

## Balancing Work and Family:

# Should California Join Other States in Considering Partially Paid Family Leave?

By Karen A. Harris, M.P.H.

## Introduction

**R**esponding to new federal regulations and nationwide campaigns for family leave benefits, 19 states have introduced legislation providing partially paid family leave to eligible workers; California is not yet among them (1). Legislators in other states are exploring a number of ways to fund leave. Some are taking advantage of an August 2000 Department of Labor regulation allowing states to extend unemployment compensation to parents who take leave to bond with newly born or adopted children (2). Others are looking into expanding Temporary Disability Insurance (TDI) to workers on family leave. [TDI grants partial income-replacement to employees who are temporarily disabled for medical reasons, including pregnancy and childbirth (3).] A third approach features tax credits for employers who provide paid family leave benefits to their employees. Other solutions are also being proposed (3).

California is one of only five states in the nation to offer TDI. As such, this state has a system in place that can be built upon to help employees take leave when their families need them. In June of 2000, California's Employment Development Department (EDD) projected that the cost of extending TDI to workers on family leave would be relatively low. In 2001, an employee-paid contribution of \$0.89 per week would pay for an average of six weeks' leave at an average benefit of \$270.02 (4). Is this a viable way to fund partially paid family leave in California? To answer this question, this paper reviews current family

## What Is Family and Medical Leave?

The Family and Medical Leave Act (FMLA) was enacted in 1993, guaranteeing job protection and health benefits to eligible workers who take family leave. Parallel legislation, the California Family Rights Act (CFRA), went into effect in California in 1991, and was amended in 1993. FMLA coverage runs concurrently with state leave laws, and California workers are covered by both the FMLA and CFRA (see page 3). The provisions of these two laws are virtually identical, though there are some differences.

TABLE 1

### Four in Five Adults Support Paid Parental Leave

*Question: "Would you strongly support, somewhat support, somewhat oppose, or strongly oppose a paid parental leave that allows working parents of very young babies to stay home from work to care for their children?"*



Source: *What Grown-Ups Understand About Child Development: A National Benchmark Survey*, Civitas Initiative, ZERO TO THREE, BRIO Corporation. Researched by DYG, Inc., 2000.

and medical leave policies; examines their effectiveness; and discusses options for expanding them.

## Why Is Partially Paid Family Leave Needed?

In recent decades, dramatic shifts in America's social and economic environment have been reflected in the workplace. Key features of this transformation include compressed workweeks, shift work, reduced job security and part-time and temporary work. Families maintain financial stability by working longer hours and sending more family members — primarily women — into the workforce (5). Today's families strain to cope with events such as the serious illness of a child, spouse or aging parent; a pregnancy; the adoption of a child; or a worker's own serious illness.

Since the FMLA was enacted, over 35 million eligible employees have taken family and medical leave (2). Yet many low- and middle-income workers do not take needed leave because they cannot afford to go without pay, are not covered or are not aware of their eligibility. One in 11 leave-takers enrolled for public assistance to make ends meet while on FMLA leave (6.)

There are hidden social costs when “leave-needers” must continue working. Employers suffer higher turnover rates and reduced worker productivity (3), and society pays for higher health care costs and public benefits. Many children’s health and development advocates believe paid leave would give parents the time they need to form strong bonds with new children. Early bonding is essential for children to develop sound social and cognitive skills (7).

### What Are Current Family Leave Laws in California?

Sixty-two percent of California workers are covered by CFRA (8). In addition, other California laws are in place to assist working families (table 2). Section 12945 of the Fair Employment and Housing Act protects women who are disabled due to pregnancy from discrimination, and gives them the right to take disability leave. In 1999, the California legislature amended the labor code (Section 233) to require employers offering sick leave to let employees use part of their leave to care for a sick child, parent or spouse (8).

California’s TDI system (called State Disability Insurance, or SDI) provides partial wage-replacement to workers suffering from non-work-related disability, including pregnancy disability (8). SDI is funded through employee payroll deductions (4). It does not cover California employees who take maternity leave beyond the period of disability related to pregnancy and childbirth, nor

### How Could California Provide a Paid Family Leave Benefit?

In 1999, the California legislature passed a bill requiring the EDD to report on the fiscal impact of extending SDI benefits to workers on family leave. According to this report, total costs for this expansion in 2001 would range from \$303 million to \$361 million. This estimate factors in administrative costs, as well as an average of six weeks’ paid leave at an average weekly benefit amount of \$270 for 211,347 new claims (4). To pay for it, employee payroll tax contributions to the SDI fund could be raised by one-tenth of one percent. This would amount to \$1 for every \$1000 earned, up to a maximum wage limit of \$46,327 (—approximately 89 cents per employee per week) (4).

Unemployment insurance is another widely considered means of offering paid family leave. Advocates for this approach argue that the unemployment insurance system was originally designed as a social safety-net for single-earner families where one parent was home to attend to the needs of children and family members; they hold that the unemployment insurance system should be updated to reflect the realities of the modern workplace. Opponents cite increased costs to employers. At this time, California has not estimated the cost of expanding unemployment insurance to cover workers on family leave.

does it cover leave for paternity, adoption, or to care for seriously ill family members (3).

### How Effective Are Existing Family and Medical Leave Policies?

There are no data measuring the impact of family leave laws in California. However, in 1996 the bi-partisan Commission on Family Leave reported on the national impact of the FMLA. Summarizing results from employer and employee surveys, they found the FMLA fulfills its intent of supporting working families without disrupting business. However, many workers are not covered by the FMLA, or face barriers to taking leave (6). Recent research substantiates the Commission’s earlier findings (2).

In 2000, more than half of those who took FMLA leave did so for their own illness; 36 percent took maternity or paternity leave; 13 percent attended to an ailing parent; 11 percent cared for a sick child; and 6 percent looked after a spouse who was ill. Fifty-eight percent of those who used FMLA coverage were women, three-fourths were married, and most (59 percent) had children (2).

Over 80 percent of covered employers reported the FMLA had a positive effect, or no noticeable effect, on business productivity, profitability and growth (2). More than four of five employees believed workers should be able to take up to 12 weeks of unpaid leave per year to deal with family and medical problems; two thirds felt it was fair when co-workers took leave (2).

### What Obstacles Prevent Employees From Taking Family Leave?

Many eligible workers have not heard of the FMLA. Although 84 percent of covered employers knew the FMLA applied to their organization, only 38 percent of eligible employees knew they were covered. Half of employees in covered organizations had heard of the FMLA at all (2). Covered employers are required to post information about the FMLA at the worksite, but 56 percent of employees said there was no notice posted; another 20 percent did not know if there was a notice (2).

Unpaid leave can create hardship for middle- and low-income workers (2,6). Over half of workers who took family or medical leave had difficulty paying their bills; a third had not received any pay; and almost two out of five ended their leave early due to lost pay (2). In 1995, 66 percent of workers who needed leave but did not take it said they could not afford the unpaid time (6); by 2000, 78 percent of “leave-needers” cited this reason (2). Hourly workers, African Americans, workers with children, low-income workers, and those with limited education were most likely to forego needed leave (6).

TABLE 2

## Existing Family Medical Leave Legislation in California

| Legislation   | What it Does  | Who it Covers  |
|---|---|--|
| <p><b>California Family Rights Act</b></p> <p><i>(California version of the federal Family Medical Leave Act)</i></p> <p><i>Fair Employment and Housing Act, Code Section 12945.1</i></p> | <p>Provides up to 12 weeks of unpaid leave within a 12-month period</p> <ul style="list-style-type: none"> <li>• for the birth and care of an infant,</li> <li>• placement of an adoptive or foster child,</li> <li>• care for an immediate family member (including elderly parents) with a serious health condition, or the worker's own serious health condition.</li> </ul> | <p>Private, state, and local government employees, and some federal workers who have worked for the employer</p> <ul style="list-style-type: none"> <li>• at least 1250 hours in the 12 months preceding leave,</li> <li>• at least 12 months,</li> <li>• at a location that has at least 50 employees.</li> </ul> <p>62% of California workers covered.</p> |
| <p><b>Fair Employment and Housing Act</b></p> <p><i>Code Section 12945(b)(2)</i></p>  | <p>Generally covers pregnancy disability for up to 4 weeks before birth, up to 6 weeks after a vaginal birth, or up to 8 weeks after a caesarian section. Women may take up to 4 months for disability due to childbirth or a related condition, as prescribed by a doctor.</p>   | <p>Women working for public and private employers with five or more employees.</p>   |
| <p><b>State Disability Insurance (SDI)</b></p> <p><i>Unemployment Insurance Code Various Sections</i></p>   | <p>Offers partial wage replacement to workers suffering from non-work-related disability due to illness or injury, whether physical or mental, including disability due to pregnancy, childbirth or a related medical condition.</p> <p>Benefits are 2/3 of average weekly wage, up to a cap of \$490 per week.</p>   | <p>The majority of California employees (approximately 12 million out of 15 million) are covered. Several exemptions exist.</p>  |
| <p><b>California Labor Code</b></p> <p><i>Code Section 233</i></p>  | <p>Requires employers who provide sick leave to enable employees to use half their annual accrued sick leave to attend to the illness of a child, parent or spouse of the employee.</p>   | <p>All private and public employees who are entitled to paid sick leave.</p>   |

Source: Senate Office of Research, *California Laws Helping Working Parents*, California State Senate, January, 2000. <http://www.sen.ca.gov/sor/WorkFamilies.htm>

## What Do Interest Groups Say About Existing Family Leave Policies?

Both nationwide and in California, many groups believe current family and medical leave laws should be amended. There is debate as to the nature of needed changes, however. Family advocates such as the National Partnership for Women and Families (3), the Legal Aid Society of San Francisco/Employment Law Center (9), the Labor Project for Working Families, and others (10) argue existing laws are inadequate and fail to protect low-income workers. These groups say providing partial income replacement makes taking leave a viable option. They also believe the FMLA should be expanded to cover more employees.

Business groups such as the U.S. Chamber of Commerce and the Society for Human Resource Management say the FMLA should not be expanded until perceived flaws in the law and Department of Labor regulations are addressed (11). The California Chamber of Commerce opposes offering paid family and medical leave through the state unemployment insurance system because “providing benefits through an employer-tax supported system would make employers the new social safety net” (12). However, the cost for extending SDI benefits to cover family leave (as explored in the EDD report) would be covered by an employee payroll tax.

## Policy Options

Stakeholders recommend the following strategies to address barriers to taking family leave:

**Awareness:** *Improve employee awareness of existing family leave coverage in California*

Current law requires covered employers to post notice of FMLA eligibility at the worksite, but only 56 percent of employees at covered sites report seeing this information (2). Public and private organizations should explore options for educating the public of their rights and responsibilities under the CFRA and other family leave laws.

**Coverage:** *Expand coverage to employers and employees*

The CFRA covers approximately 5 percent of employers and 62 percent of employees in California (8). Many middle-class and low-income workers are not covered because they work for small- or mid-sized businesses. One solution is to expand coverage to businesses with 20 or more employees, thus ensuring that 13 percent of California employers and 72 percent of employees are covered by the CFRA (13).

**Benefits:** *Expand the SDI program to provide some income during family leave*

The EDD report indicates it would be affordable to extend SDI benefits to new fathers, adoptive parents

and working family members who must care for seriously ill parents, spouses, and children. Unlike most states, California has a system in place (SDI) that can be extended to provide some income to workers on family leave. States currently considering this strategy include Massachusetts and New Jersey.

**Incentives:** *Create incentives for employers to offer their own family leave benefits*

By offering tax incentives for employers who provide family leave benefits to their employees, government can support employer-based family leave policies. Both Hawaii and Missouri have introduced legislation employing this strategy.

### About the Work & Health Series

This is the final report in our series on the connections between work and health. It is intended to promote dialogue among policy-makers to improve the health of working Californians and their families. For additional publications in the series, see <http://www.cchi.org>

## References

1. States that had introduced legislation for paid medical leave as of March 15, 2001 include: Arizona, Connecticut, Florida, Hawaii, Illinois, Indiana, Kansas, Massachusetts, Maryland, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, Oregon, Texas, Vermont and Washington. Of these, Hawaii and New Jersey have Temporary Disability Insurance systems in place.
2. Office of the Assistant Secretary for Policy. *Balancing the Needs of Families and Employers: The Family and Medical Leave Surveys, 2000 Update*. U.S. Department of Labor, 2001. [Online] Available: <http://www.dol.gov/asp/public/fmla/main.htm>
3. National Partnership for Women and Families. [Online] Available: <http://www.nationalpartnership.org>
4. Bernick M. *The Fiscal Impact on the Disability Insurance Fund of Extending Disability Benefits to Individuals Granted Family Medical Leave*. Employment Development Department, California Health and Human Service Agency, State of California, June, 2000. The study based its calculation on an employee-paid contribution of \$1.00 for every \$1,000 earned, up to an annual taxable wage limit of \$46,327. New claims were calculated by including California employees who met all CFRA eligibility requirements apart from working for an employer with 50 or more employees.
5. Rosenstock L. and Jackson Lee L. Caution: Women at Work. *Journal of the American Medical Women's Association*, Vol. 55, No. 2; Spring, 2000.
6. Commission on Family and Medical Leave. *A Workable Balance: Report to Congress on Family and Medical Leave Policies*, 1996. [Online] Available: <http://www.dol.gov/dol/esa/public/regs/compliance/whd/fmla/summary.htm>
7. CIVITAS Initiative. ZERO TO THREE, Brio Corporation. *What Grown-Ups Understand About Child Development: A National Benchmark Survey*. Researched by DYG, Inc. 2000.
8. Senate Office of Research. *California Laws Helping Working Parents*, California State Senate, January, 2000. [Online] Available: <http://www.sen.ca.gov/sort/WorkFamilies.htm>
9. Communication, February 23, 2001, Joannie C. Chang; Legal Aid Society of San Francisco/ Employment Law Center.
10. Other California groups active on this issue include: the California Labor Federation; Women's Employment Rights Clinic at Golden Gate University Law School; Equal Rights Advocates; California Women's Law Center; California Child Care Resource and Referral; and BANANAS.
11. California Chamber of Commerce. *Business Issues and Legislative Guide: Employee Relations, Unemployment Compensation*, Sacramento, CA, January, 2000. [Online] Available: [http://www.calchamber.com/chamber\\_positions/guide\\_employee\\_unemployment.htm](http://www.calchamber.com/chamber_positions/guide_employee_unemployment.htm)
12. U.S. Chamber of Commerce. *Issues Index: Labor and Workplace; Family Medical Leave*, 2000. [Online] Available: [http://www.uschamber.com/\\_Political+Advocacy/Issues+Index/Labor+Workplace/default.htm](http://www.uschamber.com/_Political+Advocacy/Issues+Index/Labor+Workplace/default.htm)
13. National Partnership for Women and Families. *Work and Family: Summary Charts: Estimated Costs of Expanding State Unemployment Insurance or Temporary Disability Insurance Programs to Cover Periods of Family Medical Leave or Parental Leave*. [Online] Available: <http://www.nationalpartnership.org/workandfamily/expansion/utidichart1.htm>

## Advisory Committee

CCHI wishes to thank our advisory committee members for their work on this publication.

Ruth Brousseau, The California Wellness Foundation  
Julianne Broyles, California Chamber of Commerce  
Joannie C. Chang, Legal Aid Society of San Francisco/Employment Law Center  
Peter Cooper, California Labor Federation  
Netsy Firestein, Labor Project for Working Families  
Donna Lenhoff, National Partnership for Women and Families  
Kate Sproul, Senate Office of Research  
Edward Yelin, UCSF Institute for Health Policy Studies



The California Center for Health Improvement (CCHI) is a non-profit, non-partisan health policy and education center.

1321 Garden Highway, Suite 210, Sacramento, CA 95833-9754  
Phone: 916.646.2149 • Fax: 916.646.2151  
E-mail: [info@cchi.org](mailto:info@cchi.org)  
<http://www.healthpolicycoach.org> • <http://www.cchi.org>

Karen A. Bodenhorn R.N., M.P.H.  
President & CEO

Karen A. Harris, M.P.H.  
Project Manager