



# Fact Sheet

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## Maternity, Paternity, and Adoption Leave in the United States

### Summary

Under the Family and Medical Leave Act (FMLA) passed in 1993, employees—both men and women—are entitled to 12 weeks unpaid leave around the time of the birth of a child, as long as they work in firms with at least 50 employees, and meet minimum tenure and working hour requirements. The employer can decide whether they continue to receive their wages or salary during their maternity or paternity leave. The United States is among a very small number of countries in the world without a statutory right to paid maternity leave for employees. The Institute for Women's Policy Research's (IWPR) analysis of *Working Mother* magazine's "100 Best Companies" finds that almost all of the top companies provide some paid maternity leave and, between 2006 and 2010, these employers dramatically expanded coverage for paternity and adoptive parent leave. Nonetheless, the large majority of the companies listed provide pay for fewer than the 12 weeks of leave guaranteed under the FMLA. Government survey data finds that nationally only 10 percent of private sector employees have access to paid leave. International research suggests that the introduction of a statutory right to paid leave for parents would improve the health and economic situation of women and children and would have a positive effect on the growth prospects of the American economy.

### Paid Maternity Leave in *Working Mother* "100 Best Companies"

Each year, *Working Mother* magazine selects the 100 most family-friendly companies by reviewing employer questionnaires describing their workforce, benefits, child care, flexibility, paid time off and leaves, family-friendly programs, and company culture.<sup>1</sup> The selection process is highly competitive and only the companies with the best family-friendly policies make it on the list. In 2010, 16 percent of companies on the *Working Mother* "100 Best Companies" list offered paid maternity leave of more than 12 weeks and 8 percent provided 11–12 weeks of paid leave. For example, the law firm Arnold and Porter, LLP offers 18 weeks of paid leave to the primary caregiver (for maternity or adoption) and 6 weeks to the secondary caregiver. The leave is available to all staff regardless of tenure,<sup>2</sup> which places them among the more generous companies in terms of paid leave benefits. The National Education Association offers 16 weeks of paid leave for birth mothers and 12 weeks of paid leave for new fathers or adoptive parents. Bank of America offers 12 weeks parental leave for mothers and fathers, as well as adoptive parents. Together, the share of such relatively generous companies increased from slightly under

one-fifth (19 percent) in 2006 to slightly under one-quarter (24 percent) of all companies on the list in 2010, with the increase primarily concentrated at the top end of provisions (Table 1).

Yet, such policies are not the rule among companies that present themselves as family-friendly. Many of the *Working Mother's* “100 Best Companies” paid parental-leave policies fall short of families’ needs, with some not offering any paid maternity leave at all and 30 percent offering no more than 4 weeks of paid maternity leave. The share of companies with such low family provisions grew from 24 percent in 2006 to 30 percent in 2010 (Table 1).

**Table 1. Paid Maternity Leave for Birth Mothers in *Working Mother* “100 Best Companies,” 2006 and 2010**

Number of Weeks of Paid Maternity Leave <sup>a</sup>	Percent of Companies Offering Specified Number of Weeks			
	2010	2010 Cumulative percent	2006	2006 Cumulative percent
More than 12 weeks	16%	16%	8%	8%
11 to 12 weeks	8%	24%	11%	19%
9 to 10 weeks	8%	32%	9%	28%
7 to 8 weeks	15%	47%	20%	48%
5 to 6 weeks	23%	70%	28%	76%
3 to 4 weeks	13%	83%	10%	86%
1 to 2 weeks	12%	95%	7%	93%
0 weeks <sup>b</sup>	5%	100%	7%	100%

Notes: <sup>a</sup> Years on the job influence the amount of paid leave an individual worker may be entitled to in many establishments; the table shows the longest possible amount of paid leave. <sup>b</sup> ‘0 weeks’ includes one company which did not provide data.

Source: IWPR analysis of Working Mother Media, Inc.’s employer survey for *Working Mother* magazine’s “100 Best Companies,” 2010 and 2006.

## Paid Paternity Leave and Leave for Adoptive Parents

Paid leave for birth fathers or adoptive parents has become considerably more common among *Working Mother's* top 100 family-friendly companies since 2006. A clear majority of companies now offer at least some paid leave to fathers and adoptive parents. In 2010, almost three-quarters (74 percent) of the companies provided at least a week or more of paid leave to birth fathers, compared to only 50 percent of companies on the list in 2006 (Table 2). Likewise, there has been a significant increase in the share of companies offering paid leave to adoptive parents, up from 54 percent in 2006 to 79 percent in 2010. Leave for adoptive parents or birth fathers continues to be less generous than for birth mothers, with only 32 percent of companies offering more than four weeks of paid leave to adoptive parents (up from 16 percent in 2006) and only 12 percent of companies offering paid leave of more than four weeks to birth fathers (up from 7 percent in 2006; Table 2).

**Table 2. Paid Paternity Leave and Paid Leave for Adoptive Parents in *Working Mother* “100 Best Companies,” 2006 to 2010**

Number of Weeks of Paid Leave <sup>a</sup>	Percent of Companies Offering Specified Number of Weeks			
	Paternity Leave		Adoptive Parents' Leave	
	2010	2006	2010	2006
More than 12 Weeks	2%	0%	5%	1%
11 to 12 Weeks	2%	0%	6%	3%
9 to 10 Weeks	0%	0%	0%	0%
7 to 8 Weeks	1%	0%	8%	3%
5 to 6 Weeks	7%	7%	13%	9%
3 to 4 Weeks	11%	8%	21%	13%
1 to 2 Weeks	51%	35%	26%	17%
0 Weeks <sup>b</sup>	26%	50%	21%	46%

Note: <sup>a</sup> Years on the job influence the amount of paid leave an individual worker may be entitled to in many establishments; the table shows the longest possible amount of paid leave. <sup>b</sup> ‘0 weeks’ includes three companies which did not provide data on paternity leave and two which did not provide data on adoptive leave. Source: IWPR analysis of Working Mother Media, Inc.’s employer survey for *Working Mother* “100 Best Companies” 2010 and 2006.

## Very Few Workers Have Paid Family Leave

The U.S. Department of Labor National Compensation Survey (NCS) collects data from employers on the number of employees with access to paid family leave which applies to all types of leave covered under the FMLA, not exclusively leave provided to parents to care for a new born child. In 2010, only 10 percent of private sector employees had access to paid family leave (Table 3). Access to paid leave is more likely if an employee is well paid, works in managerial or professional occupations, or is employed by a company with at least 100 employees. Only four percent of workers in the lowest wage quartile (i.e., 25<sup>th</sup> percentile or less) have access to paid family leave.

There are considerable regional differences in access to paid leave; workers in the Pacific and the New England regions are more likely to have paid family leave than workers in other regions (Table 3). Even the federal government, which is typically thought of as a model employer, fails to give its employees paid parental leave. Instead, federal employees who become parents must use paid vacation or sick days or unpaid time off.<sup>3</sup>

**Table 3. Access to Paid Family Leave for Private Sector Employees, 2010**

<b>All Employees<sup>a</sup></b>	<b>10%</b>
<b>Occupations<sup>a</sup></b>	
Management, Professional, and Related	17%
Sales and Office	11%
Natural Resources, Construction, and Maintenance	7%
Service	6%
Production, Transportation, and Material Moving	5%
<b>Average Wage</b>	
Lowest 25th Percent <sup>a</sup>	4%
Highest 25th Percent <sup>a</sup>	16%
<b>Establishment Size<sup>a</sup></b>	
1–99 Workers	7%
100 Workers or More	13%
<b>Region<sup>a</sup></b>	
New England	12%
Middle Atlantic	9%
East North Central	11%
West North Central	9%
South Atlantic	11%
East South Central	6%
West South Central	9%
Mountain	8%
Pacific	12%

Note: <sup>a</sup> Data slightly overestimate leave coverage because they are unadjusted for tenure rates; typically workers will not have access to leave in the first few months after joining a company.

Source: U.S. Department of Labor, Bureau of Labor Statistics. *National Compensation Survey: Employee Benefits in Private Industry in the United States March 2010*, Table 32.

## **Pregnancy and the Law in the United States**

While no federal law requires paid maternity leave, three laws give workers important rights related to pregnancy, parenthood, and taking care of seriously ill family members. The Pregnancy Discrimination Act of 1978 (PDA) requires that employers treat pregnant workers the same as other employees with temporary medical disabilities in all conditions of employment, such as pay and fringe benefits, including paid sick days, health insurance coverage, and temporary disability insurance. It also forbids employers from discriminating against pregnant women or forcing them to take pregnancy leave. The law does not require employers to provide

paid leave, but if they provide paid leave for some medical conditions, they must also provide it for pregnancy. (The PDA applies to firms that are subject to the 1964 Civil Rights Act—those with 15 or more workers.)

Under the FMLA, job security is protected during leave taken for an employee's own disability or illness (including pregnancy and childbirth); the care of the employee's newly born, adopted, or foster child;<sup>4</sup> or to care for an immediate family member (spouse, child, or parent) with a serious health condition. The FMLA applies to employees who work 1,250 hours in a year, have worked at least 12 months for their current employer, and who work for a firm employing at least 50 workers.

This federal policy ensures that eligible employees receive:

- Up to 12 weeks of unpaid leave annually (leave may be taken all at once or intermittently and for part or all of a day);
- Continued health insurance benefits (if ordinarily provided by the employer); and,
- A guarantee of return to the same or an equivalent job.

Once mothers return to work, the Patient Protection and Affordable Care Act of 2010 (PPACA) provides for nursing breaks and a private, sanitary place for most mothers employed on an hourly basis to express breast milk until the child is one year old. Employers with fewer than 50 employees can seek a hardship exemption to mandate. The employer has to let a woman take time to express milk but does not have to pay her during that time.<sup>5</sup>

## **State-Level Initiatives Improve on Parents' Rights under Federal Law**

Several states have enacted policies to provide workers with family leave above the FMLA requirements. These policies provide eligible workers in covered establishments with pay and/or more time to care for a newly born or adopted child, or to care for an ill parent, child, or spouse.

- By state mandate, Temporarily Disability Insurance (TDI) is offered to all workers in California, Hawaii, New Jersey, New York, Rhode Island, and Puerto Rico. These programs provide temporary income to workers with non-work-related, short-term disabilities (including pregnancy and childbirth) and they are funded by employee or employer contributions, or both. TDI ranges in coverage from 26 to 52 weeks<sup>6</sup> but the typical disability period for pregnancy in California and New Jersey is estimated to be up to four weeks prior to birth and up to six weeks after.<sup>7</sup>
- The State of California gives workers in any firm the right to six weeks of partially paid family leave to care for a newborn, an adoptive child, or an ill family member. The payment averages to 55 percent of wages, up to a maximum of \$987 per week.<sup>8</sup> This provision was enacted in 2002 by expanding the state's TDI program.
- Washington State's Family Leave Insurance Law was passed in 2007 and would provide a full-time worker with \$250 per week for up to five weeks to care for a newborn or

newly adopted child. Due to lack of funding, the program is on hold until October 2012.<sup>9</sup>

- Some states have mandated family leave policies for firms smaller than the federal FMLA guidelines. Maine covers establishments with 15 employees or more.<sup>10</sup> The Family and Medical Leave Act of the District of Columbia includes unpaid family and medical leave of up to 16 weeks in a 24-month period for workers in establishments with 20 employees or more. Employees of the District of Columbia government are covered, but federal employees working in DC are not.<sup>11</sup> Minnesota covers establishments with 21 employees or more, although the leave entitlement is less than the 12-week period provided under the FMLA.<sup>12</sup>

## **Rights to Paid Maternity, Paternity and Parental Leave Elsewhere in the World**

The United States is unique among other high income countries and one of only five countries in the world not to provide a statutory right to paid maternity leave.<sup>13</sup> The 1981 *UN Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) includes an obligation to provide paid maternity leave (albeit without specifying the number of weeks). The convention has been signed by 185 countries, but not by the United States. All 27 European Union (EU) member states provide a minimum of 14 weeks of job-guaranteed maternity leave, paid at least at the rate set for statutory sick pay (paid sick leave is obligatory in all EU countries), and some European countries provide substantially more paid maternity leave.<sup>14</sup> Countries vary in terms of providing individual entitlements of leave for fathers. Iceland has the most egalitarian system in the world, giving each parent the non-transferable right to three months each of paid leave plus an additional three months that may be shared between the couple at their discretion, while single parents get the full entitlement.

## **Research on the Impact of Paid Leave for Parents**

There is a substantial body of research on the impact of statutory paid maternity leave.<sup>15</sup> This research finds:

- Maternity leave has proven health benefits for mothers and children. The World Health Organization (WHO) recommends exclusive breastfeeding for the first six months of a baby's life. Paid maternity leave makes it more likely that children are breastfed.<sup>16</sup> The health effects of breastfeeding go beyond improvements for the child. A lowered risk of diabetes and heart attack for the mother has also been linked to breastfeeding.<sup>17</sup>
- Lack of paid maternity leave decreases the likelihood that newborns receive follow-up care, leads to lower rates of immunization, and decreases breastfeeding by four-and-a-half weeks on average, as a result of early returns to work.<sup>18</sup>

- A majority of new mothers report one or more physical side effects up to five weeks after childbirth, and those who had Cesarean sections had significantly more negative health effects.<sup>19</sup> Narrow definitions for post-birth recovery hinder longer adjustment periods needed for mothers to regain health and return to work. Longer leave periods provide greater flexibility for women to choose the appropriate length of leave, considering their health, among other factors.<sup>20</sup>
- The introduction of paid maternity leave is cost-effective for individual employers because it reduces costs for recruitment and retraining, and increases commitment and motivation among employees (beyond those directly benefiting from leave). IWPR’s analysis of staff turnover rates in the federal government—still without a formal right to paid maternity leave—found significantly higher turnover rates for women of child-bearing age compared to men in the same age group. Such differences disappear for older federal workers.<sup>21</sup>
- An evaluation of the impact of employers of California’s Paid Family Leave Act found that the vast majority of employers faced no problems with implementing the act.<sup>22</sup>
- The introduction of paid maternity leave would likely aid the U.S. economy by improving productivity and having a positive impact on economic growth. A detailed econometric analysis conducted for the Organisation for Economic Cooperation and Development (OECD) concludes that, “if countries with no unpaid maternity leave (such as the U.S.) introduce this measure at the average OECD level (15 weeks), they could increase [multi-factor productivity] by 1.1 percent in the long run.”<sup>23</sup>

## Notes

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<sup>1</sup> Information collected by Working Mother Media, Inc. from employers and edited by Working Mother Media, Inc., 2010

<sup>2</sup> Information from company website

<[http://www.arnoldporter.com/careers\\_our\\_environment\\_work\\_life\\_program.cfm](http://www.arnoldporter.com/careers_our_environment_work_life_program.cfm)>

<sup>3</sup> United States Office of Personnel Management, “Report to Congress on Paid Parental Leave,” <<http://www.opm.gov/oca/Leave/HTML/ParentalReport.htm>> (accessed May 5, 2011).

<sup>4</sup> The definitions have been clarified by the U.S. Department of Labor to allow for a more generous definition, which goes beyond legal or biological parent-child relationship. See DOL News Release

<<http://www.dol.gov/opa/media/press/whd/whd20100877.htm>> (accessed May 5, 2011).

<sup>5</sup> IWPR’s analysis of the new provision suggests that it will lead to an increase of 165,000 in the numbers of women breast feeding their infants at least until six months of age; Robert Drago, Jeffrey Hayes., and Youngmin Yi, *Better Health for Mothers and Children: Breastfeeding Accommodations under the Affordable Care Act* (Washington, DC: IWPR, 2010), <<http://www.iwpr.org/publications/pubs/better-health-for-mothers-and-children-breastfeeding-accommodations-under-the-affordable-care-act>> (Accessed May 5, 2011).

<sup>6</sup> Vicky Lovell and Hedieh Rahmanou, *Paid Family and Medical Leave: Essential Support for Working Women and Men* Publication #A124. (Washington DC: Institute for Women’s Policy Research, 2000).

<sup>7</sup> “FAQs for Disability Insurance,

California” <[http://www.edd.ca.gov/disability/FAQs\\_for\\_Disability\\_Insurance.htm](http://www.edd.ca.gov/disability/FAQs_for_Disability_Insurance.htm)> (accessed May, 5 2011); and

“FAQs for New Jersey Temporary Disability Insurance”. <<http://lwd.dol.state.nj.us/labor/tdi/content/faq.html>> (accessed May 5, 2011).

<sup>8</sup> “Paid Family Leave Benefits, California”, <[http://www.edd.ca.gov/disability/PFL\\_Benefit\\_Amounts.htm](http://www.edd.ca.gov/disability/PFL_Benefit_Amounts.htm)> (accessed May 5, 2011).

<sup>9</sup> Personal communication with David Johnson, Protected Leave Specialist, Department of Labor and Industries Washington State November 30 2010, and “Family Leave Insurance,”

<<http://apps.leg.wa.gov/rcw/default.aspx?cite=49.86&full=true>> (accessed May 5, 2011).

<sup>10</sup> “Regulation of Employment, Maine Department of Labor”,

<<http://www.maine.gov/labor/posters/regulationofemployment.pdf>> (accessed May 5, 2011).

<sup>11</sup> “District of Columbia Family and Medical Leave Act”

<<http://www.dcregs.dc.gov/Gateway/ChapterHome.aspx?ChapterNumber=4-16>> (accessed May 5, 2011).

<sup>12</sup> “State Parental Leave Act and Federal Family and Medical Leave Act”,

<<http://www.dli.mn.gov/LS/ParLeave.asp>> (accessed May 5, 2011).

<sup>13</sup> See, *Raising the Global Floor: Adult Labour- A World Legal Rights Database*

<<http://raisingtheglobalfloor.org/policies/map-selection.php?policy=pregnancy>> (accessed May 5, 2011).

<sup>14</sup> For an analysis of paid parental leave equivalents in OECD countries, see Rebecca Ray, Janet C. Gornick, and John Schmitt, . “Who cares? Assessing generosity and gender equality in parental leave policy designs in 21 countries,” *Journal of European Social Policy* no 3 (June 2010): 196-216.

<sup>15</sup> For a comprehensive evaluation of research on the impact of work family policies see Ariane Hegewisch and Janet Gornick, “The Impact of Work-Family Policies on Women’s Employment: A Review of Research from OECD Countries,” *Community, Work & Family* 14: 2 (2011).

<sup>16</sup> World Health Organization (WHO), *Infant and young child nutrition – Global strategy on infant and young children feeding*, (Report A55/15 by the Secretariat) (Geneva: WHO, 2002).

<sup>17</sup> Elanor Bimla Schwarz, Roberta Ray, Alison Stuebe, Matthew Allison, Roberta Ness, Matthew Freiberg and Jane Cauley, “Duration of Lactation and Risk Factors for Maternal Cardiovascular Disease” *Obstetrics & Gynecology* no 5 (May 2009): 974-982.

<sup>18</sup> Lawrence Berger Jennifer Hill and Jane Waldfogel, “Maternity Leave, Early Maternal Employment and Child Health and Development in the US,” *The Economic Journal* no 501 (February 2005): F29-F47.

<sup>19</sup> Patricia McGovern, Bryan Dowd, Dwenda Gjerdingen, Cynthia R. Gross, Sally Kenney, Laurie Ukestad, David McCaffey and Ulf Lundberg, “Postpartum Health of Employed Mothers 5 Weeks After Childbirth,” *Annals of Family Medicine* no 4 (March/April 2006): 159-167.

<sup>20</sup> Ariane Hegewisch and Janet Gornick, *The Impact of “Family-Friendly Policies” on Women’s Employment Outcomes and on the Costs and Benefits of Doing Business* (Commissioned Report for the World Bank) (Washington, D: The World Bank 2010).

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<sup>21</sup> See Kevin Miller, Allison Suppan Helmuth and Robin Farabee-Siers, *The Need for Paid Parental Leave for Federal Employees: Adapting to a Changing Workforce* (Washington DC: IWPR, 2009).

<sup>22</sup> See Eileen Appelbaum and Ruth Milkman, *Leaves That Pay: Employer and Worker Experiences with Paid Leave in California* (Washington DC: Center for Economic and Policy Research, 2011)

<<http://www.cepr.net/index.php/publications/reports/leaves-that-pay>> (accessed May 5, 2011).

<sup>23</sup>See Andrea Bassanini and Danielle Venn, “The Impact of Labour Market Policies on Productivity in OECD Countries,” *International Productivity Monitor* (Fall 2008): 3-15.

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