



# Paid Family and Medical Leave in the United States: Using Data to Guide Public Policy

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## Executive Summary

Efforts to expand paid family and medical leave in the United States have been hampered with a significant lack of information on paid leave benefits in the private sector. This study fills major information gaps by performing an original analysis of the workers who take family and medical leave in the United States. Using the most comprehensive data source on family and medical leave, the study aims to identify (1) how the private sector provides paid leave for family and medical reasons and (2) how workers utilize family and medical leave.

Key findings include:

- In 2012, 12.6 percent of workers took family and medical leave for an average of 7.2 weeks, and over half of those workers took leave for personal medical reasons;
- 66.2 percent of workers who took family and medical leave were paid by their employers, and men and women received paid leave for family and medical reasons at similar rates;
- When workers were paid, they most frequently used a general paid time off benefit (69.3 percent), personal days (35.5 percent), and temporary disability insurance (21.4 percent)—not a defined family and medical leave benefit; and
- Only 33.3 percent of workers in low-income families were paid while on family and medical leave, compared to 66.2 percent and 83.7 percent of those in middle- and high-income families, respectively, yet lower-income workers took leave more frequently.

Key implications for policymakers include:

- Paid family and medical leave is much more widely available than commonly perceived;
- Policymakers should expect both genders to utilize any new federal benefit frequently and for long periods;
- Existing federal legislative proposals to expand paid leave are either too broad or would not reach parts of the labor force that most need the benefit;
- Policies that aim to expand access to paid family and medical leave responsibly should target low-income workers; and
- More information is needed to fully understand paid family and medical leave.



## Introduction

In recent years, efforts to expand access to paid family and medical leave have gained traction across the political spectrum. Politicians from both parties make arguments similar to the one made by New York Senator Kirsten Gillibrand, who has said, “We need a national, gender-neutral paid leave policy in this country, so that every woman and man who works in America has access to paid leave when they need it—not just the 14 percent who are lucky enough to have it today.”<sup>1</sup>

Thus far, however, the conversation over the best way for the government to expand the benefit has been devoid of any reasonable understanding of the extent of paid leave in the private sector and how workers use it. For instance, Senator Gillibrand’s 14 percent statistic, a common feature of the debate, comes from the Bureau of Labor Statistics (BLS). Yet, the statistic only refers to the portion of workers in 2016 who were offered a defined paid family leave benefit specifically to care for a new child or a seriously ill family member. In reality, workers utilize other forms of paid leave for family and medical reasons, the most common of which is a general paid time off (PTO) benefit. Consequently, two-thirds of workers are paid by their employers when they take family and medical leave.

The data that should be driving policy is clearly missing from the debate. As a result, policymakers have considered a range of solutions, but they lack the information needed to decide the appropriate action to take. Specifically, they are left with three categories of important questions. (1) To what extent is the private sector already taking care of this issue? Are there certain types of workers who tend to receive paid leave for family and medical reasons and certain types who do not? (2) How should we expect workers to utilize paid family and medical leave under each proposal? How often would workers use it and for how long? Would men and women use it differently? For which reasons would workers most likely use the benefit? (3) How would firms react to a federal paid family and medical leave policy? Would they replace their current paid leave benefits with a benefit funded by the public? Would firms become more likely to discriminate against workers they anticipate utilizing paid family and medical leave (i.e., women in their late twenties and early thirties)?

Without better data, policymakers are unable to address these questions and assess the best way to expand access to paid family and medical leave. Fortunately, there is one comprehensive survey on family and medical leave that could provide a basis to begin answering these questions. In 2012, Abt Associates surveyed workers who took family and medical leave, asking questions related to the reasons for their leave, their paid leave compensation, the length of their leave, and the types of benefits they used.

This study performs an original analysis of that survey to fill the major information gaps surrounding paid family and medical leave, and to begin addressing the first



two categories of questions. (This study does not address the third set of questions because there are no data available for analysts to even begin tackling it.) On the first category (access to paid leave in the private sector), it finds that in 2012, 66.2 percent of those who took family and medical leave were paid. Of those who were paid, 71.3 percent were paid their full regular earnings. Workers who were guaranteed job protection by the Family and Medical Leave Act were more likely to be paid while on family and medical leave. When workers were paid, 69.3 percent used a general PTO benefit. Yet, workers in low-income families consistently lacked access to paid leave. Only 33.3 percent of those with family incomes below \$30,000 were paid when on family and medical leave, while 66.2 percent of those in families earning between \$30,000 and \$75,000 were paid, as were 83.7 percent of those in families earning above \$75,000.

On the second category of questions (how workers use paid leave benefits), the study finds that 12.6 percent of workers took family and medical leave in 2012. Meanwhile, workers who were guaranteed job protection by federal law took family and medical leave more frequently than workers who were not. Workers took family and medical leave for lengthy periods of time, averaging just over 7 weeks in 2012. Finally, while leave-taking patterns were mostly similar across genders, men tended to take shorter leaves than women.

These statistics only begin to provide the information required to analyze fully the merits of each policy solution. That said, they do indicate that paid leave is widely available in the private sector, and that workers would likely use a public benefit frequently and for long periods of time. This suggests that any publicly funded universal benefit would be both unnecessary and costly. Meanwhile, low-income workers are very unlikely to receive any paid leave. Thus, a paid-leave policy would be most effective if it were to target benefits to the lower end of the income distribution.

## **What Are America's Family and Medical Leave Laws and What Has Been Proposed by Policymakers?**

Before diving into the new data, it is important to clarify the language surrounding paid family and medical leave and understand current family and medical leave laws in the United States. The term "paid family and medical leave" refers to paid leave to care for a new child ("parental leave"), to care for a family member with a serious medical condition ("family care leave"), and to recover from one's own serious medical condition ("medical leave"). Not included in paid family and medical leave is paid sick leave, which is generally a few paid days off to recover from a short-term illness.

In the United States, there is only one federal law governing family and medical leave. Under the Family and Medical Leave Act of 1993 (FMLA), certain workers are allowed up to 12 weeks of unpaid, job-protected parental, family care, and medical



leave.<sup>2</sup> To be eligible for the FMLA's 12 weeks of job protection, an employee must have worked continuously for their employer for at least one year and worked at least 1,250 hours within that year. In addition, the business must employ at least 50 workers within a 75-mile radius. Under these criteria, 59 percent of the workforce qualifies for the job protection guaranteed by the FMLA.<sup>3</sup>

Although the FMLA protects the jobs of certain workers, there are no federal laws that guarantee workers are paid during their time away from work. In fact, the United States is the only developed country that does not guarantee workers some form of paid leave.<sup>4</sup> A handful of states, however, do offer paid family and medical leave programs. State policymakers in California, New Jersey, New York,<sup>5</sup> and Rhode Island have adopted social insurance models that guarantee universal paid family and medical leave. These four states each provide several weeks of paid leave by distributing payments through state trust funds that are financed with payroll taxes. The benefits are generally set at a fixed percentage of a worker's usual weekly earnings up to a cap. In California, for instance, workers receive 60 percent to 70 percent of their weekly earnings with a 2018 maximum benefit of \$1,216 per week.<sup>6</sup> The District of Columbia and the state of Washington recently passed bills that use the same social insurance model to provide paid leave, which will be implemented over the next few years.

Given increasing public interest in expanding paid family leave, a mix of proposals have come forward from across the political spectrum. On the left, Senator Kirsten Gillibrand's Family and Medical Insurance Leave (FAMILY) Act would use the social insurance approach currently employed in California, New Jersey, New York, and Rhode Island.<sup>7</sup> In particular, it would provide 12 weeks of paid family and medical leave by creating a trust fund that would be financed with a 0.4 percent payroll tax, split between employers and employees. For those 12 weeks, the federal government would provide benefits equal to two-thirds of regular earnings. Low-wage workers would receive a minimum monthly benefit of \$580 (even if two-thirds of earnings are below that amount) and high-wage workers would receive a maximum monthly benefit of \$4,000 (even if two-thirds of their earnings are above that amount).

On the right, a series of separate proposals would either reward companies for providing paid family and medical leave, increase workplace flexibility, or help families afford time away from work. Most prominently, a proposal to provide businesses tax credits was included in the tax reform bill that President Trump signed into law at the end of 2017.<sup>8</sup> Under a two-year pilot program, the federal government is starting to give tax credits to businesses that provide at least two weeks of paid family and medical leave. Originally conceived by Senator Deb Fischer in the Strong Families Act, the tax credit ranges from 12.5 percent to 25 percent of the cost of each hour of paid leave, depending on how much a worker's regular earnings the benefit replaces. The government covers 12.5 percent of the benefit's costs if workers receive half of their regular earnings and up to 25 percent if



workers receive their entire regular earnings. Businesses are also only able to apply the credit toward workers who earn below \$72,000 per year.<sup>9</sup>

A few other conservative or bipartisan proposals are noteworthy as well. Representative Martha Roby’s Working Families Flexibility Act would allow workers to accrue paid time off for working overtime in lieu of additional pay.<sup>10</sup> Representative John Katko’s bipartisan Working Parents Flexibility Act would allow employers to offer workers the option to divert a portion of their pretax earnings into a parental leave savings account similar to a 401(k) retirement savings account.<sup>11</sup> Finally, Representative Mimi Walters introduced the Workflex in the 21st Century Act, which would reward employers that provide sufficient paid time off and workplace flexibility by exempting them from local and state paid leave mandates. To be exempt, employers would have to provide their paid leave benefits to both full-time and part-time workers, and the minimum paid leave required would vary by employer size.<sup>12</sup>

### Popular Statistics on Paid Family and Medical Leave Are Incomplete

Currently, the go-to source for examining paid leave in the private sector is the Bureau of Labor Statistics’ (BLS) National Compensation Survey (NCS). The NCS reports the frequency at which employers provide certain types of paid leave to their workers, and it is the basis for Senator Gillibrand’s claim that only 14 percent of workers had paid leave in 2016.<sup>13</sup>

Table 1 contains the frequency that workers were offered various paid leave benefits by their employers in 2017.

Table 1: Percent of Civilian Workers Offered Paid Leave Benefits, 2017<sup>14</sup>

<b>Paid Leave Benefit</b>	<b>All Workers</b>
Family	15
Vacation	74
Holiday	76
Sick	72
Short-Term Disability	39
Long-Term Disability	34
Personal	42

Senator Gillibrand’s claim that only 14 percent of workers have paid leave refers to the NCS’s estimate that only 14 percent of workers were offered a defined paid family leave benefit in 2016, which increased to 15 percent in 2017. Yet this is a very narrow definition of both paid leave for family and medical reasons and paid leave in general. According to the NCS, “paid family leave” is a benefit to be used specifically to care for a new child or a family member with a serious medical condition (parental and family care leave).<sup>15</sup> Excluded from this statistic is paid



leave to recover from one's own serious medical condition (medical leave). Moreover, this statistic does not account for the many other paid leave benefits that employers provide and are separately recorded by the NCS. For instance, 74 percent of workers have paid vacation, 72 percent have paid sick days, and 42 percent receive paid personal days. Additionally, over one-third of workers are offered short-term and long-term disability policies. The NCS also does not keep track of PTO, which is an increasingly common form of paid leave and is available to workers for any purpose, including family and medical leave.

Even more limiting is that the NCS does not provide any information about the paid leave benefits themselves. In particular, these data do not indicate the length of leave available or the generosity of the paid leave benefits offered by employers. The statistics also do not indicate how workers utilize the paid leave benefits that are offered to them. Specifically, they do not show how frequently and for how long workers utilize each type of paid leave benefit. Finally, they do not illustrate if, when requiring family and medical leave, workers without a defined paid family leave benefit can claim the other more common forms of paid leave (e.g., vacation and sick days). As a result, relying solely on the NCS to guide debate on paid family and medical leave is quite limiting.

As policymakers begin to address paid family and medical leave, they will be doing so with an incomplete understanding of the state of paid leave if they continue to rely on the NCS as a guide. Fortunately, one comprehensive and accessible survey sheds far more light on paid family and medical leave. In 2012, Abt Associates conducted a survey on behalf of the Department of Labor (DOL),<sup>16</sup> collecting important information on how many workers take family and medical leave, the reasons for and duration of their leave, their family income, and more. Although the survey has some limitations, the breadth of information provided makes it the best available resource for examining workers who take family and medical leave. Unless otherwise noted, the data that follow are from this survey.

## **How the Private Sector Provides Paid Family and Medical Leave**

To identify the need for government intervention and the type of policy that is merited, it is vital to understand how well the private sector already provides paid leave for family and medical reasons. For instance, a universal proposal like the FAMILY Act may be required if the employers fail to provide paid leave for family and medical reasons. Alternatively, if employers already give workers paid leave for family and medical reasons, then a more targeted or incentive-based approach may have greater merit than the FAMILY Act.





### Private Sector Paid Leave

While only 15 percent of the workforce is offered a defined paid family leave benefit, roughly two-thirds of workers who took family and medical leave in 2012 were paid. Table 2 contains the percent of leave takers who were paid.

Table 2: Percent of Leave Takers Paid, 2012

Leave Type	All	FMLA-eligible
Total	66.2%	77.9%
Medical	66.6%	75.4%
Family Care	71.2%	77.6%
Parental	60.4%	85.4%

Overall, 66.2 percent of workers who took family and medical leave in 2012 were paid by their employers. Workers were most likely to be paid for family care leave (71.2 percent) and least likely for parental leave (60.4 percent). Across each type, however, workers were far more likely to be paid than figures from the NCS suggest. These 2012 statistics are also consistent with more recent estimates: The Pew Research Center found that 63 percent of workers who took family and medical leave in 2016 were paid by their employers.<sup>17</sup>

The Abt Associates survey also suggests that workers eligible for job protection under the FMLA were even more likely to be paid. Employers paid 77.9 percent of FMLA-eligible workers who took family and medical leave. Among FMLA-eligible workers, those on parental leave were most likely to be paid (85.4 percent), and those on medical leave were least likely to be paid (75.4 percent). These figures suggest that the FMLA could be influencing employers to provide leave benefits. Although the FMLA does not guarantee compensation, employers may be taking advantage of the framework it provides to design their own paid leave benefits. That said, these data may also in part reflect that workers who are eligible for FMLA job protection are by definition more experienced and employed by larger firms, which makes them more likely to receive paid leave benefits, regardless of federal law.

Of interest, among those who were paid while on family and medical leave, the vast majority received their entire regular paychecks. 71.3 percent of workers with paid leave for family and medical reasons were paid fully. So, not only are the majority of workers who take family and medical leave paid by their employers, but their paid leave benefits are quite generous. Among those receiving paid leave, however, FMLA-eligibility does not appear to influence the generosity of their benefits. Those with paid leave and eligible for job protection were just as likely to be paid fully as those who were paid but not eligible for job protection.

Finally, men and women receive paid leave for family and medical reasons at similar rates. 67 percent of men and 65.7 percent of women were paid while on leave for



family and medical reasons. They also were paid at similar rates across each type of leave (parental, family care, and medical) and when eligible for job protection under the FMLA. 77.8 percent of FMLA-eligible men who took family and medical leave were paid, as were 78 percent of FMLA-eligible women. The only discrepancy between men and women occurs when examining FMLA-eligible workers who took parental leave. In that case, virtually all (98.8 percent) of men were paid, compared to 77.5 percent of women. In addition, of those who were paid when on parental leave, women were much less likely than men to receive their entire regular paychecks. (This particular difference could be driven by a limited sample size in the Abt Associates survey; parental is the least frequent form of family and medical leave taken, resulting in a small number of workers in the survey who took parental leave.)

Paid leave benefits clearly are widely available to workers who take family and medical leave. Moreover, other evidence indicates that similar paid family and medical leave benefits are available to the entire workforce, not just those who take it. In their own analysis of the survey, Abt Associates concluded that unmet need for family and medical leave in the private sector is limited. In particular, only 4.6 percent of the workforce reported needing family and medical leave in 2012 but being unable to take it.<sup>18</sup> If paid family and medical leave was not as widely available to the entire workforce, then one would expect unmet need for leave to be much greater than 4.6 percent. In addition, in their 2016 survey the Pew Research Center found that 13 percent of all leave takers (both paid and unpaid) utilized a defined paid family and medical leave benefit. That mirrors the NCS population-wide estimate that 14 percent of workers were offered a defined paid family leave benefit.<sup>19</sup> If the workers who take family and medical leave are the only ones with paid leave benefits, one would also expect a much larger portion of leave takers using that benefit in the Pew survey. Both of these statistics suggest that the paid leave benefits available in the labor force are not greatly overrepresented in the population of workers who actually take family and medical leave. That said, the Abt Associates survey does not provide the data needed to directly compare paid leave benefits available for those who take family and medical leave to the benefits available for the entire workforce. Consequently, one is unable to compare the population of those who took family and medical leave to the entire workforce.

In the Abt Associates survey data, a clear pattern emerges in these figures: Despite the absence of a federal paid leave policy and the rarity of employer-provided defined paid family leave benefits, paid leave for family and medical reasons is quite common in the labor force. This suggests that a universal benefit that is funded by the taxpayer would not only be unnecessary, but also a redundant use of resources.

### *Benefit Type*

If employers only provide a defined paid family leave benefit to 15 percent of workers, how do 66.2 percent of workers who take family and medical leave receive





compensation? Rather than using a defined paid family leave benefit, most workers utilize other forms of paid leave and may even use a combination of benefits. In 2012, the workers on family and medical leave most frequently used a benefit that is not measured by the NCS, paid time off (PTO). Workers also utilized a combination of paid vacation, sick, personal, and parental leave.

Table 3 illustrates the frequency that workers used each type of benefit.

Table 3: Type of Leave Benefit Used, 2012

Leave Benefit	Total	Medical	Family Care	Parental
PTO	69.3%	63.5%	77.0%	74.4%
Sick	13.3%	18.7%	10.1%	3.8%
Vacation	5.3%	6.3%	6.7%	1.3%
Personal	35.5%	30.6%	43.9%	37.6%
Parental	9.3%	0.1%	0.2%	42.8%
TDI	21.4%	30.0%	2.4%	23.2%

Among all the employer benefits, PTO was by far the most common. 69.3 percent of workers who took family and medical leave and were paid used PTO. PTO is intended to be used by workers for any reason they desire, including vacation, sickness, and family and medical leave. Consequently, this suggests that access to a defined paid family leave benefit is so low because employers opt to provide the benefit (and other paid leave benefits) with PTO instead. In this regard, employers frequently do directly provide paid family and medical leave. Since the NCS does not measure PTO, it does not capture the most common way employers provide this benefit.

Workers also utilize other types of paid leave benefits to receive compensation while on family and medical leave. In 2012, 35.5 percent of those receiving paid leave used personal days and 21.4 percent claimed temporary disability insurance (TDI). Of note, very few workers claimed sick and vacation days (13.3 percent and 5.3 percent respectively). This indicates that workers do not often drain their sick and vacation days in order to afford family and medical leave.

Workers also generally use similar benefits for each type of leave (medical, family care, and parental). In particular, PTO was the most common benefit across all three types of leave in 2012. However, there are some important differences. In 2012, workers on medical leave were more likely to use sick days and claim TDI. In addition, those on leave for family care were more likely to use personal days and substantially less likely to claim TDI than both those who took paid medical and parental leave.

By far the largest difference between each type of leave is use of a defined paid parental leave benefit. In particular, only 9.3 percent of all workers with paid family



and medical leave used a parental leave benefit in 2012, which is consistent with the NCS's low estimates on access to paid family leave. But, the Abt Associates survey shows that 42.8 percent of workers who were paid while on parental leave used the defined parental leave benefit. This statistic indicates that when they need it, workers use a defined parental leave benefit far more frequently than is suggested by the NCS measure of paid family leave. It could also reflect a certain amount of self-selection, as workers can choose jobs that provide the benefits they anticipate needing.

In addition, each gender claimed similar amounts of each kind of benefit. Each gender separately mirrors the overall population in which kinds of paid leave they use and how much they use them. There were a few important distinctions, however. In particular, when on parental leave, women were significantly more likely than men to use a defined paid parental leave benefit and to claim TDI. 49.1 percent of women who were paid while on parental leave used a defined parental leave benefit, compared to just 33 percent of men. Meanwhile, 36.7 percent of women who were paid while on parental leave claimed TDI compared to just 3.2 percent of men. The frequent use of TDI among female parental leave-takers likely reflects the fact that for most women parental leave involves both a medical event (giving birth) and caregiving. For men, parental leave just involves caregiving.

Perhaps the most striking feature of table 3 is that many workers are piecing multiple paid leave benefits together. In 2012, 74.4 percent of those who were paid while on parental leave used PTO and 42.8 percent used defined paid parental leave benefits. So, at least 17.4 percent of paid parental leave-takers used both PTO and defined parental leave benefits. This suggests that workers do not always rely on just one type of paid leave benefit and instead are able to access multiple types. These data indicate that between PTO and other benefits, workers are widely able to utilize paid leave for family and medical reasons.

### *Access to Paid Family Leave by Family Income Level*

While paid family and medical leave is much more widely available than the NCS suggests, a significant portion of the workforce still lacks the benefit. In order to identify the best way to expand access to the benefit, the important question for policymakers to ask is: Who does and does not have paid leave for family and medical reasons?

The Abt Associates survey helps answer this question: Workers in low-income families are highly unlikely to receive any type of paid family and medical leave. Table 4 contains the percent of workers who received paid leave in 2012 for family and medical reasons by family income level.



Table 4: Paid Leave by Family Income, 2012

Leave Type	Below \$30,000	\$30,000 to \$75,000	At least \$75,000
Total	33.3%	66.2%	83.7%
Medical	33.9%	68.6%	83.5%
Family Care	49.0%	64.6%	86.8%
Parental	18.7%	61.5%	81.1%

While 66.2 percent of all workers on family and medical leave were paid in 2012, the same was true only for 33.3 percent of those in families with incomes below \$30,000. Meanwhile, 66.2 percent of leave takers with family incomes between \$30,000 and \$75,000 and 83.7 percent of those with incomes over \$75,000 were paid. Low-income workers were more frequently paid when taking family care leave, yet very unlikely to be paid when on parental leave. In particular, 49 percent of those with incomes below \$30,000 were paid when taking family care leave. Only 18.7 percent of the same group were paid when taking parental leave.

Across each leave type, men and women again mirror each other as they were paid at similar frequencies at each income level. One exception, however, was parental leave. Just like the overall estimate, men and women were both least likely to be paid when their family incomes were below \$30,000. However, while only 11.2 percent of low-income men on paternity leave were paid, 23.6 percent of low-income women received compensation when on maternity leave.

Moreover, despite of the lack of paid leave benefits, low-income workers are just as likely as high-income workers to take family and medical leave. Table 5 contains the portion of workers from each income group who took family and medical leave in 2012.

Table 5: Percent of Workers Who Took Family and Medical Leave by Family Income, 2012

Family Income	Family and Medical Leave
Below \$30,000	13.5%
\$30,000 to \$75,000	12.7%
At least \$75,000	12.0%

In 2012, low-income workers took family and medical leave slightly more frequently than middle- and high-income workers. While 13.5 percent of low-income workers took family and medical leave, 12.7 percent of middle-income and 12 percent of high-income workers took leave for family and medical reasons. These statistics suggest that family income and paid leave benefits have little impact on a worker’s decision to take family and medical leave. Rather, workers take family and medical leave because they *need* the time away from work. Consequently, the workers with



the fewest resources not only take family and medical leave the most frequently, but they are also the ones who are forced to do so without any pay.

### How Workers Use Family and Medical Leave Benefits

Understanding how employers already provide paid family and medical leave is important to identifying the most effective approach to expanding access to the benefit. Equally important is understanding how workers utilize the benefit. If the federal government were to introduce a new program that provides paid family and medical leave, how often and for how long would workers use it? Answering this question is vital to understanding the magnitude of a paid family and medical leave proposal, the reasons workers would utilize it, and how it would impact the labor market.

#### *Portion of Workers Who Take Family and Medical Leave*

Overall, taking family and medical leave is fairly common, particularly among those who are eligible for job protection under the FMLA. Table 6 contains the portion of all workers and of FMLA-eligible workers who took each type of family and medical leave in 2012.

Table 6: Percent of Workers Who Took Family and Medical Leave, 2012

<b>Leave Type</b>	<b>All</b>	<b>FMLA-eligible</b>
Total	12.6%	15.7%
Medical	7.1%	8.7%
Family Care	3.1%	3.9%
Parental	2.4%	3.1%

While parental leave is perhaps most commonly associated with family and medical leave, most workers take family and medical leave for their own health reasons. In 2012, 12.6 percent of all employed people took family and medical leave. The majority of those who took leave did so for their own serious medical condition. Specifically, 7.1 percent of workers took medical leave, while only 3.1 percent took family care leave and 2.4 percent took parental leave. Consequently, a new federal program that provides benefits for family and medical leave would likely be used mostly for a worker’s own serious health condition.

When workers are eligible for 12 weeks of guaranteed job protection under the FMLA, they are more likely to take family and medical leave. 15.7 percent of FMLA-eligible workers took family and medical leave in 2012, compared to the 12.6 percent of all workers who took leave. Further, workers are more likely to take each type of leave (medical, family care, and parental) with job protection than without. This suggests that guaranteed job protection increases the number of workers who take family and medical leave, and thus if a federal program expands job protection



beyond what is guaranteed under the FMLA, the portion of workers who take family and medical leave may rise.

While family and medical leave is often branded as a female issue, men utilize it frequently as well. In 2012, 11 percent of male workers and 14.2 percent of female workers took family and medical leave. In both genders, medical leave was the most common type, followed by family care and parental leave. In general, women were only one percentage point more likely than men to take each type of leave. 7.5 percent, 3.6 percent, and 3 percent of female workers took medical, family care, and parental leave, respectively, while 6.6 percent, 2.5 percent, and 1.9 percent of men took these respective leaves. Finally, FMLA eligibility increased the likelihood of taking family and medical leave for each gender by similar amounts. This suggests that both men and women would commonly utilize a new federal program that provides family and medical leave.

### *Length of Family and Medical Leave*

The average duration of family and medical leave is quite lengthy. Across all types of leave, workers on average took 7.2 weeks of family and medical leave in 2012. Table 7 contains the average length of leave for all workers who took family and medical leave, those who were paid, and those who were unpaid.

Table 7: Duration of Leave by Pay (in weeks), 2012<sup>20</sup>

<b>Leave Type</b>	<b>All</b>	<b>Paid</b>	<b>Unpaid</b>
Total	7.2	6.7	8.4
Medical	8.2	7.8	9.1
Family Care	3.7	3.5	4.3
Parental	8.6	7.7	10.0

Parental leave tended to be the longest type of family and medical leave in 2012, averaging 8.6 weeks. It was slightly longer than medical leave (8.2 weeks) and much longer than family care leave (3.7 weeks). These statistics suggest that workers would most frequently use a federal program for medical leave, and claim medical leave benefits for about the same duration as those who take parental leave. Of interest, those who were paid tended to take shorter leaves than those who were not. Those who were paid by their employers averaged 6.7 weeks away from work, compared to 8.4 weeks among those who were not paid.

Generally, men took family and medical leave for shorter periods than women. Men averaged 6.6 weeks of family and medical leave and women averaged 7.8 weeks. Men took longer medical leaves than women (8.7 weeks versus 7.8 weeks), but shorter family care and parental leaves. The difference in duration was particularly apparent for parental leave. Men averaged only 4.3 weeks of parental leave while women took an average of 11.3 weeks. Like the use of TDI, this difference may also



be due to the fact that men and women have different experiences when taking parental leave. And again, for both men and women, those who were compensated while on family and medical leave tended to take shorter leaves than those who went unpaid.

The difference in duration is even more pronounced when comparing those who are paid fully to those who are paid partially. In 2012, those who received full compensation only averaged 4.7 weeks of leave, while those who were paid partially averaged 11.7 weeks of leave. The difference in average duration was similar for each type of family and medical leave.

The 2012 data suggest that the difference in leave duration by pay is quite pronounced, which could be due to a number of factors. For instance, workers who are compensated by their employers could be more attached to the labor force and thus more likely to return to work quickly. On the other hand, workers who are paid may be opting into a defined benefit plan provided by their employers, which has a specific end date. Employers may also be more willing to allow for longer family and medical leave if the worker is not paid fully. Consequently, workers who are unpaid or only paid partially may have a more informal plan that is flexible and does not have a specific end date. While there are many interesting trends from these data, the exact reasons for these differences are unclear.

## Connecting These Statistics to Legislative Proposals

These data provide a better understanding of who in the United States actually lacks paid leave for family and medical reasons and how workers would likely use a federal benefit. Using these data, let's now examine each proposal currently under consideration more critically.

### *The FAMILY Act is Overkill*

On the left, the FAMILY Act would create a payroll tax-funded program that provides paid family and medical leave universally.<sup>21</sup> While the program would guarantee that low-income workers gain access to paid family and medical leave, the data presented in this study suggest that this approach is overkill. Since two-thirds of workers have paid leave for family and medical reasons, the entire workforce would face a new payroll tax in order to fund a benefit that a large majority are already receiving. That is simply an unnecessary and redundant use of resources. Moreover, employers may be tempted to move their workers from private benefits and onto the government program. This could leave some workers worse off because most employer paid leave benefits provide workers with full pay and the FAMILY Act only replaces 66 percent of a worker's regular weekly earnings. So not only could the FAMILY Act undo progress in the private sector, but it could also leave those who take family and medical leave worse off.





Additionally, the data from this study indicate that workers would use the universal benefit frequently and for several weeks at a time, meaning that the FAMILY Act would be a costly way to provide workers with a benefit most already have. An American Action Forum (AAF) report used these data to analyze the FAMILY Act and found that it would cost the federal government at least \$85.9 billion per year. Moreover, the bill's payroll tax of 0.4 percent would only raise \$30.6 billion in revenue—covering only 35.6 percent of the program's promised benefits.<sup>22</sup> To pay for the program, the federal government would either have to impose a much larger payroll tax, reduce spending on other federal programs, or borrow and add to the over \$20 trillion in debt it already owes.

### *Conservative Proposals Fail to Address Low-Income Workers*

The proposals on the right are more limited and would be more cost-efficient than the FAMILY Act. However, the proposals would not greatly increase access to paid family and medical leave because they mostly help the middle- and high-income workers who already receive the benefit, not the low-income workers who need it most.

The business tax credits now in the tax code (and originating from Senator Deb Fischer's Strong Families Act<sup>23</sup>) could help many businesses start offering paid family and medical leave.<sup>24</sup> But it may also only subsidize businesses that already provide the benefit. This study indicates that middle- and high-income workers are the ones who already have paid family and medical leave. Thus, the tax credit may end up simply subsidizing the existing benefits of higher income workers, and there is no guarantee that businesses will extend the benefit to lower-income workers.

Representative Martha Roby's Working Families Flexibility Act, which would allow workers who work overtime to receive paid time off instead of extra earnings, would be unlikely to increase paid leave for low-income workers as well.<sup>25</sup> Why? Many low-income workers do not have the option to work more than 40 hours per week. Indeed, many workers have low incomes because they lack access to sufficient and dependable work hours.

Representative John Katko's Working Parents Flexibility Act would allow employers to offer workers the option to divert a portion of their pretax earnings into a parental leave savings account.<sup>26</sup> Again, this type of an approach may be effective for helping middle- and high-income workers afford to take family and medical leave. However, it would not be all that helpful to low-income workers who spend most of their earnings on daily necessities, such as food and rent, and have less available to save.

Finally, Representative Mimi Walters's Workflex in the 21st Century Act would reward employers that provide sufficient paid time off and workplace flexibility by exempting them from local and state paid leave mandates.<sup>27</sup> Yet, this proposal



would only assist larger companies that operate in multiple states. Companies that large tend to provide generous pay and benefits to their workers, likely including paid leave for family and medical reasons. Moreover, only a handful of states have the types of sick leave mandates that businesses would be able to escape. Thus, even if it incentivizes a few companies to provide more paid leave benefits, only the workers in a few states would benefit.

### *An Alternative Approach*

Clearly, by relying on the NCS for guidance when crafting solutions, federal policymakers have not yet come up with a solution that expands access to paid family and medical leave in a responsible way. While the FAMILY Act would be unnecessarily costly and risk displacing existing private sector benefits, conservative proposals may not sufficiently address low-income workers and thus have a limited effect on expanding access to paid leave.

A far more effective approach to expand access to paid family and medical leave would be to target low-income workers. Previous AAF research proposed the Earned Income Leave Benefit, a highly targeted program that would provide 12 weeks of paid family and medical leave to workers in low-income households.<sup>28</sup> With a benefits structure modeled after the Earned Income Tax Credit, the benefits available would be based on household income, and only workers in households with incomes below a certain threshold would be eligible. In addition, a joint AAF-American Enterprise Institute report explored a similar program that would provide paid parental leave to larger portion of the population.<sup>29</sup> Since the benefits would only go to low-income workers, this approach would perhaps be the most direct and cost-effective way to expand access to paid family and medical leave. For instance, a prototype version of the Earned Income Leave Benefit would only cost the federal government about \$2 billion per year, with over 90 percent of the benefits going to workers in low-income households.

### **What We Still Do Not Know About Paid Family Leave**

While the Abt Associates survey provides important information, it has major shortcomings and the data presented in this report do not exhaust what policymakers still need to know to fully understand paid family and medical leave. Primarily, it does not connect the paid leave benefits workers use to the benefits that employers offer. This has major implications both for understanding access to paid leave benefits in the private sector and how workers use those benefits.

The Abt Associates survey indicates what percent of workers who took family and medical leave were paid. However, it does not detail the percent of all workers in the labor force that are able to take paid leave for family and medical reasons, should they need it. The limited amount of unmet need for family and medical leave, according to the same survey, suggests that access to paid leave among those who



took family and medical leave is similar to that within the entire labor force. However, since the survey does not tie the paid family and medical leave used to the paid leave benefits that are available, one is unable to use these data to definitively understand the types of paid leave benefits the entire workforce can access.

In addition, the lack of information on the benefits that employers provide their workers is a major limitation for understanding how workers would likely use a government program. More information on the generosity and duration of the employer paid leave benefits offered to workers would improve one's ability to understand what factors influence a worker's decision for taking family and medical leave and the length of time they are on leave. In turn, this would help policymakers better understand how many workers would likely use a program, how long they would claim benefits, and ultimately how much funding the program would require. Moreover, this type of information is important to predict confidently how each of these factors would change under various program parameters.

Finally, there are a few major limitations with the Abt Associates survey itself. In particular, the survey was conducted in 2012, meaning the data are already five years old, and there have been few similar surveys to corroborate these findings. The survey was also based on a relatively small sample size. Abt Associates only interviewed 2,852 individuals total, while other labor force surveys tend to interview a much larger population. For instance, the Census Bureau interviewed 362,250 individuals for its 2017 Current Population Survey Annual Social and Economic Supplement.<sup>30</sup> As noted earlier, however, subsequent data points corroborate some significant points from the survey.

Additionally, the benefits information in the survey is reported by workers. While this is a common feature of labor force surveys, this could be problematic for surveys on paid leave because workers have been shown to commonly misunderstand their paid leave benefits.<sup>31</sup> Finally, the survey did not collect information on worker earnings (as opposed to family income, which the survey did measure). Consequently, the survey does not enable policymakers and analysts to better understand how access to and use of paid leave benefits varies by wage level.

## Conclusion

So far, a strong understanding of paid leave in the private sector has been absent from most discussions revolving around paid family and medical leave. Using data from the Abt Associates survey on family and medical leave, this study provides a more complete picture of how workers afford family and medical leave in the United States.

Although the United States is the only developed country in the world that does not guarantee paid family and medical leave, the private sector appears to be harnessing enough resources to ensure that the vast majority of workers do receive



paid leave for family and medical reasons. In particular, two-thirds of workers who took family and medical leave in 2012 were paid. In order to receive compensation, most workers utilize PTO, which is designed to be used for any reason a worker desires. Meanwhile, the workers who are least likely to be paid are in low-income families, and workers in low-income families who take parental leave are particularly unlikely to be paid.

The findings suggest that the proposals currently under consideration would likely be either unnecessarily large or unable to effectively expand access to the benefit. Yet, proposals that prioritize providing the benefits to low-income families, such as AAF's Earned Income Leave Benefit, would be particularly helpful in expanding access to paid leave. Finally, analysts still lack important data on the benefits that employers offer their workers. Going forward, surveyors must prioritize providing data that enables analysts to better understand how the paid leave benefits that workers utilize relate to the benefits their employers offer.

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<sup>1</sup> Kirsten Gillibrand, "Why Every American Deserves Paid Leave," Thrive Global, Medium, November 30, 2016, <https://journal.thriveglobal.com/why-every-american-deserves-paid-leave-26e31b4f91fc>.

<sup>2</sup> "Family and Medical Leave Act of 1993," H.R.1, 103rd Congress, 1993, <https://www.congress.gov/bill/103rd-congress/house-bill/1>.

<sup>3</sup> Jacob Alex Klerman, Kelly Daley, and Alyssa Pozniak, "Family and Medical Leave in 2012: Technical Report," US Department of Labor, revised April 2014, pg. 21, <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>.

<sup>4</sup> Gretchen Livingston, "Among 41 Nations, U.S. Is the Outlier When It Comes to Paid Parental Leave," Pew Research Center, September 26, 2016, <http://www.pewresearch.org/fact-tank/2016/09/26/u-s-lacks-mandated-paid-parental-leave/>.

<sup>5</sup> New York's program began in 2018 and will phase in over the next four years.

<sup>6</sup> California Employment Development Department, "Calculating Disability Insurance Benefit Payment Amounts," [http://www.edd.ca.gov/disability/Calculating\\_DI\\_Benefit\\_Payment\\_Amounts.htm](http://www.edd.ca.gov/disability/Calculating_DI_Benefit_Payment_Amounts.htm).

<sup>7</sup> "Family and Medical Insurance Leave Act," S.337, 115th Congress, 2017, <https://www.congress.gov/bill/115th-congress/senate-bill/337>.

<sup>8</sup> "Tax Cuts and Jobs Act," Conference Report, H.R.1, 115th Congress, 2017, [https://files.taxfoundation.org/20171215175456/TCJA\\_Conference\\_Report.pdf](https://files.taxfoundation.org/20171215175456/TCJA_Conference_Report.pdf).

<sup>9</sup> "Strong Families Act," S.1716, 115th Congress, 2017, <https://www.congress.gov/bill/115th-congress/senate-bill/1716>.

<sup>10</sup> "Working Families Flexibility Act of 2017," H.R.1180, 115th Congress, 2017, <https://www.congress.gov/bill/115th-congress/house-bill/1180/text>.

<sup>11</sup> "Working Parents Flexibility Act of 2017," H.R.2533, 115th Congress, 2017, <https://www.congress.gov/bill/115th-congress/house-bill/2533>.

<sup>12</sup> "Workflex in the 21st Century Act," H.R.4219, 115th Congress, 2017, <https://www.congress.gov/bill/115th-congress/house-bill/4219>.

<sup>13</sup> National Compensation Survey, Bureau of Labor Statistics, <https://www.bls.gov/ncs/home.htm>.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> "Family and Medical Leave in 2012: Public Use File – For Employees," Abt Associates, Department of Labor, <https://www.dol.gov/whd/fmla/survey/>.

<sup>17</sup> Juliana Horowitz, Kim Parker, Nikki Graf, & Gretchen Livingston, "Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies," Pew Research Center, March 2017, <http://www.pewsocialtrends.org/2017/03/23/americans-widely-support-paid-family-and-medical-leave-but-differ-over-specific-policies/>.



<sup>18</sup> Jacob Alex Klerman, Kelly Daley, and Alyssa Pozniak, “Family and Medical Leave in 2012: Technical Report,” US Department of Labor, revised April 2014, pg. 114, <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>.

<sup>19</sup> Juliana Horowitz, Kim Parker, Nikki Graf, & Gretchen Livingston, “Americans Widely Support Paid Family and Medical Leave, but Differ Over Specific Policies,” Pew Research Center, March 2017, <http://www.pewsocialtrends.org/2017/03/23/americans-widely-support-paid-family-and-medical-leave-but-differ-over-specific-policies/>.

<sup>20</sup> Since the author only had access to the public-use microdata file, the analysis faced some limitations. In particular, in the public-use file, Abt Associates recorded responses to questions on duration of leave in categories that represented a range of days taken off from work. When estimating average duration of leave, the author assumed that in every range, the actual time taken off was the middle figure. For instance, if a worker was marked in the survey as taking 21 to 25 days away from work, the author assumed that worker took 23 days off. In addition, the highest days off category was over 120 days (24 weeks). For those observations, the author truncated the sample, assuming the leave takers took a maximum of 121 days off.

<sup>21</sup> “Family and Medical Insurance Leave Act,” S.337, 115th Congress, 2017, <https://www.congress.gov/bill/115th-congress/senate-bill/337>.

<sup>22</sup> Ben Gitis, “The Earned Income Leave Benefit: Rethinking Paid Family Leave for Low-Income Workers,” American Action Forum, August 15, 2016, <https://www.americanactionforum.org/solution/earned-income-leave-benefit-rethinking-paid-family-leave-low-income-workers/>.

<sup>23</sup> “Strong Families Act,” S.1716, 115th Congress, 2017, <https://www.congress.gov/bill/115th-congress/senate-bill/1716>.

<sup>24</sup> “Tax Cuts and Jobs Act,” Conference Report, H.R.1, 115th Congress, 2017, [https://files.taxfoundation.org/20171215175456/TCJA\\_Conference\\_Report.pdf](https://files.taxfoundation.org/20171215175456/TCJA_Conference_Report.pdf).

<sup>25</sup> “Working Families Flexibility Act of 2017,” H.R.1180, 115th Congress, 2017, <https://www.congress.gov/bill/115th-congress/house-bill/1180/text>.

<sup>26</sup> “Working Parents Flexibility Act of 2017,” H.R.2533, 115th Congress, 2017, <https://www.congress.gov/bill/115th-congress/house-bill/2533>.

<sup>27</sup> “Workflex in the 21st Century Act,” H.R.4219, 115th Congress, 2017, <https://www.congress.gov/bill/115th-congress/house-bill/4219>.

<sup>28</sup> Ben Gitis, “The Earned Income Leave Benefit: Rethinking Paid Family Leave for Low-Income Workers,” American Action Forum, August 15, 2016, <https://www.americanactionforum.org/solution/earned-income-leave-benefit-rethinking-paid-family-leave-low-income-workers/>.

<sup>29</sup> Ben Gitis & Angela Rachidi, “Affordable and Targeted: How Paid Parental Leave in the US Could Work,” American Action Forum & American Enterprise Institute, March 29, 2017, <https://www.americanactionforum.org/solution/affordable-targeted-paid-parental-leave-us-work/>.

<sup>30</sup> Current Population Survey, 2017 Annual Social and Economic Supplement, <http://www.nber.org/cps/cpsmar2017.pdf>.

<sup>31</sup> “The Economics of Paid and Unpaid Leave,” The Council of Economic Advisers, Executive Office of the President of the United States, June 2014, [https://obamawhitehouse.archives.gov/sites/default/files/docs/leave\\_report\\_final.pdf](https://obamawhitehouse.archives.gov/sites/default/files/docs/leave_report_final.pdf).