

# EPI response to the bipartisan congressional paid leave RFI

**Public Comments** • By [Hilary Wething](#) • January 31, 2024

*Submitted via email. This public comment is in response to the Congressional Paid Leave Working Group's [Request for Information \(RFI\)](#) on a bipartisan paid leave proposal.*

To members of the Congressional Paid Leave Working Group, Senators Gillibrand, Cassidy, Casey, Hassan, Lummis, Sinema, Tillis, and Young, and Members Houlihan, Bice, Allred, Letlow, Miller-Meeks, and Stevens,

Thank you for the opportunity to respond to this request for information. We applaud the working group and its members for their leadership and for continuing to pursue solutions on this critical issue. My name is Hilary Wething and I am an Economist at the Economic Policy Institute. Prior to EPI, I spent three years as a tenure-track professor at Pennsylvania State University researching the economic implications of enacting paid sick and family and medical leave policies in the United States.

The United States is unique among industrialized countries in its lack of guaranteed paid leave coverage for workers.<sup>1</sup> The majority of academic and policy research shows that guaranteeing access to paid sick leave and to paid family and medical leave benefits workers, employers, and our economy. States with paid leave policies also show the path for these policies to be implemented in a way that is good for business and good for workers. Below, I detail the case for paid sick leave (PSL) and paid family and medical leave (PFML), and I highlight the implementation structures that would best suit a federal policy.

## ***Paid Sick Leave (PSL)***

Paid sick leave policies generally allow workers to earn short-term, job-protected paid time off, which they can use when they or a family member become ill. Currently, nearly one-quarter of workers lack access to this important benefit. Absent a federal policy, there are inequalities in access and use of PSL: 95 percent of workers that earn in the top 10 percent of civilian workers have access to PSL, while only 39 percent of workers with wages in the bottom 10 percent have access to PSL.<sup>2</sup> Workers in service-sector industries, often with front-facing jobs such as grocery store cashiers or retail clerks where they could infect customers by coming to work sick, are less likely to have access to paid sick leave and women are less likely than men to have access.<sup>3</sup>

With access to earned paid sick leave, workers don't have to make an impossible choice between showing up to work sick or losing pay. Workers without access to paid sick leave are more likely to work while sick, often citing fear of employer retaliation or of losing their jobs.<sup>4</sup> If a worker takes time away from work to care for themselves or a family member, they risk losing important income that can have severe consequences for their family budget. For the average worker without PSL, taking away just three days from work is the equivalent of losing pay that would cover their family's monthly grocery budget.<sup>5</sup> Lack of PSL also has consequences for businesses. Workers who come to work sick are more likely to spread disease in the workplace,<sup>6</sup> resulting in declines in productivity,<sup>7</sup> poor health outcomes, and ultimately more time out of the workforce.<sup>8</sup>

By contrast, states that have mandated access for the right for workers to earn PSL have shown that access to PSL improves community health, while imposing only trivial net costs for businesses. State-level sick leave laws improved population health by reducing influenza-like-illnesses in their states,<sup>9</sup> and increased health-care utilization.<sup>10</sup> Businesses and workers newly affected by states paid sick leave laws have lower rates rate of presenteeism (working while sick),<sup>11</sup> and research shows that workers only take an additional 2 days paid sick leave when it is mandated, suggesting that workers are not abusing these policies.<sup>12</sup> More importantly, PSL seems to increase workforce attachment, potentially due to fewer job separations due to access to these protections when a worker is sick.<sup>13</sup>

## ***Paid Family and Medical Leave (PFML)***

Paid Family and Medical Leave (PFML) allows workers to take extended time off to care for their own serious health conditions, parental bonding, caregiving for seriously ill loved ones, or safe time in an instance of domestic violence. Nearly every person experiences a substantial health event during their working life and access to paid family and medical leave (PFMLA) provides a crucial life line to support families at key moments in a person's life. Currently only 27 percent of workers have access to PFML.<sup>14</sup> Only 16 percent of service workers have access to paid family and medical leave, whereas 39 percent of management and professional occupations had access to PFML.

Access to PFML supports health, including improved infant and child development,<sup>15</sup> increased breastfeeding rates,<sup>16</sup> reduced infant mortality,<sup>17</sup> improved maternal health,<sup>18</sup> better ability to manage and afford cancer treatment,<sup>19</sup> and reduced occupational injuries.<sup>20</sup> PFML also benefits businesses, from supporting recruitment<sup>21</sup> to reduced turnover<sup>22</sup> to increased productivity.<sup>23</sup>

Lack of action on PFML is consequential to our economy, costing workers nearly \$22.6 billion each year in lost wages alone.<sup>24</sup> Further, inaction on PFML as well as other family-friendly policies has likely had very large cumulative effects in recent decades. In the mid-1990s, women's labor force participation in the U.S. was on the higher end of rich advanced economies, yet currently sits near the bottom of these countries. Much of this relative decline has been persuasively linked to other countries moving ahead with more modern family-friendly policies. According to the U.S. Department of Labor, if the United States had the women's labor force participation rate of economic peers that have moved

forward with family-friendly policies like Canada and Germany, the U.S. economy would generate an additional \$775 billion per year in additional economic activity.<sup>25</sup>

## Federal Solutions

At the Economic Policy Institute, we believe that all workers, regardless of where they live or how they work, deserve a foundation of guaranteed paid sick and paid family and medical leave. Paid sick leave should be a core labor standard available to every worker, regardless of how many hours they work or the type of worker they are. Paid family and medical leave should be a universal program guaranteed to all working people, just as Social Security is. All Americans will need paid leave at some point in their lives and deserve the peace of mind of knowing it will be there when they need it. The inequalities in access to paid sick leave and paid family leave documented in the prior section suggest that only through universal programs can we ensure fair and equitable access for all workers.

We urge lawmakers across all political leanings to come together around the common-sense conclusion that there is a strong federal role in providing paid leave and that doing so will strengthen our economy. Only the federal government can create a federal baseline policy that guarantees comprehensive paid leave rights to all American workers nationwide. Without a national program, there are substantial disparities in access, which have grown rather than decreased in recent years. Existing solutions based on where employees work or who they work for have not created access for all, and it is past time for the federal government to provide a basic level of benefits to all workers that states and employers can build upon if they so choose.

Federal solutions should heed the progress made by long-established state programs. States have mandated employer-sponsored paid sick leave programs since 2000, with minimal adverse consequence to employers and increased benefits to workers. States have also provided family and medical leave through a social insurance approach, delivering benefits that work for both workers and employers at an affordable cost. Several of these programs passed on a bipartisan basis, underlining the strong support across the aisle for paid leave and the political feasibility of taking evidence-based action on a bipartisan basis. Even states that passed programs with support from only one political party have seen their programs continue when political winds shift, which is a testament to their value to working people, businesses, and the economy.

### ***Paid Sick Leave (PSL)***

Like existing state programs, a federal paid sick leave program should provide every worker the right to earn paid sick leave, regardless of their worker status. In most states with paid sick leave mandates, workers accrue one hour of paid time off for every 30-40 hours worked. This program should be administered through employers, who already track similar short-term paid leave policies such as paid vacation or holiday leave.

Lessons from state paid sick leave laws have yielded best practices that should be reflected in a federal paid leave program, including:

- **Purposes:** A federal paid sick leave mandate should cover workers' own short-term health and medical conditions, the health of their family, and the ability to find safety in instances of domestic violence.
- **Family definition:** A federal paid sick leave program should have an inclusive family definition, ensuring that workers can care for all those they consider family, including loved ones to whom they may not have a legal or biological relationship.
- **Inclusive coverage:** A federal paid sick leave mandate must cover all workers, including part-time, temporary, and full-time workers, and public and private sector workers, regardless of industry or employer size.
- **Wage replacement:** A federal paid sick leave mandate should ensure full wage replacement rate so that workers can afford to use the benefit, particularly for low-income workers. For tipped workers, employers should follow the minimum wage laws in their state if the tipped rate is lower than the state minimum wage.
- **Generous accrual rate:** A federal paid sick leave mandate should allow generous accrual rates and the right to be able to carry a portion of accrued time over to the following year.
- **Job protection:** A federal paid sick mandate must protect workers' jobs, ensuring that they can return to work following leave and can use their rights without retaliation or interference.

The accrual rates adopted by many state policies reflect the time needed to recover from contagious airborne diseases. Center for Disease Control guidelines recommend 5 days of isolation for COVID, while those infected with RSV are typically contagious for three to eight days.<sup>26</sup> A full-time full-year worker accruing one hour every 30 hours worked would be able to accrue 8.6 days at the end of the year—just long enough to take time off to care for themselves within the CDC guidelines. Beyond contagion, it may take longer to fully recover from those infectious diseases or other illnesses.

While critics may worry about the cost of mandating small employers to provide paid sick leave, evidence shows that access to paid sick leave reduces job turnover,<sup>27</sup> improves worker productivity,<sup>28</sup> and increase work attachment. Given that turnover is costly to firms, paid sick leave has the potential to save employers money in terms of recruitment and hiring costs,<sup>29</sup> while providing a needed lifeline for workers. Workers in low-wage jobs in small firms for example, increased their hours worked in response to a paid sick leave law, suggesting that the flexibility and job security offered by the policy supports businesses as well.<sup>30</sup>

Importantly, paid sick leave should not be combined into one short-term paid leave account for workers. Combining all types of short-term paid leave into one bucket forces workers to make false choices about taking an hour for paid sick leave or taking an hour for other needs and this might incentivize workers to show up to work sick. Paid leave accounts should be treated separately from other accrued paid leave amenities offered at jobs.

## ***Paid Family and Medical Leave (PFML)***

Like existing state programs, a federal paid family and medical leave program should provide a guaranteed, comprehensive benefit to all workers. This program should be administered through a federal agency with the expertise and support to deliver benefits fairly and efficiently. In contrast, to date, voluntary approaches have not meaningfully expanded access to paid leave. Years of experience at the state level have generated important policy best practices that should be reflected in a federal paid leave program, including:

- **Purposes:** A federal paid leave program should cover workers' own serious health conditions, parental bonding, caregiving for seriously ill loved ones, needs in relation to military deployment, and safe leave to address sexual and domestic violence.
- **Family definition:** A federal paid leave program should have an inclusive family definition, ensuring that workers can care for all those they consider family, including loved ones to whom they may not have a legal or biological relationship.
- **Wage replacement:** A federal paid leave program should ensure that the wage replacement rate (the percentage of their own income workers receive while on leave) is high enough that workers can afford to use the benefit, particularly for low-income workers.
- **Duration:** A federal paid leave program must guarantee at least twelve weeks of paid leave.
- **Job protection:** A federal paid leave program must protect workers' jobs, ensuring that they can return to work following leave and can use their rights without retaliation or interference.
- **Universal coverage:** A federal paid leave program must cover all workers, including employees and independent contractors, part-time and full-time workers, and public and private sector workers, regardless of industry or employer size.

Unlike paid sick leave, which is a core labor standard all employers can and should be able to provide as a minimum threshold for doing business, some small businesses will need a public PFML program to level the playing field and help them compete with larger employers who can more easily afford to offer these benefits, which will often attract the best employees. A universal program keeps costs low and significantly reduces the administrative burden on employers of implementing a program, which particularly benefits small businesses. Just as they can at the state level, employers should always be able to provide more generous benefits than the federal minimum if they wish to, supplementing with more pay, more weeks, or more purposes. The law should provide a floor, not a ceiling.

Experience from state paid leave programs shows that once a paid leave program is implemented, most employers, including most small employers, support the program.<sup>31</sup> That's because these programs offer businesses benefits like improved recruiting, retention, and productivity, at an affordable cost and in a structure that is easy for employers to implement.

A federal paid leave program should not come at the expense of funding reductions to other programs working families rely on. For example, paid leave should not be paid for by taking money out of Social Security, harming today's retirees and undermining retirement security for the future. Progress on paid leave means instituting new protections that complement existing supports, not forcing false choices on workers. Paid family and medical leave programs should not force individuals to choose between paid leave now and borrowing against future benefits for family economic security to which they should also be entitled.

Additionally, states should be able to continue operating their own programs once federal paid leave is enacted and receive federal support to do so, so long as those programs meet robust federal standards. We should continue to take advantage of innovations at the state level in the future. The federal government could support state efforts in a number of ways. For example, the federal government could invest in electronic systems to facilitate better communication among state programs, helping them to share data and improve program integrity. This investment would benefit both employers and workers, as well as state administrators.

## Conclusion

Thank you again for the opportunity to provide this information. We look forward to continuing to work with you to make paid leave a reality for all Americans.

Sincerely,

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