

Federal FMLA and State Paid Leave Program Usage and Coverage

July 2019

Paid leave is often discussed as a “moms and babies” policy, but paid and unpaid leave policies at the federal and state levels cover – and are used for – much more than maternity leave. Research shows that paid and unpaid leave programs are useful to a wide range of working people and their loved ones and are used appropriately. This explainer focuses on program usage and coverage. Future papers will focus on state paid family and medical leave duration, benefit levels and program funding.

FMLA and Paid Leave Background

Since 1993, the [Family and Medical Leave Act \(FMLA\)](#) has guaranteed eligible workers up to 12 weeks away from their jobs to care for a seriously ill or injured parent, spouse or child, to address their own serious health issue, or to care for a newborn, newly adopted or newly placed foster child. A decade ago, Congress amended the FMLA to cover two types of [military caregiving leave](#): up to 26 weeks to care for a wounded service member by a parent, child, spouse or next of kin and up to 12 weeks for circumstances related to the deployment of a parent, spouse or child.

The FMLA provides unpaid leave to about [60 percent of the workforce](#) due to exclusions based on business size and worker tenure; many workers’ inability to take leave without pay further limits eligible workers’ access. But even with these barriers, the FMLA is estimated to have been used more than [200 million times](#) in its 26 years.

To build on the FMLA, [eight states plus the District of Columbia](#) have or will soon have paid family and medical leave programs in place. These programs offer wage replacement to workers in businesses of all sizes, ranging from 60 percent in Rhode Island to up to 100 percent in Oregon, when that state’s program is implemented and begins paying benefits in 2023. Like the FMLA, state paid leave programs can be used for people who need time away from work for a range of serious family and medical needs.

Family and Medical Leave Act of 1993

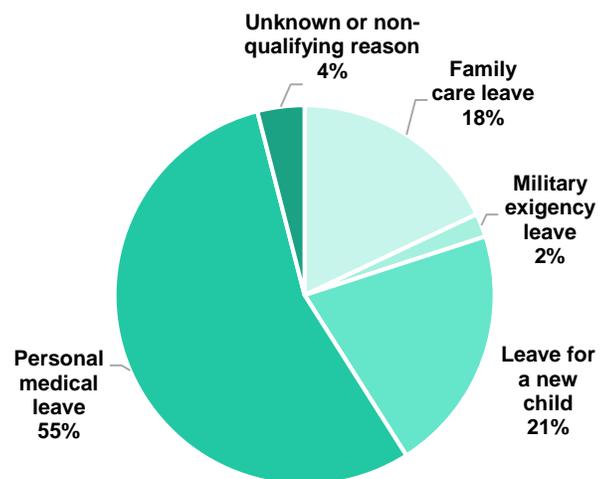
According to the U.S. Department of Labor’s most recent [FMLA usage survey](#), more than half of all leaves workers take each year are for a serious personal medical issue (55%), and approximately one-fifth are to care for a new child (21%) or a seriously ill, injured or disabled parent, spouse or child (18%).

13.1% of the total workforce takes leave for an FMLA-qualifying reason annually. The reasons for leave-taking are distributed among the total workforce as follows:

- 7.2% of all workers take leave for their own serious health issue*
- 2.8% of all workers take leave to take care of a new child
- 2.4% of all workers take leave to take care of a family member

* Leave for one’s own serious health issue leave requires hospitalization or an incapacity lasting 3 or more days and continuing care by a health provider.

Distribution of FMLA Leaves Taken Annually by Leave Type



Source: U.S. Department of Labor. (2012). *Family and Medical Leave in 2012: Technical Report*.



State Paid Family and Medical Leave Programs

State Paid Leave Policies Currently in Effect

Four states – [California](#), [New Jersey](#), [New York](#) and [Rhode Island](#) – have implemented paid family and medical leave programs that have been used [millions of times](#). In these states, paid leave types are [separated](#) into two “buckets”: state temporary disability insurance (TDI) for personal medical leave and paid family leave (PFL) for new child and family care.

These states’ TDI programs have been in effect for decades and make available between 26 weeks (New Jersey, New York) and 52 weeks (California) for people who need time away from their jobs to address a serious personal health issue, including pregnancy; typical durations of leave are about one-third or less of the time available: between [10 and 16 weeks](#). PFL programs in these four states were built to complement TDI. They offer PFL for between four and eight weeks to workers caring for new children or seriously ill or injured family members (going up to 12 weeks in July 2020 in New Jersey and 12 weeks in January 2021 in New York).

Program data from California, New Jersey and Rhode Island – the three states for which data is available – show that only a small share of workers use state paid leave programs each year, negating any concerns often raised about overuse. As with FMLA, personal medical leave is the most common reason workers use state paid leave programs, followed by leave to care for a new child and leave to care for a loved one with a serious health issue.

Share of Workforce Using TDI/PFL Annually, by Reason

	California (2017 data)	New Jersey (2016 data)	Rhode Island (2017 data)
Total Share of Workforce	4.98%	3.84%	8.49%
Own health	3.54%	3.02%	6.90%
New child care	1.26%	.69%	1.27%
Family care*	.18%	.14%	.32%

*Each state program includes a wider range of leave-eligible family members than the FMLA, discussed below.
Data Source: [AEI-Brookings Working Group Report on Paid Family and Medical Leave](#)

State Paid Leave Policies Not Yet in Effect

An additional four states and the District of Columbia will soon have paid leave programs in place. New programs in [Connecticut](#), the [District of Columbia](#), [Massachusetts](#), [Oregon](#), and [Washington](#) will begin paying benefits to workers between 2020 and 2023. These jurisdictions will provide paid leave for between two weeks (D.C., for serious personal health issues) and 26 weeks (Massachusetts, combined uses for all reasons). All programs apply to new child, family and personal medical care needs; some also include military caregiving. Oregon’s will provide “safe leave” for domestic violence and sexual assault survivors.

Who Counts as “Family” for Family Caregiving?

Each state program recognizes a wide range of family members for whom workers may take paid leave to provide care, expanding substantially on the FMLA’s parent, spouse and child limitations on family caregiving.

	Laws in Place (benefits implementation date)				New Laws (benefits implementation date)				
	CA (2004)	NJ (2009)	NY (2019)	RI (2014)	CT (2022)	DC (2021)	MA (2021)	OR (2023)	WA (2020)
Child	✓**	✓	✓**	✓**	✓	✓**	✓**	✓**	✓**
Parent	✓	✓	✓	✓	✓	✓	✓	✓	✓
Spouse	✓	✓	✓	✓	✓	✓	✓	✓	✓
Grandparent	✓*	✓*	✓	✓	✓	✓	✓	✓	✓
Grandchild	✓*	✓*	✓		✓		✓	✓	✓
Sibling	✓*	✓*			✓	✓	✓	✓	✓
Domestic Partner	✓	✓*	✓	✓			✓	✓	
Parent-in-Law	✓	✓*		✓	✓	✓	✓	✓	
Blood or Affinity		✓*			✓			✓	

*CA expansion, passed in 2013, implemented in 2014; NJ expansion, passed and implemented in 2019.

**“Child” includes adult children; FMLA and other states are limited to minor children and adult children who are incapable of self-care.