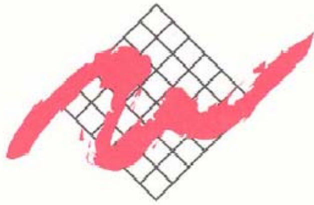
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Health and Family Care Leave for Federal Workers: Using a Short-Term Disability Insurance Model to Support Worker and Family Well-Being, Ensure Competitive Employee Compensation, and Increase Productivity

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Testimony presented to
the Joint Economic Committee
and
the House Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia

At the hearing:
"Investing in the Future of the Federal Workforce:
Paid Parental Leave Improves Recruitment and Retention"

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Vice Chairman Maloney, Chairman Davis, and Members of the Joint Economic Committee and the House Subcommittee on the Federal Workforce, Postal Service, and the District of Columbia,

I am Dr. Vicky Lovell, Director of Employment and Work/Life Programs at the Institute for Women's Policy Research (IWPR). I hold a Ph.D. in Public Administration and Policy from Portland State University and have been conducting research on family and medical leave and other policies to strengthen women's employment outcomes for nearly ten years. I have published numerous articles discussing the factors that make work/family policy supports important. Several years ago, IWPR staff worked with Dr. Randy Albelda and Dr. Alan Clayton-Matthews of the University of Massachusetts Boston to develop an econometric model to estimate the use and cost of various paid family and medical leave policies being considered by state and federal policy makers. I have used this model extensively to inform policy makers about the design and likely impact of new paid leave programs. Thank you for allowing me to provide testimony on paid parental, own-health, and family care leave for the federal workforce.

Researchers at the Institute for Women's Policy Research have been assessing Short-Term Disability Insurance as a model for family leave insurance for more than 15 years (see, e.g., Aaronson 1993). These insurance plans for loss of earnings due to non-work-related illness and injury offer a flexible, efficient, and cost-effective mechanism for enrolling workers, collecting insurance premiums, evaluating claims, and paying benefits. In my testimony this morning, I will focus on the SDI programs that operate in five states to deliver mandatory coverage to workers. They function similarly to the private programs that some employers choose to provide to workers. Experience in the State of California demonstrates that they can be utilized to support workers' family care-giving responsibilities, in addition to leaves to address workers' own serious health needs.

State Programs for Short-Term Disability Insurance

Short-Term Disability Insurance (SDI) follows the standard logic of other kinds of insurance programs, such as health or life insurance, workers' compensation, or unemployment insurance: They pool individuals in order to spread the cost of a given individual's experience with an underlying risk among a large group, protecting each individual against the potentially devastating cost of the covered event. SDI provides temporary, partial wage replacement to employees who are unable to work because of non-work-related illness or injury.

Five states require employers to ensure that workers participate in SDI programs. Four states enacted their SDI plans in the 1940s: Rhode Island (1942), California (1946), New Jersey (1948), and New York (1949); Hawaii created its program in 1968 (Social Security Administration 2007). The programs pay benefits to workers who are unable "to perform regular or customary work because of a [non-work-related] physical or mental condition" (ibid., 67). Together, these states insure approximately one of every six U.S. workers (17 percent) against wage loss due non-work-related illness and injury.[1] California and New Jersey allow employers

[1] Institute for Women's Policy Research analysis of U.S. Social Security Administration 2007 and U.S. Department of Labor 2004.

to provide SDI either through a state-operated plan or a private one with equivalent or better benefits; in both states, the vast majority of workers are covered under the state plan. Rhode Island employers must participate in the state's plan. In Hawaii and New York, there is no state plan, and employers purchase coverage from private companies, self-insure, or create a labor-management program. Local and state employees are covered in Hawaii, and some state workers in some other SDI states also participate. Federal workers do not have SDI benefits.

State-mandated SDI benefits replace 50 to 67 percent of a worker's usual weekly earnings (Lovell 2004). The plans typically pay benefits for a maximum of 26 weeks, although in Rhode Island the maximum benefit period is 30 weeks, and in California a worker may draw benefits for up to 52 weeks. There is usually a seven-day waiting period before benefit payments being; that is sometimes paid retroactively with sufficient disability duration.

State-run SDI programs are very efficient to operate. Administrative expenses are 4.4 percent of net benefit expenditures in Rhode Island, 5.5 percent in California, and 6.7 percent in New Jersey.[2]

Premiums are calculated as a percent of a specified level of earnings. For instance, for 2007, the SDI withholding rate in California was 0.6 percent of earnings, with a taxable wage ceiling of $83,389 (State of California Employment Development Department 2007). In Hawaii, New Jersey, and New York, employers pay the insurance premium, while the California and Rhode Island plans are employee-funded (Lovell 2004).

Coverage of Pregnancy and Maternity Disability in SDI Programs

Until 1978, many private and public SDI plans denied benefits to pregnant women, arguing that pregnancy and childbirth were too expensive to cover, "beyond normal experience," and voluntary (Lens 2004), even though the U.S. Equal Employment Opportunity Commission issued guidelines in 1972 asserting that failing to provide pregnancy benefits in health insurance or SDI programs constituted unlawful sex discrimination. Following a U.S. Supreme Court decision in 1976 that allowed pregnancy to be excluded from SDI, the U.S. Congress passed the Pregnancy Discrimination Act in 1978, amending the anti-discrimination doctrine of Title VII of the Civil Rights Act of 1964 and requiring "employers who offer health insurance or disability plans (or both) to provide coverage to pregnant women for all conditions related to pregnancy and childbirth" (Conway, Ahern and Steuernagel 1995, 161).

SDI now provides pregnancy and maternity disability benefits to millions of American women, functioning as a form of paid maternity leave in addition to supporting women who experience difficult pregnancies or births. Yet this use of SDI is not the most common, nor the most expensive. In New Jersey, for instance, disabilities related to bones and organs of movement, and accidents, poisoning, and violence, make up a larger share of SDI recipients and of SDI benefit payments than do pregnancy and childbirth (Table 1).

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[2] 2003 data; IWPR analysis of Social Security Administration 2007.

Table 1. Most common medical bases of completed SDI claims, New Jersey, 2000

Major morbidity group	Percent of cases	Average duration (days)	Average gross benefit
Bones and organs of movement	18.7	96	$ 4,300
Accidents, poisoning, and violence	16.7	80	$ 3,484
Pregnancy and childbirth	14.9	80	$ 3,353
Circulatory system	8.6	96	$ 4.302
Neoplasms	8.2	100	$ 4,463
Digestive system	6.6	47	$ 2,103
Mental, psychoneurotic, and personality disorders	5.7	104	$ 4,708
Respiratory system	5.2	39	$ 1,777
Subtotal: Listed conditions as share of all claims	84.6		

Source: New Jersey Department of Labor, Program Planning, Analysis and Evaluation, *Temporary Disability Insurance Workload in 2000: Summary Report* (2002), Table 5.

Family Care Leave Insurance

SDI offers a model for insuring workers against wage loss when they must care for seriously ill family members. Family care leave fits the insurance logic of SDI; the funding mechanism is cost-effective; and identifying need is relatively clear-cut. A family care leave insurance program could provide temporary, partial wage replacement to parents with a child undergoing cancer treatment, to workers with a spouse recovering from surgery, or in the event an aging parent has a stroke.

Policy makers across the country have explored this insurance approach for providing income during time off work for maternity and paternity and caring for ill family members. These efforts have concentrated on creating a wage replacement system to parallel or augment the Family and Medical Leave Act of 1993 (FMLA), which requires that eligible employees in covered firms be allowed up to 12 job-protected weeks of leave annually when they are seriously ill or to care for a seriously ill family member or bond with an infant or newly placed foster or adoptive child. Proposals have been considered with varying leave lengths and with wage replacement rates typically set at about two-thirds of a worker's usual weekly earnings, with a maximum weekly benefit often tied to a state's average weekly wage. (Thus, the proposed plans offer benefit levels similar to those provided under SDI.) Generally, these proposals call for all the circumstances provided for in the FMLA to be covered: a worker's own health; care for new children; and serious family illness. Not only is this a comprehensive program the addresses a majority of workers' needs for health- and parenting-related work breaks; it also deliberately encompasses leave that men need and care they can provide, replicating the FMLA's very careful extension of support to men as a way of encouraging gender parity in the care-giving sphere.

A comprehensive paid family leave insurance program was accomplished in California in 2002. Payroll tax contributions were collected starting January 1, 2004, with benefit payments disbursed beginning in July 2004 (Lovell 2003). The new program is administered by the State of California Employment Development Department in conjunction with the pre-existing SDI

program. Currently, the combined California SDI/PFL program is the only state-wide program that covers all FMLA conditions.[3]

Washington State adopted a different approach: five weeks of paid leave for parents only, paid at a flat rate of $250 per week (Economic Opportunity Institute 2007). This benefit level replaces earnings at 100 percent for those working 40 hours a week at $6.50 an hour.[4] It was explicitly designed to be very progressive so as to make paid leave affordable for low-income workers. The Washington State parental leave insurance program is scheduled to become operational on October 1, 2009, although policy makers have yet to establish its funding mechanism.

California's Experience with Paid Family Leave as a Preview of Federal Use

Data on California's Paid Family Leave program (PFL) offers guidance for a very rough estimate of likely use of a similar program for federal workers. In this section, published and unpublished data on use of PFL in California are adjusted by the ratio of federal civilian employment to covered California employment (.144) to suggest how many leaves might be taken by federal workers under a new paid parental leave program or a paid program for workers' own health needs and for family care. No adjustment has been made for differences in the demographics of the two workforces that would affect the need for paid leave—their age distributions, fertility rates, and health status, for instance. This process also does not account for different levels of program awareness among California and federal workers, or for associated differences in take-up rates that relate to workers' knowledge of the program. The purpose of this analysis is simply to give a very general sense of the possible scope of a federal program, to assist in evaluating the extent to which workers need paid parenting leave, paid leave for their own disabilities, and paid family care leave.[5]

In California, women's claims for bonding with a new child make up 69 percent of total family care claims (Table 2, Column A). Men's bonding claims are another 18 percent. Claims to care for seriously ill family members are a minor share of claims under this program, with women's family care constituting 8 percent of program use and men's the remaining 4 percent.

Within the family care category, and perhaps surprisingly, workers' parents are the largest group of care recipients (36 percent; Table 2, Column B). This is closely followed by claims for care of spouses (33 percent). Children are the care recipients in 21 percent of claims. Care of registered domestic partners and others makes up the final 11 percent of total claims. (Fully one-fourth of paid family leave claims are for family members with cancer (CA EDD 2008).)

[3] California workers are covered by another important leave benefit: the "Kin Care" law. This policy allows workers who participate in a paid sick days program to use their accrued benefits when they need to care for a sick family member (State of California Fair Employment and Housing Commission 2007).

[4] The minimum wage in Washington State is currently $8.07 (U.S. Department of Labor 2007).

[5] The estimate assumes that women would not be allowed to take both own-health SDI for pregnancy/maternity disability and paid parental leave under the Federal Employees Paid Parental Leave Act of 2007 for bonding with a new baby. (Birth mothers in California may use both programs.)

Table 2. Use of California Paid Family Leave program, SFY 2006-7; estimated use of paid parental, health, and family care leave for federal workers

Reason for leave	Column A California: Leave reason as percent of total Paid Family Leave claims	Column B California: Family-care claims by care recipient	Column C Federal workforce: Estimated annual number of claims	
Bonding with new child				
Women	69 %		17,341 [a]	
Men	18 %		4,806 [b]	
Subtotal				22,147 [b]
Other family care				
Women	8 %			
Men	4 %			
Caring for:				
Spouse		33 %	1,027 [b]	
Child		21 %	647 [b]	
Parent		36 %	1,125 [b]	
Others		11 %	342 [b]	
Subtotal				3,141 [b]
Workers' own health needs				41,197 [b, c]
Total	99 %	101 %		66,485 [b]

[a] This estimate of the number of female federal civilian workers giving birth, adopting, or taking in foster children annually is based on the number of women in California with bonding claims; the share of pregnancy claims that transition to bonding claims (63 percent, for SFY 05-06; Sherriff 2007b); and the ratio of the federal civilian workforce to the number of workers covered by California's SDI program. Alternatively, the Congressional Budget Office estimates that 25,300 women federal workers would use paid parental leave annually, along with 13,750 men (using 2001 data; OPM 2001).

[b] If federal workers have a higher program take-up rate than California workers do, the number of claims will be higher, by an unknown factor.

[c] Assumes that half of federal workers with short-term disabilities will use their (fully paid) sick leave in lieu of SDI, as compared with California workers, whose sick leave policies are on average less generous than that of the federal government.

Notes: Claims are filed claims. Columns may not sum to totals due to rounding. Adjustments of California program use data for size of federal civilian workforce but do not account for demographic differences between these two groups of workers, which may significantly affect the relative need for parental, own-health, or family care leave in the two workforces.

Source: Institute for Women's Policy Research analysis of unpublished data from State of California Employment Development Department (2008); OPM (2006); and Sheriff (2007b).

Column C of Table 2 presents crude estimates of the likely use of paid parental leave and paid health and family care leave for federal workers. Adjusting data on use of California's SDI and PFL programs for the relative size of the federal civilian workforce, and assuming that federal workers would have the same take-up rate as do California workers, suggests that the latter group would take 22,147 paid parental leaves annually (17,341 would be taken by mothers and 4,806 by fathers). Care leaves for family members would total 3,141, and workers would take 41,197 leaves because of their own serious health conditions. Each year, then, under a comprehensive SDI and PFL program for the federal civilian workforce, an estimated 66,485 paid leaves would be taken, allowing workers to address serious health issues of their own and their immediate families, to recover from childbirth, and to bond with infants and newly adopted children and foster-care placements.

How an SDI Model of Health and Family Care Leave Would Complement the Federal Employees Paid Parental Leave Act of 2007

The paid parental leave bill that is before these Committees would provide relief when federal workers welcome a new child into their family. This life-changing event brings joy and intense satisfaction, but also imposes significant burdens. Women recovering from childbirth need time to heal and to establish breastfeeding routines; all parents need time to get to know their new loved one and figure out how to incorporate a new child into their world.

If we look at a worker's life as an evolving continuum of reciprocal family relationships, we can imagine that many other situations will arise that cannot easily be attended to while spending most of the workday on the job. A paid health and family leave insurance program that complements paid parental leave would help women during pregnancy, continuing their income if they are advised to cut back while awaiting their baby, in instances where their paid sick leave is insufficient to cover this contingency. It would support workers suffering from serious health problems and those with disabled children or medically fragile parents or spouses. It would bring needed assistance to workers of all ages, both women and men, for individual and family needs.

Benefits of Paid Own-Health and Family Care Leave

We have some evidence of the benefits of paid maternity leave for employers, and it is reasonable to expect that own-health and family care leave would have some similar effects.

Women who have paid maternity leave work later into their pregnancies than those with only unpaid leave (Johnson 2008). They return to employment at a higher rate than mothers with only unpaid leave (Boushey (forthcoming).[6] Thus, a paid parenting leave program will allow the federal government to retain valuable staff with job-specific skills. It is likely that SDI and family care leave will have similar effects. We know, for instance, that having paid sick leave

[6] Mothers who go back to the same employer are better off, too. Almost all of them have the same or higher pay upon their return (91 percent.and 7 percent of returning mothers, respectively; Johnson 2008) Among mothers who move to a new job after their baby is born, one-third (34 percent) experience a decrease in pay. (About one-third (30 percent) are re-employed at their previous earnings level, with the final one-third (35 percent) earning more in their post-birth position.)

reduces voluntary turnover by several percentage points (Cooper and Monheit 1993), and there is evidence that employers who provide health insurance to their workers also experience lower rates of voluntary turnover (Adams 2004). Workers whose health and family care needs are met by their current employer are less likely to think about changing jobs, and they are less likely to be fired when they must stay home but have no official program providing that right.

Retaining workers is a big cost-saver for employers. Detailed evaluation of the steps involved in replacing a worker portray a wide spectrum of activities and effects: exit interviews, advertising and employment agency fees, background checks, drug tests, interviews, training, and purchase of uniforms (Hinkin and Tracey 2000). And these are just the more obvious aspects of filling a vacant position. More subtle impacts include “vacancy cost, pre-departure productivity loss, learning curve (cost incurred and lost revenue), errors and waste, supervisory disruption, peer disruption” (ibid., 18) and the general time burden of helping a new employee get up to speed. One commonly cited rubric is that employers pay 25 percent of total annual compensation to fill a position (Employment Policy Foundation 2002).

Workers who have benefits they value may also be more productive. A study of family-friendly policies in publicly traded companies on the Working Mother Media “Best Companies” list found, for example, that companies that provide paid leave to care for sick family members are more profitable than companies that do not offer this benefit (Meyer, Mukerjee, and Sestero 2001). It may be that these firms create an efficiency wage situation in which they induce greater work effort from employees by providing higher overall compensation than might be available elsewhere in the labor market. Or, in the case of family-friendly policies in particular, workers may simply be less anxious about their family care situation, and better able to focus on their work. Employees may feel more loyal when their parenting needs are accommodated, and put more effort into their work. Studies of workers who care for disabled or elderly adults find that distractions and interruptions at work, and being delayed arriving to work, can reduce workers’ productivity (MetLife Mature Market Institute 2001). If workers in this situation can take time off with pay to handle a crisis, employers may be able to avoid paying for a full day of work when workers cannot be as productive as usual.

In addition to the obvious benefit of being paid while on maternity leave, workers may reap other positive outcomes from these policies. Mothers who take longer maternity leaves report fewer symptoms of depression than those returning to work sooner (Chatterji and Markowitz 2004), suggesting an impact on mothers’ well-being generally that may have consequences for their productivity and absenteeism. In addition, workers with a paid parental leave policy may be able to save some of their sick leave to use when they are back at work. This will allow them to remain healthier and more productive and to avoid spreading contagious diseases such as the flu by taking sick days when needed.

In 2001, responding to a request from Congresswoman Carolyn Maloney, the Office of Personnel Management published a memorandum discussing the need for enhanced paid parental leave policies for federal workers (Hauser 2001). The report compares paid parental leave available to federal workers with practice in the private sector and in Europe and presents results of a survey of federal agency human resources directors regarding their perceptions of the importance of augmenting the federal government’s paid leave policies. The report concludes

that federal benefits are already significantly more comprehensive than the average in the private sector and that greater paid parental leave is not a key issue for either recruitment or retention of federal workers.

Two comments submitted by surveyed HR directors, however, support the need for expanded leave. One respondent noted that relatively newly hired workers will not be able to accumulate enough paid leave to cover a six-week parental leave. (Six weeks is a typical minimum standard for medical recovery from childbirth.) Another pointed out that the federal government will face a recruitment challenge in the near future as a substantial share of its workforce retires, and paid parental leave might be an effective tool for attracting young workers.

A 1997 report by OPM presented a positive view of the benefits of enhanced work/family policies for federal workers, however (OPM 1997). Evaluating a 1994 policy allowing use of accrued paid sick leave for family care, OPM reported that federal agencies "overwhelmingly support" the new policy, in part because it increased worker productivity by making employees feel more valued and, thus, more loyal, and because it made it easier to schedule around workers' family care needs (ibid., 10). A more adequate paid parental, health, and family care leave program might have similar effects.

The federal government does not want to compete with the "average" American employer for the "average" American worker. The federal workforce is highly skilled and highly educated. Thus, the federal government competes for the top workers in the economy, not the average worker. To build the most productive workforce, federal employment should be compensated so as to attract and retain top talent that could choose lucrative work in the private sector.

<u>Issues to Consider in Designing Paid Health and Family Care Leave for Federal Workers</u>

- SDI is typically not job-protected unless it runs concurrently with FMLA, although a new law could require job protection. (SDI programs tend to be treated as job-protected by employers (Naples and Frank 2002), but making this explicit would protect some vulnerable workers.)

- Use an inclusive definition of "family." In California, one in ten denied paid family leave claims involved care recipients who did not meet the program's definition of "family member." One-third of those needing care, but not covered, were siblings (35 percent); one-fifth were grandparents (19 percent); and one-tenth were parents-in-law (10 percent; Sherriff 2007a). Including a broader definition of family would extend critical care support to families facing medical crises, while having little impact on the program's scope.

- A new program could provide a more progressive wage replacement approach than SDI programs usually use. For instance, the Family Leave Insurance Act of 2007 (S 1681, 110th Congress) calls for a 100 percent wage replacement rate for workers with an annual income of $20,000 or less. The wage replacement rate declines as income increases, with a top bracket of 40 percent for workers with annual income of more than $97,000. This

would help make the program more affordable for women and workers of color, who are disproportionately employed in the lowest GS jobs (Office of Personnel Management 2006).

- Educating workers about a new benefit will likely be easier in the federal workforce than for policies that cover the private sector; nevertheless, outreach should be planned from the program's start-up. In California, for instance, three years after the new paid family leave program went into effect, only a quarter of workers know about their new right to take paid leave (Milkman 2008), despite the requirement that employers notify their employees of their right to paid family leave. Low-income workers are the least likely to be aware of the program (Milkman 2008), which may explain their under-representation among program users (Sherriff 2007a). This raises questions not only about the adequacy of the program in meeting its goals for supporting workers, but also an equity issue: Workers are paying into the system but, because of inadequate outreach, not using it when they need it.

- Include plans to research the new program's use and impact, so the program can be modified as needed to ensure that it remains effective.

Conclusion

The Federal Employees Paid Parental Leave Act of 2007 would make the federal government a model employer, extending a helping hand to its employees while pointing the way for private-sector paid parenting benefits. Adding health and family care leave insurance would round out the family and worker support, covering serious health issues of workers and allowing for care of seriously ill family members. Enactment of this legislation would signal Congress' understanding that addressing health and care-giving needs is not simply an individual responsibility, but an obligation of society as a whole and, therefore, of government. We can address work/family issues holistically, strengthening the commitment to family well-being that was articulated in the FMLA in 1993 and in the 1994 Federal Employees Family Friendly Leave Act (which allows federal workers to use accrued sick leave for family care or bereavement), offering real benefits to the federal sector as an employer—reduced turnover costs, a more competitive compensation package, and higher productivity—and increasing quality of life for workers who face multiple demands from work and family.

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