



Paid Leave for All

COVID-19 demonstrates why we need paid medical and caregiving leave—and why it should be structured as a linked social insurance and public assistance program

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The COVID-19 pandemic is throwing into sharp relief the need for paid sick days and paid leave, so that everyone can take time to care for themselves or loved ones who are sick, quarantined, and out of school as the nation confronts an unprecedented public health and economic crisis. In the Families First Coronavirus Response Act, Congress established temporary paid sick days and paid leave for some workers. This legislation is an important first step toward ensuring people have access to paid leave, but millions of workers are not covered by its provisions, and covered workers are not able to take paid leave to meet the full range of their caregiving responsibilities, including caring for adults with disabilities or aging relatives.¹ A much more robust and permanent solution is necessary to ensure that everyone has access to paid leave who needs it, during this immediate crisis, and into the future.

All families need access to paid medical and caregiving leave.

Paid medical and caregiving leave is necessary at all times, for anyone who needs to take time to care for themselves or a loved one who has a serious medical condition. Medical leave generally refers to extended

leave to care for one's own serious medical condition, while caregiving leave—also called family leave—refers to leave that can be used to bond with a new child or care for a loved one with a serious medical condition.² Research has shown that paid leave has significant and lasting benefits. For families with children, it is associated with improved parent-child bonding, better health and developmental outcomes for children, and improved parental health.³ It is also associated with reductions in poverty and child maltreatment.⁴

The United States is the only high-income country without a national policy of paid medical and caregiving leave.⁵ As a result, access to paid leave in the United States is highly variable, and deeply inequitable. Some workers have access to paid leave through their employers, but while that number has risen in recent years, paid leave is only available to 19 percent of workers, according to the Bureau of Labor Statistic's 2019 National Compensation Survey.⁶ People of color, and women of color in particular, are more likely to work in jobs that do not provide paid caregiving leave.⁷ There is also evidence that, even in the same jobs, women of color are less likely than White women to access paid leave.⁸



In the absence of federal action, eight states and the District of Columbia have established paid caregiving leave policies. A broader swath of workers have access to paid leave in these states, but the extent of the coverage varies from state-to-state, and these state-level policies do nothing to support families living in the remaining 42 states and U.S. territories.⁹

The primary federal protection for workers who need to care for themselves or a loved one is 12 weeks of job-protected unpaid leave, provided by the Family and Medical Leave Act (FMLA).¹⁰ Even then, more than 40 percent of private-sector workers are not covered by the FMLA, and many who are covered cannot afford to take the leave.¹¹ According to analysis by the Institute for Child, Youth, and Family Policy at Brandeis University, Latinx and Black working mothers are significantly less likely to be eligible for FMLA and able to afford to take the unpaid leave than White and Asian working mothers.¹² Some researchers have concluded that unpaid leave “may actually increase disparities” because it only benefits those who are wealthy enough to take it.¹³

The United States needs a national policy of paid medical and caregiving leave that is accessible and available to all. Ultimately, how the policy is structured and administered will determine whether it meets this bar.

A paid medical and caregiving leave social insurance program will support many workers, but it will still leave some families behind.

States that have established paid leave policies have generally adopted a social insurance model, like Social Security or Unemployment Insurance. Under this model, the benefit is funded by payroll taxes on employees, employers, or both, and the money is placed in a trust fund, which can be supplemented by additional government appropriations, and dispersed by the state when people who have accrued the minimum number of hours or earnings document that they have experienced a qualifying event to take the leave—that is, they have a serious health condition or they need to care for a new child or another loved one with a serious health condition. The leading proposal before Congress for a national policy of paid medical and caregiving leave, the proposed Family and Medical Insurance Leave Act, or FAMILY Act, is also structured as a social insurance

program. It would be funded by contributions from both workers and employers and allow workers to take up to 12 weeks of paid, job-protected paid leave to care for themselves or a child, parent, or spouse or domestic partner with a serious health condition or at the time of a birth or adoption of a child.¹⁴

There are benefits to structuring a paid medical and caregiving leave policy as a social insurance program. A social insurance structure pools risk across employers and employees, and it may have the benefit of making workers feel as though they have earned the benefit, increasing uptake of the benefit and public support for the program. Since the benefits are administered by the government, and not tied to an employer, workers would be free to take another job after the end of their leave without any repercussions, such as having to pay an employer back for their time off.¹⁵

A paid family leave policy structured as a social insurance program can provide meaningful support to many workers if it is designed to be inclusive and progressive.¹⁶ At a minimum a social insurance program should:

- **Cover all workers.** The policy should include low-paid, part time, contingent, and self-employed workers, as well as workers with limited work and earnings histories.
- **Recognize families as they define themselves.** The policy should cover leave that workers take to care for all of their loved ones—including grandparents, extended family members, and people with whom they have close family-like relationships.
- **Provide more support for the workers who need it most.** The policy should offer progressive wage replacement—where the lowest paid workers’ wages are fully replaced, there is a meaningful minimum monthly benefit, and the wage replacement rate decreases slowly as wages rise.
- **Provide a meaningful leave duration.** The policy should cover at least 12 weeks of leave, but there is strong justification for six months or more of leave for people caring for young children and people with multiple caregiving responsibilities.
- **Protect workers against discrimination and retaliation.** The policy should fund outreach to ensure that workers know their rights, protect



them against discrimination and retaliation for taking leave, and create a robust enforcement infrastructure.¹⁷ Workers of color and immigrant workers are over-represented in contract positions and in industries where workplace standards and protections are often violated, so there must be a mechanism to hold employers accountable and ensure that they comply with the policy and do not retaliate against workers for accessing benefits to which they are entitled.

But even the most equitable social insurance program will leave behind families who do not have the requisite work history. People who do not meet the hours or earnings thresholds to qualify for a paid leave social insurance policy are likely to be among those who need the financial support for their caregiving the most. Even when the economy is growing and the national unemployment rate is low, certain groups are more likely to not meet a social insurance policy's work history test. These include:

- **Young people.** Youth and young adults, especially those who are in secondary or postsecondary education, are likely to have limited work histories. But they too must take time to care for children and loved ones.
- **People of color.** People of color face systematic employment discrimination, which can impact their ability to find and keep jobs.¹⁸ Research has found that women of color are less likely to work during pregnancy, and therefore may be less likely to have accrued the earnings or work hours necessary to take leave when their children are born.¹⁹
- **People with multiple and chronic health conditions.** Many people with chronic health conditions have difficulty qualifying Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI), but are unable to work because of their need to care for themselves or a loved one.²⁰
- **People living in areas with few jobs.** Even during periods of national economic expansion, certain areas or zip codes continue to have a dearth of jobs, making it very difficult for people to find work. These “distressed communities” can be found across the country, in urban and rural areas alike.²¹

A social insurance program will leave many of these families and others behind even when the economy is strong. It will leave even more families behind during prolonged economic downturns. People who are among the first to be fired as the economy contracts—people in low-paid jobs, people with less education, and people of color—are also often among the last to be hired as the economy expands. These workers can therefore be out of the wage labor force for an extended period of time and lose eligibility for a paid family leave social insurance program, even as their need for financial support for their caregiving work remains.

A paid medical and caregiving leave public assistance program could complement a social insurance program, ensuring that all families can access paid leave.

A paid medical and caregiving leave public assistance program could be established to align with the social insurance program, and provide financial assistance to people who do not have the required work history to qualify for the social insurance program. A public assistance program would be financed from general revenues, and not tied to work history. It would mirror the social insurance program in that a person would have to experience one of the same qualifying events to take the leave—to bond with a new child, or care for oneself or a loved one with a serious health condition—and the benefit would be limited to the same maximum leave duration.

There is precedent in designing policy this way with one of our most popular and effective anti-poverty programs: Social Security. When Social Security was initially created in the 1930s, a program of public assistance—Old Age Assistance (OAA)—was created to complement the now better known program of Old Age Insurance (OAI). While it took workers time to accrue the work history to be eligible for the insurance program, older Americans were immediately eligible for the assistance program. OAA provided immediate, much-needed support and was politically popular. In the 1970s, it was combined with aid to blind and the disabled with the creation of a new means-tested federal program, Supplemental Security Income (SSI).²²

A paid family leave policy could be structured on the same principles as Social Security and SSI, combining a social insurance program with a public assistance program. Because of the nature of paid



medical and caregiving leave, however, it may make more sense not to means test the public assistance program. Paid leave is inherently time limited, and families need to have experienced a qualifying event to receive it. It is unclear whether there are a significant number of high-income families who would benefit from the public assistance program under this structure—many will likely qualify for the social insurance program. Adding a means test to the public assistance program would add administrative burden for families and systems and would likely increase stigma and reduce uptake of the benefit. A benefit that is universally available to people not eligible for the social insurance program, on the other hand, would communicate an important message: that policy supports all Americans' caregiving work.

At a minimum, the public assistance program should:

- **Provide adequate support.** The public assistance benefit should be high enough to provide meaningful support to families. It could be set as a share of the minimum benefit of the social insurance program.
- **Cover all families.** Anyone who has a serious medical condition or has to care for a new child or other loved one with a serious health condition should be eligible for the benefit.
- **Be accessible and straightforward.** Any program of public assistance should be administered by the same federal agency administering the social insurance program, with the same straightforward application as the social insurance program, and outreach to ensure that people who are eligible for the benefit receive it.

A linked social insurance-public assistance paid family leave policy would advance equity and boost the economy during public health emergencies and economic downturns.

In good times and bad, a linked social insurance-public assistance program would ensure that all families who need access to paid leave have it, including those who face systematic and ongoing barriers to work in the wage labor force. Attaching a public assistance program to the social insurance program also makes paid family leave an effective countercyclical tool, adding another policy to our toolbox of automatic fiscal stabilizers that kick in without the need for Congressional action when the economy begins to

contract. During public health emergencies, more people will be likely to qualify for both the social insurance and public assistance programs, infusing the economy with consumer spending that can help prevent a recession. During any economic downturn, the public assistance portion of the policy would ensure that families continue to get the support they need. In order to effectively support all families and their caregiving work, we should enact such a policy today.

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Endnotes

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⁶ U.S. Bureau of Labor Statistics, National Compensation Survey-Benefits, Paid Family Leave. Available at: <https://data.bls.gov/timeseries/NBU187000000000000033349>.

⁷ For an excellent summary of the disparities in access to paid leave and how paid leave can benefit families of color, see National Partnership for Women & Families. "Paid Family and Medical Leave: A Racial Justice Issue—and Opportunity." August 2018. <http://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/paid-family-and-medical-leave-racial-justice-issue-and-opportunity.pdf> Schulman, Karen et al. "Nearly One in Five Working Mothers of Very Young Children Work in Low-Wage Jobs." National Women's Law Center, April 2017. Available at: <https://nwlc-ciw49tixgw5lbab.stackpathdns.com/wp-content/uploads/2014/04/Nearly-One-in-Five-Working-Mothers-of-Very-Young-Children-Work-in-Low-Wage-Jobs-2017.pdf>.

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¹⁶ See *Ibid.* for principles on how a paid leave policy should be designed to support workers who need it most.

¹⁷ Enforcement is especially critical for workers of color, who are more likely to fear losing their jobs if they take available leave, and are more likely to work in jobs where labor laws are routinely violated. Setty, Suma et al. “Protecting Workers, Nurturing Families: Building an Inclusive Family Leave Insurance Program: Findings and Recommendations from the New Jersey Parenting Project.” National Center for Children in Poverty, March 2016. Available at: http://www.nccp.org/publications/pdf/text_1152.pdf. National Partnership for Women & Families. “Paid Family and Medical Leave: A Racial Justice Issue— and Opportunity.”

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