CENTER FOR ECONOMIC AND POLICY RESEARCH

Written Testimony
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I am Dr. Eileen Appelbaum, Senior Economist at the Center for Economic and Policy Research in Washington, DC and former Director of the Center for Women and Work at Rutgers University in New Brunswick, New Jersey. I hold a Ph.D in economics from the University of Pennsylvania and have held tenured professor positions at Temple University and Rutgers University. With my colleague, Professor Ruth Milkman, I have been conducting research on the effects of paid family leave on employers and employees in California since 2003. I will draw liberally from that research in my testimony. In addition, Dr. Helene Jorgensen and I have analyzed the Department of Labor's 2012 Family and Medical Leave Act Survey and I will discuss those results as well. Thank you for the opportunity to provide testimony about what my research has shown are the economic and financial benefits of paid family and medical leave for workers and businesses. I have included these reports as attachments to this testimony.

2012 (DOL) FMLA Worksite Survey of Employers

The Family and Medical Leave Act of 1993 (FMLA) gives eligible employees the right to take job-protected, unpaid leave to bond with a new child, care for a family member or military service member, or for one's own serious illness for up to 12 weeks in a year. About 60 million private sector employees (55.9 percent) were eligible for family and medical leave under the FMLA in 2012. However, more than two-in-five private sector employees do not have access to job-protected leave because they are employed by small employers, which are exempt from the FMLA, and/or because they do not meet the tenure and hours worked requirements for eligibility. Small firms with less than 50 employees were exempt from the law because of concerns that family and medical leave events would create a heavy burden on these firms.

In 2012, the Department of Labor conducted the 2012 FMLA Worksite Survey of employers. Dr. Jorgensen and I examined the question of the effects of family and medical leaves on business establishments.[1] Very few establishments reported any negative effects on their business performance from providing leave to employees. Three quarters of worksites with 50 or more employees reported it was "very easy" or "somewhat easy" to comply with the FMLA. More than 9 out of 10 employers at these worksites reported the FMLA had a positive effect or no effect on employee productivity, turnover, and profitability. Responding to a question about the effect of complying with the FMLA on "employee productivity, absenteeism, turnover, career advancement, morale, as well as business profitability," 92 percent reported that the law had no effect or a positive effect. Slightly over half (54 percent) of employers found compliance to have "no effect" and an additional 38 percent reported a "very positive" or "somewhat positive" effect.

Although not required by law to do so, a surprisingly large share of small establishments – those with fewer than 50 employees – also offered some family and medical leave in 2012. Almost 85 percent of these worksites had a policy allowing for medical leave and 83 percent allowed for leave to care for a family member. These leaves, however, do not necessarily conform to the requirements of the FMLA. Among the subset of smaller firms that provides employee leaves that do conform to the FMLA, nearly all reported positive or no effects on their business performance from providing these leaves: 34 percent reported a positive effect, 65 percent reported no noticeable effect, and only 1 percent reported a negative effect. We found little evidence in support of the argument that providing leave is a "heavy burden" for smaller employers.

Employers adopted various strategies to cover work during employees' leaves of absence. Assigning work to other employees was the most common approach used, with 68.4 percent of worksites citing it. Hiring a temporary replacement and putting work on hold until the employee returns were two other common approaches. Because of the resourceful strategies adopted by employers, family and medical leave, as we noted above, was found to have little to no negative effect on businesses. This suggests that the Family and Medical Leave Act serves employers as well as employees. The law encourages employers to develop strategies to deal with leave events and, as a result, for workers in firms covered by the law the need for a family or medical leave does not lead to the loss of a job.

Milkman and Appelbaum Survey of California Employers (Paid Leave)

The Department of Labor's survey asked employers about their experiences with unpaid family and medical leaves. In 2004, California became the first state to implement a paid family leave program. The state is one of five (the others are New York, New Jersey, Rhode Island and Hawaii) that has had paid medical leave (state disability insurance) for workers since the 1940s. Nearly every private sector worker in the state of California is covered by these programs. In 2003-2004, prior to implementation of the new paid family leave law, and again in 2009-2010, Professor Milkman and I surveyed California employers first about their expectations and later

[1] H. Jorgensen and E. Appelbaum. 2014a. 'Expanding Family and Medical Leave to Small Firms Would Give Coverage to over 34 Working Americans.' http://cepr.net/press-center/press-releases/fmla-expansion-small-firms?highlight=WyJqb3JnZW5zZW4iLCJqb3JnZW5zZW4ncyJd

about their experiences with paid leaves.[2] The 2009-2010 employer survey is of 253 establishments, drawn from a Dun and Bradstreet list of all worksites in the state.

Prior to the passage of the legislation that created California's Paid Family Leave (PFL) program, opponents of the program lambasted it as a "job-killer," with potentially catastrophic effects on businesses in the state. The business community was vehement in its opposition to PFL, predicting that it would impose extensive new costs on employers, and involve a particularly serious burden for small businesses. Some also expressed concern about the potential for abuse of the program by workers who would take advantage of the program even if they lacked a legitimate need for family leave.

Our 2009-2010 survey of California employers, however, suggests that these widely expressed fears have not materialized. After more than five years' experience with PFL, the vast majority of employers in our survey reported that it has had minimal impact on their business operations.

The key findings of the 2009-2010 survey can be summarized as follows:

- The business community's concerns prior to passage of the PFL legislation, that it would impose extensive new costs on employers and involve a particularly serious burden for small businesses, were unfounded. After more than five years' experience with PFL, the vast majority of employers reported that it has had minimal impact on their business operations.

- Most employers report that PFL had either a "positive effect" or "no noticeable effect" on productivity (89 percent), profitability/performance (91 percent), turnover (96 percent), and employee morale (99 percent).

- Small businesses were less likely than larger establishments (those with more than 100 employees) to report any negative effects.

- Employers raised strong concerns prior to implementation about abuse of the program. However the vast majority (91 percent) of respondents to the employer survey said "No" when asked if they were "aware of any instances in which employees that you are responsible for abused the state Paid Family Leave program."

Employers also expressed concern, prior to implementation of paid family leave, about how work would be covered and about the additional costs associated with covering the work of absent employees. In the survey, the great majority of employers reported no such cost increases, because they typically covered the work of employees on leave by assigning the work temporarily to other employees. For covering the work of exempt workers on leave, this was the most common method, cited by nearly all (96.6 percent) employers surveyed. And nearly two-thirds (63.3 percent) of employers surveyed used this method most often in covering the work of

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[2] E. Appelbaum and R. Milkman. 2011. 'Leaves that Pay: Employer and Worker Experiences with Paid Family Leave in California.' http://cepr.net/publications/reports/leaves-that-pay

non-exempt employees on leave, with most of the rest reporting that the most common method was to hire temporary replacements to cover the work. Most employers (86.9 percent) indicated that the introduction of paid family leave had not resulted in increased costs associated with covering the work of absent employees.

In our fieldwork, which included visits to worksites and interviews with managers and employers in a variety of industries and locations around the state, we found that every establishment had developed systematic, and often quite ingenious, methods for covering the work of employees who were out on leave. Similar to what we found in the survey, most of the employers we visited assigned the work temporarily to other employees, with the second most common method being the hiring of temporary replacements to cover the work.

But this apparent homogeneity of approaches obscures a rich variety of arrangements for covering the work of employees during both brief and more extended absences that we observed in our site visits. The approaches we observed are described in somewhat more detail in Leaves that Pay,[3] and in great detail in our book, ***Unfinished Business***.[4] Here we briefly indicate just a few.

In some settings, like a factory assembly line or a hospital, full coverage for all positions is needed 100 percent of the time. A hospital we visited provides one example where coverage is imperative, and work is highly skilled. The hospital maintains a "voluntary extra shift list" of nurses and nursing assistants, who indicate the days they are available to work overtime. The hospital encourages this by paying well above the legally mandated rate for overtime. In one manufacturing firm we visited, by contrast, machine operators work in teams, and co-workers cover the work of absent team members.

At the other end of the spectrum, as in some office settings, work often can be covered by co-workers, with less urgent tasks put on hold and others taken over by the staff who remain. In one worksite we visited, the corporate headquarters of a food manufacturing company, it is standard practice to simply put some work on hold until the absent employee returns, while co-workers cover the most urgent tasks.

In retail chain stores and in agricultural work, where turnover is very high and hiring is therefore virtually continuous, we observed that leaves can be handled easily, since an employee's temporary absence can be covered by one of the many new hires that are steadily being made; and when she or he returns to work, there is sure to be a position available.

In contrast, for jobs that require extensive training so that very few people are able to take over for someone who is absent, managing leaves presents a greater challenge and managers must be more inventive. For example, at a law firm we visited, where continual coverage of support staff positions is essential, management maintains several floaters on the regular staff, drawing on temps as a last resort. At a biotechnology company we visited, cross-training ensures that many professional and managerial employees can cover for one another during absences as needed.

[3] Ibid.
[4] R. Milkman and E. Appelbaum. 2014. 'Unfinished Business: Employer and Employee Experiences with Paid Family Leave and the Future of Work-Family Policy in the U.S.' Ithaca: Cornell University Press

When this is not practical, the company employs contractors and consultants who periodically work for the firm and are generally familiar with its operations.

A small branch of a restaurant chain employs twenty-four non-exempt workers, four of them students who work part time and can be called on to fill in when full-time staff members are unavailable. We saw many more examples, and these are detailed in our book.

What is most notable here is that, in virtually all the establishments we visited, managers had crafted solutions of one sort or another to the problem of covering the work of absent employees. Most were able to do so with little difficulty or expense, although sometimes there are costs in premium overtime pay or fees to temp agencies. In our survey of California employers, about 13 percent reported such costs, while nearly 87 percent reported no increase in costs to cover the work of employees on paid leave.

We found in our interviews, however, that having contingency plans in place for such events is a business necessity, entirely apart from the question of family leave. Managers constantly face the possibility that an employee may quit precipitously, become incapacitated and unable to work, go on a military leave, take an extended vacation, and so forth. Under all these circumstances, many of which occur on a regular basis, the work of the absent employee needs to be covered. As a result, all employers have long since established mechanisms for ensuring that work will be performed during employee absences—mechanisms they may use when employees go on leave to care for a new child or seriously ill family member, just as for other types of absences.

Paid leaves also reduce turnover. Companies often offer paid leaves to more highly paid employees for just that reason. The California program provided access to paid leave for hourly paid employees who previously lacked it, reducing turnover and the associated costs. For this group 82.7 percent of those who used the paid leave program returned to work at the end of their leave with the same employer, compared with 73.9 percent for those who did not use the program – a difference of almost 9 percentage points. This suggests that California's paid family leave program provides an important benefit for employers, especially smaller employers that want to retain workers but may be unable to afford high levels of wage replacement for workers who need to take a family leave. One of the surprising things we learned from our field work is that, while turnover costs are substantial even for hourly-paid workers, employers rarely tracked – and many did not know how to calculate – these costs. There is now an interactive calculator, developed jointly with the Center for Law and Social Policy on the website of the Center for Economic and Policy Research that any manager or employer may use to calculate the cost of turnover to his or her business.[5]

2012 DOL Family and Medical Leave Act Survey of Employees

The Department of Labor also carried out a national Family and Medical Leave Act Survey of employees in 2012. The survey enabled us to document workers' need for a Paid Family and Medical Leave Program.[6] American workers rely on a patchwork of employer-provided benefits

[5] http://cepr.net/research-tools/online-calculators/clasp-cepr-turnover-calculator

[6] H. Jorgensen and E. Appelbaum. 2014b. 'Documenting the Need for a National Paid Family and Medical Leave Program: Evidence from the 2012 FMLA Survey.' http://cepr.net/publications/reports/documenting-the-need-for-a-national-paid-family-and-medical-leave-program-evidence-from-the-2012-fmla-survey

including paid sick days and vacation, private disability insurance, state paid leave programs, public assistance, and savings to make ends meet during a family or medical leave. About 30 percent of employees taking unpaid leave ended up deeper in debt. Difficulties making ends meet during a family or medical leave are especially acute for less educated workers: 60 percent of college-educated workers had access to some pay during family leave compared with 35 percent of high school educated workers and only 18 percent of workers with less than a high school degree. Nationally, fully 38 percent of employees who took a family or medical leave received no pay during the leave and another 5 percent received some pay but less than half of regular pay. Workers who received no pay or partial pay tried to make up the difference by using their savings, borrowing money, cutting back on purchases, skipping paying bills, or cutting their leaves short. Those who received no pay were much more likely to need public assistance (14 percent) than those who at least received partial pay (5 percent).

In our analysis of the FMLA survey, Helene Jorgensen and I found that in the year preceding the survey one-in-four employees who needed a family or medical leave did not take the leave. Many workers, especially low-wage workers, just can't afford to miss work to care for themselves or a seriously ill or injured family member. Doing so means losing income and, possibly, their jobs. According to respondents to the 2012 FMLA Survey, not being able to afford unpaid leave (49 percent) and the risk of losing your job (18 percent) were the two most common reasons why they did not take the leaves they needed. Nationally between 2 and 2.5 million workers who currently do not take the leaves they need to care for themselves or their families would be able to take family or medical leave if they had access to paid leave.

Milkman and Appelbaum Survey of California Employees (Paid Leave)

Ruth Milkman and I also conducted surveys of California employees who experienced an event that made them eligible for a family or medical leave, whether or not they actually took the leave. The 2009-2010 survey included 500 individuals employed in California and was conducted in Spanish and English. Although it was not intended to be a representative sample, but rather one that captured individuals who were potentially eligible for paid family leave, the employee sample is demographically diverse in regard to age, gender, race and ethnicity, and immigrant status. It includes workers across the economic spectrum as well, with diversity in levels of education and income.

Respondents to our 2009–10 survey who utilized the California Paid Family Leave program when they took a leave from work to bond with a new child or to care for a seriously ill family member reported better economic, social, and health-related outcomes than those who did not use the program. Participants in the program had higher levels of wage replacement, were able to take longer leaves, and were more satisfied with the length of their leaves. In addition, paid leave enhanced workers' ability to care for their children or ill family members and, for those in lower paying jobs, increased the likelihood of returning to work with the same employer.

Let me summarize the key findings of the employee survey:

- Access to employer-provided benefits is far greater for some workers than others. Exempt employees (mainly managers and professionals) have more access than non-exempt, male employees have more access than female, and those in higher-quality jobs (those that pay over $20 per hour in 2010 and include employer-provided health insurance) have more access than those in low-quality jobs.

- Nearly a third of respondents who were aware of the paid leave program but did not apply for it when they needed a family leave, for whom data are available, reported that they felt the level of wage replacement was too low.

- Many respondents who were aware of PFL but did not apply for the program when they needed a family leave feared that using it might have negative consequences for them at work. About 37 percent of those for whom data are available were worried that if they took paid leave, their employer would be unhappy, that their opportunities for advancement would be affected, or that they might actually be fired. Caution should be used in interpreting these data as the number of employees who knew about the program but did not use it is limited, and respondents to the survey are not representative of the larger population of workers. Still, it is striking that so many of the reasons cited by respondents involve concerns that applying for paid leave would have negative consequences for them at work.

- Use of PFL greatly increased the level of wage replacement during family leaves for respondents in lower-quality jobs: 84 percent of those in lower-quality jobs who used paid family leave received at least half of their usual pay while on leave, compared with 31 percent of those in similar jobs who did not use it.

- Among workers in lower-quality jobs, 97 percent of those who used the paid leave program were satisfied with the length of their leave, compared to 73 percent of those who did not use the program.

- Use of paid family leave positively affected respondents' ability to care for a new baby or adopted child. Among workers in lower-quality jobs who used paid family leave for bonding leaves, 91 percent reported a positive effect on their ability to care for the new child, compared with 71 percent of those who did not use the paid leave program; 72 effect on their ability to arrange child care compared to 49 percent of those who did not use PFL.

Conclusion

Inequalities between "haves" and "have-nots" in the United States have grown steadily in recent decades. One result has been rapid expansion in lower-wage jobs that provide minimal pay and typically have few or no benefits. At the other end of the spectrum, professional and managerial workers not only are paid relatively well, but also typically have access to an array of employer-provided benefits that can be used to obtain wage replacement during parental and other family-related leaves. The promise of paid family and medical leave is to provide access to paid leave to workers who have no other means of obtaining it. As California shows, paid leaves have more than proven their worth.

Despite fears expressed by opponents of the program that paid leaves would create a heavy burden on California employers, our survey data suggest that they seem to have had little difficulty adjusting to it. Five and a half years after PFL began operation, the vast majority of employers we surveyed reported positive effects or no effect at all on their productivity, profitability, or performance. Predictions that small businesses would find it especially difficult to adapt were not borne out. Cases of abuse of the paid family leave program were rare—the vast majority of employers reported that they knew of no cases in which any of their employees had abused the program. A few employers did report higher costs due to the need to hire temporary replacements for employees who took family leave, or to provide overtime pay to their co-workers. But most employers reported that they covered the work of those out on leave by reassigning it to other employees, at little or no cost.

The use of paid family leave is also associated with better economic, social, and health outcomes for workers and their families. Wage replacement levels were higher for workers who used the paid leave program than for those who did not, especially among workers in lower-quality jobs. Workers in low-quality jobs who used PFL were more likely than those who did not to return to the same employer after a family leave, were more satisfied with the length of their leave, were better able to care for seriously ill family members, and were better able to care for newborns and to make child care arrangements.

As the California experience shows, paid leave has substantially benefited workers and has had minimal impact on businesses. Many states and Washington, DC are currently considering adopting their own paid family and medical leave programs. I hope my testimony will help inform the discussion in DC, and I am grateful for the opportunity to present it.

Thank you.