

PAID FAMILY AND MEDICAL LEAVE: Supporting Working Families in Illinois

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Subcommittee on Unemployment Insurance for the New Workforce**

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Mr. Chairman and Members of the Subcommittee: I am Vicky Lovell, a Study Director with the Institute for Women's Policy Research, an independent social science research institute that focuses on economic issues of concern to women and their families. Thank you for providing me with an opportunity today to address this subcommittee on the important and timely issue of paid family and medical leave.

The need for paid family and medical leave

Recent initiatives to expand and enact paid family and medical leave programs have been inspired by the dramatic decline in the proportion of families with a full-time caregiver (wife and mother) at home. The trend of women's increasing labor market activity is a phenomenon that spanned nearly the entire 20th century — the female labor force participation rate rose from 19% in 1890 to 35% in 1960¹ and has since climbed to 60%.² The change in women's status as at-home care providers has been significant even in the last two decades: 41% of children had a resident full-time caregiver in 1985, but by 1998 only 32% did³ — a decrease of 22% in just 13 years in the proportion of families with someone we would expect could care for sick children, ill spouses, or frail elderly relatives.

Calls for family leave in the United States date back at least to 1942, when the Women's Bureau of the

U.S. Department of Labor recommended that employed women have six weeks of prenatal leave and two months of leave following childbirth.⁴ In Europe, policies to provide employment breaks and temporary income to new mothers had already long been enacted by then. Following ratification of the International Labor Organization's Maternity Protection Convention in 1919, six countries instituted job-guaranteed maternity leaves and nine offered some wage replacement during leaves following childbirth.⁵ These policies became increasingly generous over time, especially since the 1960s and 1970s, when leave periods lengthened and wage replacement rates rose.

In the United States, the development of family leave policy began with action in the states.⁶ Nine states had enacted unpaid maternity leave provisions by 1987; in the next two years, another 14 states added maternity (3 states) or parental (11 states) leave.⁷ Advocates began lobbying for leave at the federal level; the first version of a family leave bill was introduced in Congress in 1985. Eventually the federal Family and Medical Leave Act of 1993 was passed and signed into law, ensuring the right to job-protected leave from work for a variety of family-related circumstances for covered workers. The federal act applies to all private, state and local government employees, and some federal workers, who have worked for at least 1250 hours for an employer in the 12 months immediately prior to the occurrence

prompting the need for leave, have worked for that employer for at least 12 months, and work at a location of that employer that has at least 50 employees within a 75-mile radius. It provides up to 12 weeks of leave within a 12-month period for the birth and care of an infant, placement of an adoptive or foster child, care for an immediate family member (including elderly parents) with a serious health condition, or the worker's own serious health condition.

While this Act provides an extremely important workplace protection for millions of workers, it does not adequately fill the gap of families' need for caregiving. Forty-five percent of workers are not covered by the FMLA,⁸ and even those who are eligible may be unable to afford the leave they and their families need. Thus, a new round of work is now focused on providing temporary wage replacement for workers on leave.

What's new about the current advocacy efforts is the acknowledgement that women's traditional caregiving work contributed to social well-being in many ways in addition to childbearing and that men as well as women need time off to share in this work. Women have also been the individuals who care for families' short-term and chronic health concerns, for disabled workers and others with medical disabilities, and for the growing proportion of our population that is elderly.⁹ The temporary and on-going care needs of all these individuals must be met somehow, and until we develop public institutions to assume this responsibility, our families must continue do to it themselves, despite their increased commitment to economically productive activity in the labor market. Although men are becoming a larger presence in the caregiving arena, families are still being spread too thin. The difficult balance between work and family can only be successfully maintained with the help of public policies and employer actions that provide an opportunity to take short leaves from work, with some wage replacement, when family circumstances demand attention.

The impact of paid family and medical leave on women's employment outcomes

The strategies women often turn to in order to combine their family responsibilities with their employment frequently have negative impacts on

their earnings. For both single and married women, reducing work hours to less than full-time,¹⁰ taking breaks from employment through either childbirth-related leave or by temporarily dropping out of the workforce, or avoiding jobs with work schedules or demands that are likely to be incompatible with caregiving are ways to balance work and family, but only at the expense of current earnings and future promotional opportunities and retirement income.

However, research shows that having access to reasonable leave policies diminishes the disadvantage experienced by employed mothers. Paid leave for women giving birth increases women's employment tenure, significantly increasing mothers' return to work.¹¹ The wage replacement aspect of paid leave, not simply having some time off work, has a significant effect on women's working later into their pregnancies and returning to work faster.¹² This increased time at work naturally leads to higher earnings, both by avoiding periods without income and by keeping women on the track of career development. Thus, leave policies are important for helping working families cope with medical needs, and they also increase families' economic security by strengthening women's labor force attachment and increasing women's earnings.

Current state initiatives to provide paid family and medical leave

Within the last three years, at least 21 state legislatures have considered proposals for income maintenance while on family leave.¹³ Most state policy initiatives have focused on two potential vehicles for funding paid leave: the unemployment insurance (UI) system and temporary disability insurance (TDI). Other funding mechanisms have been proposed in individual states.

Unemployment Insurance. Most states that have considered legislation for paid leave have looked at modifying the UI system. The first state to propose expanding UI to provide social insurance to workers needing to take a break from employment was Vermont, in 1997.¹⁴ The rationale for this approach is that individuals with workforce attachment who are temporarily unable to work because of emergent family responsibilities are similar to other individuals with workforce attachment whose

employment has been disrupted through no fault of their own and who are covered by the UI system. The Department of Labor has previously ruled that workers engaged in approved training, temporarily ill after becoming unemployed, on jury duty, or experiencing a temporary layoff may be deemed “able and available” for work and receive UI benefits.¹⁵ This interpretation of the UI statutes provides a precedent for the view that an unemployed individual may be committed to certain activities that prevent an immediate return to work and still be eligible for UI benefits.

Because of uncertainty regarding the Department of Labor’s willingness to approve of the expansion of the UI system to encompass family and medical leave, in the following year Vermont and Massachusetts asked for clarification that the Department of Labor would endorse this concept.¹⁶ Advocates’ work in support of this UI-family leave linkage was further advanced in May 1999, when President Clinton directed the Secretary of Labor to develop regulations that would clearly allow states to extend UI benefits to workers on temporary leave to care for infants and newly adopted children. Draft regulations were published in December, with a comment period lasting until early February. The final regulations were published in June, with an effective date of August 14, 2000.

Officially referred to as “BAA-UC,” for “birth and adoption unemployment compensation,” and popularly known as “Baby UI,” since it provides leave to parents of infants and those with newly adopted children, this new initiative acknowledges the likely benefits to parents and children of paid leave, anticipating enhanced parent-child bonding, more stable child-care arrangements, and greater long-term parental workforce attachment.¹⁷ It allows states to choose, if they wish, to modify their UI statutes to provide benefits to workers who are covered by the state’s UI system and have a newborn (up to one year old) or a newly adopted child (up to age 18) placed with the parents within the previous 12 months.

Optional model state legislation accompanying the Baby UI regulations suggests that any payments from employers to parents resulting from the birth or adoption be deducted from potential UI benefits,

along with the employer’s proportionate share of disability insurance payments, if any. The model legislation provides for a maximum of 12 weeks per birth or adoption, and recommends that Baby UI benefits be nonchargeable, that is, that they not have an impact on the employer’s UI tax rate.

Thus, Baby UI, as approved by the U.S. Department of Labor, fills part of the gap between workers’ needs and the Family and Medical Leave Act: It allows states to provide some income replacement to some parents. All other circumstances covered by the FMLA, however, such as caring for a sick spouse or parent, are omitted from this paid leave mechanism.

Baby UI has been considered in Colorado, Connecticut, Florida, Hawaii, Illinois, Indiana, Maryland, Massachusetts, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Vermont, and Washington state.¹⁸

Temporary Disability Insurance. The second most commonly proposed vehicle for paid leave is TDI. Mandatory TDI programs in five states and Puerto Rico meet the needs of workers addressing their own non-work-related, short-term medical disabilities. These plans are funded by employee or employer contributions or by a combination of both. Benefit periods range from 26 weeks to 52 weeks in existing programs. (Table 1 summarizes some important provisions of existing state TDI programs.) Many employers in the 45 other states and the District of Columbia voluntarily offer participation in group TDI plans to their workers, with full or partial premium coverage, as a fringe benefit; additionally, some workers purchase their own individual policies in the insurance marketplace.

TDI is a natural partner for maternity leave, since state and employer disability insurance policies are required under the Pregnancy Discrimination Act of 1978 to provide leave and benefits for disability related to pregnancy and childbirth on the same basis under which other medical disabilities are covered.¹⁹ Thus, existing TDI programs in California, Hawaii, New Jersey, New York, Rhode Island and Puerto Rico already provide paid leave for eligible employed mothers for the period of medical disability surrounding childbirth.²⁰ Most of the state TDI

plans were established using accumulated UI trust funds after World War II (when the anticipated post-war business slump did not occur). Recent proposals would expand the covered circumstances and recipients of family disability insurance to include employed fathers and other FMLA situations in addition to parental leave.

Advocates in California, Iowa, Massachusetts, Montana, New Jersey, New York and Vermont have suggested enacting or expanding TDI programs to cover additional circumstances (other than the worker's own disability), such as those currently encompassed by unpaid, job-guaranteed leave under FMLA.²¹ This approach avoids debate over the suitability of UI for workers who are themselves able-bodied and work-ready but have family responsibilities that temporarily impede their employment. However, current TDI programs do not guarantee the right to return to work, so it does not completely fill the gap for workers not covered by the FMLA.

Other leave proposals. The Minnesota legislature considered a different method of providing temporary income for new parents. A bill introduced in February would have required the Commissioner of Economic Security to reimburse employers for

one-half the amount employers paid their employees for parental leave, to a maximum of 26 weeks of state outlay per employee per year.²² Employer eligibility criteria mandated a minimum leave payment of \$100 per week and a maximum state reimbursement to an employer of \$250 per week per employee. The leave program was to be funded by monies from the general fund. A variant of this proposal involved levying a special assessment on employers to pay for a similar paid parental leave program. The new assessment would have been matched by an equivalent reduction in the unemployment insurance tax.²³

Minnesota's proposal is unusual in that it seeks out an entirely new method of structuring a paid leave program (although the proposal was tied to UI through the funding mechanism). There are many possible variations of this theme, using either an established or a new government agency to administer a program and an employer and/or employee payroll tax or general revenues for financing.

In Massachusetts, a Baby UI measure passed by the legislature was vetoed and returned for consideration of Governor Cellucci's own proposal: an employer tax credit of 50% of wages paid to employees on leave

Table 1.
Temporary disability insurance programs in the states

	California	Hawaii	New Jersey	New York	Rhode Island	Puerto Rico
Date enacted	1946	1969	1948	1949	1942	1968
Administering agency	Employment security agency	TDI division of Labor Department	Employment security agency	Workers compensation board	Employment security agency	Employment security agency
Financing	Employee	Employer	Employer and employee	Employee	Employee	Employer and employee
Qualifying conditions	\$300 in earnings	14 weeks of work, min. 20 hrs./wk., earnings of \$400	20 weeks of work, with minimum earnings	4 consecutive weeks of employment	Earnings requirement	\$150 in base period
Maximum	52 weeks	26 weeks	34 weeks	26 weeks	30 weeks	26 weeks

Source: U.S. Department of Labor, Employment and Training Administration, Unemployment Insurance Service, "Comparison of state unemployment insurance laws," January 2000. Available on the web through www.itsc.state.md.us.

with infants or newly adopted children. The credit would have a maximum amount of \$2,550 per employee per tax year. The Governor's message also called for feasibility studies of tax deductions for the purchase of short-term disability insurance and for a loan program for employees on unpaid leave.²⁴ The Massachusetts legislature adjourned without acting on the Governor's suggestions.

Legislative studies. In addition to these proposals for paid leave, six states introduced legislation to undertake studies of paid leave. Bills initiating studies passed in California, Connecticut, Illinois, New Hampshire and New York.

How much does paid family and medical leave cost?

Estimating the cost of creating a paid family and medical leave program involves several points of conjecture. Although some data about likely take-up rates and the length of time individuals would remain on leave are available, based on surveys such as that conducted in 1995 for the federal Commission on Leave and data about usage from current state temporary disability insurance programs, it is impossible to predict with complete accuracy the number of workers who would take leave for various circumstances, how long their leave would last, or how employers will modify existing leave programs in response to new government mandates. All these factors will vary according to the specific details of program design, including the extent of workforce coverage and adequacy of benefits. Thus, at this point it seems reasonable to estimate a range of potential costs, identifying a likely low estimate and a likely high estimate, rather than attempting to pinpoint eventual total costs precisely.

The U.S. Department of Labor prepared an estimate for Illinois of the cost of a Baby UI program. Studies from other states also provide guidance regarding the possible per-worker costs of different types of leave, which can be applied to information about the Illinois workforce to generate an estimate for this state. These existing sources of cost projections are listed in Table 2. For each estimate, I have calculated an approximate total annual cost for a comparable program for the Illinois workforce, based on the size of the 1999 Illinois workforce that was covered by the UI program. In addition, to put these figures in the context of overall

social welfare goals, Table 2 shows the 1999 cost of several other social programs in Illinois.

It should be kept in mind that these estimates are sensitive to predictions regarding the number of workers who would be covered by a new policy, the eligibility restrictions on benefit receipt, how many workers would experience a covered circumstance, how many would have coverage already through employment, how long leaves for different circumstances would last, and whether the availability of leave would change individuals' labor force activity.

BAA through UI: U.S. Department of Labor (DOL). In developing the BAA guidelines, the Department of Labor's Division of Fiscal and Actuarial Services estimated the costs of BAA programs in several states, including Illinois. The program would provide up to 12 weeks of benefits to parents of newborn or newly adopted children, if the parent meets the state's regular UI eligibility criteria. The estimated cost of this program for Illinois is \$61 million annually. With a 1999 UI-covered workforce of approximately 5.7 million, the per-worker estimate is \$10.71 per year. (This estimate uses lower average leave duration estimates than many other studies, which tends to decrease the cost estimate. However, it also predicts much higher take-up rates for men than have been found in countries like Sweden that have worked actively to increase men's participation in parental leave, and this tends to inflate the cost estimate.)

BAA through UI: New Jersey. The New Jersey Office of Legislative Services has also estimated the cost of a proposal to add a BAA component to its UI program. For 1998, the estimate was \$101.1 million, or \$28.47 per worker per year. Adjusting this estimate for the size of the UI-covered workforce in Illinois generates a somewhat comparable Illinois estimate, in 1999 dollars, of \$162 million.²⁵

Family medical leave: New Jersey. The New Jersey legislature is considering expanding the state's TDI program to encompass other FMLA circumstances (those other than own and pregnancy/childbirth-related disability, which are already covered by New Jersey's TDI program, and parental leave, which is envisioned under Baby UI). The cost of this expansion is estimated at \$16.22 per worker. For a

Table 2.
Estimates of potential cost of paid family and medical leave
and actual expenditures for other social welfare programs

	Annual per-worker cost¹	Est. annual cost (Illinois) <i>(in millions)</i>	Actual program cost (Illinois) <i>(in millions)</i>
Parental Leave			
BAA through UI (DOL) ²	\$10.71	\$61	
BAA through UI (NJ) ³	28.47	162 ⁴	
Family Medical Leave			
FML through TDI (NJ) ³	16.22	92 ⁴	
FML through TDI (CA) ⁵	21.61	123 ⁴	
Existing TDI program (NJ) ³	129.20	735 ⁴	
Unemployment Insurance⁶			\$1,169
Social Security:⁶			
Retirement			11,354
Survivors			3,451
Disability			1,761
Food Stamps⁶			867

Notes:

¹ Author's calculation using noted source and data on size of relevant UI-covered workforce from U.S. Census Bureau, *Statistical Abstract of the United States* (1999) (California) and Gregory L. Williams, personal communication (New Jersey).

² U.S. Department of Labor, Employment and Training, Division of Fiscal and Actuarial Services [2000].

³ Gregory L. Williams, "Estimate of utilization and cost of family leave benefits under Assembly Bill, No. 2037" (New Jersey State Legislature Office of Legislative Services, March 16, 2000).

⁴ Per-worker cost in 1999 dollars multiplied by size of UI-covered Illinois workforce for 1999.

⁵ State of California, Employment Development Department, "The fiscal impact on the disability insurance fund of extending disability benefits to individuals granted family leave," June 2000.

⁶ *Statistical Abstract* (1998 expenditures converted into 1999 dollars).

workforce the size of Illinois's, this would mean an annual cost of \$92 million.²⁶

Family medical leave: California. The California legislature has also considered expanding its TDI program and directed the Employment Development Department to generate an estimate of this potential policy initiative. Unlike New Jersey, California's program would cover all FMLA circumstances not already included in the state's TDI policy — that is, all FMLA leave except own health and maternity disability. (It would not be accompanied by a Baby UI program, since parental leave would fall under the expanded family temporary disability insurance program.) The projected cost estimate is \$21.61 per worker per year, or \$123 million per year for the smaller Illinois workforce.

Temporary disability insurance: New Jersey. To give some sense of the cost of a complete paid leave program in Illinois, Table 2 lists the cost of New Jersey's existing TDI program: \$338.2 million in 1998 (shown here in 1999 dollars per worker). Assuming the same per-worker cost and assuming that all UI-eligible Illinois workers would be eligible for a traditional TDI program in Illinois, the cost of this program would be approximately \$735 million.

These cost estimates show that, especially in comparison with other important and widely accepted social welfare programs, paid family and medical leave is affordable. Available estimates of the cost of a minimal program of leave for new parents range from 5% to 14% of the current UI program in Illinois. Even a full program of Baby UI and TDI covering all FMLA

conditions would cost just over the current food stamp expenditure and still be dwarfed by even the disability component of the Social Security program.

Conclusions

The increasing labor market commitment of American families is putting new pressure on employers and policy makers to provide adequate support for both employment and caregiving. One crucial policy is paid family and medical leave. When children are sick, they need someone to stay home from work to care for them. When elderly parents have to see the doctor, their adult relatives need to be able to take time from work to help. When workers themselves face medical crises, they need the security of paid, job-guaranteed employment breaks.

Both Baby UI and TDI can provide a good start toward the kind of security Illinois families need as they struggle to maintain their economically productive activity in the workforce and sustain strong families. These policies are affordable and would add an important element to our overall package of social welfare policies.

In considering options for helping Illinois working families, I urge the General Assembly to consider the particular needs of low-wage workers — the working poor. Policies that mandate job-guaranteed leave but do not require wage replacement are of limited value to families with no savings —

workers who live from paycheck to paycheck and cannot afford to miss four or six weeks of pay during a family crisis. Workers employed by small businesses need assistance at least as much as other workers, but programs such as the FMLA that apply only to larger firms leave them out. Benefit levels that are tied to earnings but do not stipulate a reasonable minimum benefit amount are also of little practical use to the families already struggling to make ends meet.

We can expect most employers to oppose using UI and TDI for paid family leave. The business community has been seeking to restrict access to the UI program, and to reduce its perceived tax burden, from the moment the program was instituted in 1935, and it never embraces the imposition of other benefit programs. This narrow focus on short-term self-interest is a legitimate position for business to take, although it ignores employer benefits of lower turnover costs and greater productivity that would likely accompany paid leave policies. But this perspective is only one part of the debate over paid family and medical leave. Broader social interests and our families' needs are also part of the equation. As we begin to acknowledge that most workers do not have a full-time partner at home to care for their families — that is, as we see the encumbered worker, or the worker with significant family responsibilities, as the norm²⁷ — public policies such as paid family and medical leave appear not only feasible, but necessary.

Endnotes

¹ Claudia Goldin, *Understanding the Gender Gap: An Economic History of American Women*, Table 2.1 (New York: Oxford University Press, 1990).

² 1998 data; U.S. Census Bureau, *Statistical Abstract of the United States*, Table 650 (1999).

³ U.S. Department of Health and Human Services, *Trends in the Well-being of America's Children & Youth*, Table ES 3.1 (Washington, D.C.: U.S. Government Printing Office, 1999).

⁴ Meryl Frank and Robyn Lipner, "History of Maternity Leave in Europe and the United States," in *The Parental Leave Crisis: Toward a National Policy*, Edward F. Zigler and Meryl Frank, eds., pp. 3-22 (New Haven, CN: Yale University Press, 1988).

⁵ Ibid.

⁶ States with temporarily disability insurance programs were required to provide insurance benefits during women's medical recovery from childbirth following passage of the Pregnancy Discrimination Act in 1978.

⁷ Susan Deller Ross, "Legal aspects of parental leave: At the crossroads," in *Parental Leave and Child Care: Setting a Research and Policy Agenda*, Janet Shibley Hyde and Marilyn J. Essex, eds., pp. 93-124 (Philadelphia: Temple University Press, 1991).

⁸ Commission on Leave, *A Workable Balance: Report to Congress on Family and Medical Leave Policies*, Table 4.A (1996).

⁹ Individuals aged 65 and older made up 11.3% of the U.S. population in 1980; by 1998, that figure had increased to 12.7%. *Statistical Abstract*, Table 14 (1999).

¹⁰ Twenty-two percent of workers who are voluntarily working part-time choose reduced hours to accommodate child-care or family or personal obligations (ibid., Table 671).

¹¹ Marit Rösen and Marianne Sundström, "Maternal employment in Scandinavia: A comparison of the after-birth employment activity of Norwegian and Swedish women," *Journal of Population Economics* 9:267-285 (1996).

¹² Jutta M. Joesch, "Paid leave and the timing of women's employment before and after birth," *Journal of Marriage and the*

Family 59:1008-1021 (1997). It is also the case that for very low-income women, having paid maternity leave available *lengthens* childbirth leaves to six weeks, the minimum time recommended to protect the mother's health (James T. Bond, Ellen Galinsky, Michele Lord, Graham L. Staines, and Karen R. Brown, "Beyond the parental leave debate: The impact of laws in four states," Families and Work Institute, 1991).

¹³ Center for Policy Alternatives, "Momentum builds in states for paid family and medical leave," *Alternatives* 8(5):1 (July/August 2000), and National Partnership for Women & Families, "State Family Leave Benefit Initiatives: Making Family Leave More Affordable" (1999; available on the web at www.nationalpartnership.org).

¹⁴ National Employment Law Project, "Expanding Unemployment Insurance for Workers on Family & Medical Leave" (1999; available on the web at www.nelp.org).

¹⁵ U.S. Department of Labor, Employment and Training Administration, "Birth and Adoption Unemployment Compensation," 20 CFR Part 604, p. 37210.

¹⁶ "Expanding Unemployment Insurance for Workers on Family & Medical Leave."

¹⁷ "Birth and Adoption Unemployment Compensation."

¹⁸ Center for Policy Alternatives and National Partnership for Women & Families. In some of these states, the proposal covered additional circumstances beyond birth and adoption.

¹⁹ Christopher J. Ruhm and Jackqueline L. Teague, "Parental leave policies in Europe and North America," in *Gender and*

Family Issues in the Workplace, pp. 133-161.

²⁰ Institute for Women's Policy Research, "What is temporary disability insurance?" (1993).

²¹ Center for Policy Alternatives and National Partnership for Women & Families.

²² H.F. No. 3869, introduced in the 81st Legislative Session of the Minnesota House of Representatives, February 24, 2000.

²³ H.F. No. 3605, introduced in the 81st Legislative Session of the Minnesota House of Representatives, February 17, 2000.

²⁴ Argeo Paul Cellucci, "Attachment C" (August 10, 2000).

²⁵ A more precise estimate for Illinois would involve comparing fertility rates, likely take-up rates, coverage, etc. between New Jersey and Illinois, which has not been done here.

²⁶ The portion of the New Jersey workforce covered by the state's TDI program is much smaller than that covered for UI, because New Jersey has both a state and a private TDI plan. However, the annual estimate presented here for Illinois assumes that the TDI-eligible population is the same size as the UI-covered workforce. More restrictive TDI coverage would reduce the cost of the program.

²⁷ For a more complete discussion of the concept of the encumbered worker, see Heidi Hartmann, Young-Hee Yoon, Roberta Spalter-Roth and Lois Shaw, "Temporary disability insurance: A model to provide income security for women over the life cycle," paper presented at the 1995 Annual Meetings of the American Economics Association.

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