children's Birth and Infant Health Outcomes in the United States." *Journal of Health Economics* 30, no.2: 221-239.
- Rossin-Slater, Maya, Christopher J. Ruhm, and Jane Waldfogel. 2011. "The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes." *Journal of Policy Analysis and Management* 32, no.2: 224-245.
- Ruhm, Christopher J. 2000. "Parental Leave and Child Health." *Journal of Health Economics* 19, no.6: 931-960.
- Van Giezen, Robert. 2013. "Paid Leave in Private Industry Over the Past 20 years." *Beyond the Numbers: Pay & Benefits* 2, no. 18.
- Waldfogel, Jane, Yoshio Higuchi, and Masahiro Abe. 1999. "Family Leave Policies and Women's Retention after Childbirth: Evidence from the United States, Britain, and Japan." *Journal of Population Economics* 12, no 4: 523-545.
- Waldfogel, Jane. 2001. "Family and Medical Leave: Evidence from the 2000 Surveys." *Monthly Labor Review* 124, no 9: 17-23.
- Williams, Joan. 2001. *Unbending Gender: Why Work and Family Conflict and What to Do About It*. Oxford University Press.

For Further Reading:

<http://m.fastcompany.com/3043764/second-shift/how-our-small-startup-affords-to-offer-paid-maternity-leave>

Slayter, Mary Ellen, *Second Shift: How Our Small Startup Affords to Offer Paid Maternity Leave*, FastCompany.com, March 18, 2015

<https://www.americanprogress.org/issues/labor/news/2014/04/17/88243/the-business-case-for-paid-leave-and-paid-sick-days/>

Machicado, Claudia Calderon, *The Business Case for Paid Leave and Paid Sick Days*, Center for American Progress, April 17, 2014

<http://www.cepr.net/documents/publications/paid-family-leave-1-2011.pdf>

Appelbaum, Eileen and Ruth Milkman, *Leaves that Pay: Employer and Worker Experiences With Paid Family Leave in California*, Center for Economic Policy Research, 2011.