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Paid Family and Medical Leave

Paid bonding leave, which is a form of family leave, provides caregivers critical time off to bond with a new child within one year of the child's birth, adoption, or foster care placement. Paid medical leave allows workers to take time off to recover from a serious medical illness or event, including childbirth.

A paid family and medical leave program is one of the most effective policies a state can implement to promote employment, support parent-child bonding, and improve parent and child health. The most rigorous research to date indicates that a program providing paid leave of **at least 12 weeks for parents who give birth and at least 6 weeks for all other parents with a new child** leads to these positive impacts.

As of July 2024, 14 states (including the District of Columbia) have adopted a statewide paid family and medical leave program. State paid family and medical leave programs vary considerably in terms of benefits offered, eligibility criteria, funding, and the administration and implementation.

Below is a list of policy considerations for state leaders to help maximize the effectiveness of a state paid family and medical leave program for families with a new child. **States should consider the implications of these policy choices and their collective impact on equitable access to paid leave for families in their state.**

Table of Contents

This checklist covers the following components of state paid family and medical leave programs:

A. Eligibility Criteria (Page 3)

- A1. Who will be covered?
- A2. How will workers become eligible for wage replacement?
- A3. How will workers become eligible for job protections?
- A4. How will the policy define a qualifying relationship for bonding leave?

B. Benefit Characteristics (Page 6)

- B1. How many weeks of paid leave will be offered to parents with a new child?
- B2. Will workers be required to take leave continuously or may they take leave intermittently?
- B3. What percentage of workers' wages will be replaced during leave?
- B4. Will the program include job protections for eligible workers?

- B5. Will the state implement a waiting period?

C. Funding (Page 9)

- C1. How much will the premium rate be?
- C2. Who will contribute to funding the program?

D. Administration & Implementation (Page 11)

- D1. Which state department or agency will administer the program?
- D2. How frequently will families need to apply to receive benefits?
- D3. How will the application be designed to reduce administrative burden?
- D4. What will outreach and education look like?
- D5. How will the state monitor and evaluate the paid leave program?

We use the following symbol to highlight where policy choices can promote greater equity. 

Although the policy choices discussed below primarily include considerations for the paid leave provisions affecting families with a new child, it's worth noting that all 14 states' programs include family leave (encompassing both bonding and family caregiving leave provisions) and medical leave (structured as temporary disability insurance in four states).

This checklist should not be considered an exhaustive list for the policy considerations for paid family and medical leave broadly but can serve as a helpful starting point when designing or revising a state paid family and medical leave policy.

Key Leave Terminology

The term “family leave” in this checklist refers primarily to bonding leave, though we acknowledge that family leave is not exclusively used to care for and bond with new children.

- **Paid family leave** refers both to paid bonding leave and paid caregiving leave.
 - o **Bonding leave** refers to leave-taking to care for a new child after birth, adoption, or foster care placement.
 - o **Caregiving leave** refers to leave-taking to care for a sick child, spouse, parent, or other family member or aging family member.
- **Medical leave** refers to leave-taking to care for one's own serious medical needs, prenatally or postnatally.
- **Prenatal leave** refers to leave-taking during pregnancy to attend routine medical appointments and other necessary healthcare services related to pregnancy.


To learn more about how states vary in their implementation of paid family leave, please view our paid family leave variation table online.



Eligibility Criteria

A1. Who will be covered?

States may set criteria for who is able to access paid family and medical leave, and whether workers are automatically covered or must opt-in to the program. All states but one apply the same eligibility criteria to both paid family and paid medical leave.

 A paid family and medical leave program that is inclusive of as many workers as possible by default promotes equitable access to and take up of paid leave programs.

Paid family leave (choose one):

- ☐ All sectors and workers seeking family leave will be covered automatically.
- ☐ The following sectors and workers seeking family leave are covered by the program (indicate below):

<input type="checkbox"/> Public sector workers	<input type="checkbox"/> Automatic coverage <input type="checkbox"/> Can opt-in
<input type="checkbox"/> Private sector workers	
<input type="checkbox"/> Part-time workers	<input type="checkbox"/> Automatic coverage <input type="checkbox"/> Can opt-in
<input type="checkbox"/> Seasonal workers	<input type="checkbox"/> Automatic coverage <input type="checkbox"/> Can opt-in
<input type="checkbox"/> Domestic workers	<input type="checkbox"/> Automatic coverage <input type="checkbox"/> Can opt-in
<input type="checkbox"/> Self-employed workers	<input type="checkbox"/> Automatic coverage <input type="checkbox"/> Can opt-in
<input type="checkbox"/> Other: _____	<input type="checkbox"/> Automatic coverage <input type="checkbox"/> Can opt-in

Paid medical leave (choose one):


- ☐ The same automatic/opt-in coverage apply to workers seeking medical leave.
- ☐ Different automatic/opt-in coverage apply to workers seeking medical leave.


Specific details: _____

A2. How will workers become eligible for wage replacement?

States require proof of recent employment to qualify for paid family and medical leave. These requirements are often set based on minimum earnings over a specified time period and/or length of employment (tenure) and are typically the same for both family leave and medical leave.

- Eight states require workers to have earned a minimum amount.
- Five states require workers to have been employed for a minimum number of hours or weeks before they qualify to take leave.
- One state (New Jersey) requires workers to meet either a minimum amount of earnings or a minimum number of hours.

 A lower threshold for hours and earnings and providing flexibility to meet one of several thresholds promotes equitable access by ensuring more workers, particularly those with lower or unstable earnings, can become eligible for paid family and medical leave.

 Allowing for hours, earnings, or tenure requirements to be met through combining work across multiple employers supports access to paid leave benefits among those working multiple part-time jobs and those who have changed jobs more recently.

Paid family leave:

- ☐ An employee will be required to complete a total of _____ work hours over the previous _____ months to be eligible for paid family leave.
- ☐ Workers will be allowed to combine hours worked across all employers.
- ☐ An employee will be required to earn a minimum of \$_____ over the previous _____ months to be eligible for paid family leave.
- ☐ Workers will be allowed to combine income across all employers.
- ☐ An employee will be required to earn at least _____ % of the state's average weekly wage over the previous _____ months to be eligible for paid family leave.
- ☐ Workers will be allowed to combine income across all employers.
- ☐ An employee can become eligible by meeting any one of the selected thresholds.

Paid medical leave:

- ☐ An employee seeking medical leave must meet the same eligibility requirements.
- ☐ An employee seeking medical leave must meet different eligibility requirements.

Specific details: _____

A3. If available, how will workers become eligible for job protections?

Job protection benefits require that a worker is placed in the same position, or a comparable position, when the worker returns from leave. Some states apply the same eligibility criteria to wage replacement and job protection benefits, making job protections portable across employers. However, similar to the FMLA, some states require a worker to be employed with their current employer for a certain period of time to qualify for job-protected leave.

- For states that apply tenure requirements to job protections, the required tenure currently ranges from 90 days to 12 months of employment with the current employer prior to taking leave.
- Most states apply job protections to any leave taken under the PFML program, though four states do not guarantee job protections for leave taken for a workers' own serious health condition.

Paid family leave (choose one):

- ☐ All workers seeking family leave who are determined to be eligible for wage replacement will be automatically eligible for job protections.
- ☐ A worker seeking family leave will be required to be employed with their **current** employer for _____ days or _____ total hours to qualify for job protections.
- ☐ The program will not include job protections for family leave.

Paid medical leave (choose one):


- ☐ An employee seeking medical leave must meet the same eligibility requirements.
- ☐ An employee seeking medical leave must meet different eligibility requirements.

Specific details: _____

- ☐ The program will not include job protections for medical leave.

A4. How will the policy define a qualifying relationship for family leave to bond with a new child?

The FMLA and the majority of states with state paid family leave policies allow individuals caring for a biological child, adopted child, foster child, stepchild, legal ward, or a child for whom the worker is standing in loco parentis (in the role of a parent) to be eligible for paid family leave. FMLA regulations define in loco parentis as including those with day-to-day responsibilities to care for and financially support a child.

-  Broadly defining who is eligible to take leave to bond with and care for a new child, inclusive of those who may not have a biological or legal relationship to the child, acknowledges and supports the diversity of family structures.

The policy defines an eligible caregiver as: _____

Benefit Characteristics

B1. How many weeks of paid leave will be offered to parents with a new child?

The most rigorous research to date indicates that a program providing paid leave of at least 12 weeks for parents who give birth and at least 6 weeks for all other parents with a new child generates positive outcomes for young children and their families. Currently, all states that have adopted paid family and medical leave programs offer at least 12 weeks of paid leave for parents who recently gave birth and most offer 12 weeks of leave for all other parents of a new child.

- Two states, California and Rhode Island, currently offer less than 12 weeks for parents who did not give birth.
- Five states offer additional weeks of prenatal leave for pregnant workers to attend routine medical appointments and other necessary healthcare services related to pregnancy.
- Leave related to the birth or placement of a new child typically must be used within 1 year of the birth or placement.

Cumulative maximum number of weeks available to parents who give birth: _____

☐ Prenatal leave: _____

☐ Medical/Temporary disability leave (to be used before or after birth): _____

☐ Family leave: _____

Maximum number of weeks available to all other parents: _____

B2. Will workers be required to take leave continuously or may they take leave intermittently?

States can allow parents to take paid leave intermittently, in increments as small as 1 day or 1 hour, which enables workers to return to work at a reduced schedule or take paid leave for pediatrician appointments or other caregiving responsibilities within the first year of welcoming a new child. This flexibility allows families to allocate the paid leave benefit based on their needs. Alternatively, states may require that paid leave be used in continuous succession, up to the maximum length of leave allowed.

Paid family leave (choose one):

☐ Family leave must be taken continuously.

☐ Family leave may be taken intermittently.

☐ What is the smallest unit of family leave a worker can claim? _____

Paid medical leave (choose one):

☐ Paid medical leave will have the same allowances for intermittent leave as paid family leave.


☐ Paid medical leave will have different allowances for intermittent leave as paid family leave.

Specific details: _____

B3. What percentage of workers' wages will be replaced during leave?

Workers are paid a percentage of their average weekly wages while taking paid family and medical leave.

- As of July 2024, states with flat wage replacement rates (where all wages are replaced at the same rate) cover between 60% and 85% of a worker's average weekly wages.
- Wage replacement rate structures vary, with some states providing higher wage replacement rates for wages below a certain threshold and lower rates for wages above that threshold (i.e., marginal-rate wage replacement).
- Wage replacement rates for lower income brackets range between 60% and 100%, and rates in higher income brackets range between 50% and 66%.
- States also set a minimum and maximum weekly rate, which is often adjusted annually for inflation. Currently, maximum weekly benefits for family leave range from \$900 to \$1,620 and are the same for medical leave in all but one state.

 Workers who earn lower wages rely heavily on their income to pay for regular household expenses. Higher wage replacement rates that ensure all eligible workers can afford to take leave and care for their family support equitable access to paid family and medical leave.

Paid family leave:

☐ Wage replacement structure (choose one):

☐ A flat wage replacement structure in which all workers receive _____% of their average weekly wages.

☐ A marginal-rate wage replacement structure in which workers with lower incomes receive a higher wage replacement rate.

Specific details: _____

☐ Minimum weekly benefit: \$_____

☐ Maximum weekly benefit: \$_____

☐ The minimum and maximum weekly benefit amounts will be adjusted annually for inflation.

Paid medical leave (choose one):


☐ The wage replacement rate will be structured identically to that of paid family leave.

☐ The wage replacement rate will be structured differently to that of paid family leave. Specific details:

B4. Will the program include job protections for eligible workers?

Job protection benefits require that a worker is placed in the same position, or a comparable position, when the worker returns from leave.

- The federal Family and Medical Leave Act (FMLA) and Pregnant Workers Fairness Act (PWFA) provide unpaid, job-protected leave for eligible workers.
- Many workers are not covered under the FMLA due to tenure and employer size requirements and the PWFA only protects leave related to pregnancy or birth.
- To fill in the gap, state paid family and medical leave programs include job protections for at least some workers while taking paid family leave. Two states offer job protections for paid family leave, but not for paid medical leave.
- Some states have a separate law providing job protection benefits only to certain workers, which can make it challenging for workers to understand which protections they have while taking paid leave.

 Job protections allow workers to feel secure when taking paid leave, which may increase take-up and support long-term economic stability for all workers, especially workers with lower or unstable earnings and part-time workers who are less likely to be guaranteed job-protected leave through the FMLA.

☐ Yes, job protections will be provided through the state's paid family and medical leave policy.

☐ Job protections will apply to family leave and medical leave.

☐ Job protections will apply to family leave only.

☐ No, job protections will not be included in the state's paid family and medical leave program.

☐ Job protection benefits are included within another state law.


Specific details: _____

☐ Protections against retaliation will also be included.

The _____ department or agency will provide the necessary enforcement mechanisms.

B5. Will the state implement a waiting period?

A waiting period is the length of time an employee must take unpaid leave before their wage replacement benefits begin. The majority of states have no waiting period for family leave. Unpaid waiting periods of 7 days are more common for leave related to a workers' own health.

 A paid family and medical leave program with no waiting period reduces unpaid time off for workers who cannot afford to miss a paycheck.

Paid family leave (choose one):

☐ No waiting period for family leave.

☐ The waiting period for family leave will be ____ days.

Paid medical leave (choose one):

☐ No waiting period for medical leave.

☐ The waiting period for medical leave will be ____ days.

Funding

C1. How much will the premium rate be?

State paid family and medical leave programs are funded through employer and/or worker contributions (also called premiums), collected by the state via a payroll tax. Premiums are set based on the estimated funding needs of both providing the benefit and administering the program.

- As of July 2024, total premium rates (family and medical leave together) range from 0.26% to 1.2% of all covered employee wages, typically up to a specified wage base. This means that any wages above a specified limit are not subject to the premium, which reduces the overall share of higher earners' wages that are subject to the premium rate.
- Premiums are typically collected for 1 to 2 years before benefits become available to families and states can subsequently adjust premium rates based on program needs.
- ★ States that do not establish a contribution wage base, but rather apply the premium rate to all wages earned, ensure that those with very high earnings contribute at the same rate as other workers. Without a limit on contributions, the premium rate will also be lower for all contributors.

Funding structure and total premium:

- ☐ Paid family and medical leave premiums will be collected jointly.
 - ☐ The joint premium to fund paid family and medical leave will be ____% of annual wages/payroll.
- ☐ Paid family and medical leave premiums will be collected separately.
 - ☐ Paid family leave: The premium will be ____% of annual wages/payroll.
 - ☐ Paid medical leave: The premium will be ____% of annual wages/payroll.
- ☐ Premiums will be collected for ____ year(s) prior to benefits becoming available to workers.

Contribution wage base:

- ☐ The premium(s) will apply to all annual wages.
- ☐ The premium(s) will apply to all annual wages under the Social Security contribution limit (equal to \$168,600 for earnings in 2024).
- ☐ The premium will apply to all annual wages under \$_____.

C2. Who will contribute to funding the program?

This section considers how the cost of funding the program (determined in the prior question) will be distributed.

- To fund paid family and medical leave benefits, workers cover the full cost in three states, employers cover the full cost in one state, and workers and employers share the costs in ten states.
- Most states apply a joint premium for both family and medical leave. However, in four states, the funding structure varies depend on the type of leave such that workers cover the full cost of family leave, while workers and employers share the cost of medical leave.

Premium Type	Contributors	Contribution Distribution
<input type="checkbox"/> Joint Premium	<input type="checkbox"/> Workers <input type="checkbox"/> Employers	_____ % _____ % = 100%
<hr/>		
<input type="checkbox"/> Separate Premiums		
<hr/>		
Paid family leave	<input type="checkbox"/> Workers <input type="checkbox"/> Employers	_____ % _____ % = 100%
<hr/>		
Paid medical leave	<input type="checkbox"/> Workers <input type="checkbox"/> Employers	_____ % _____ % = 100%

If employers contribute:

- ☐ All employers (regardless of size or annual revenue) will contribute to the premium.
- ☐ Small employers will be exempt from paying the employer portion of the premium. Small employers are defined as:
- ☐ Employers with fewer than _____ employees
- ☐ Employers with less than \$_____ in annual revenue.

Administration and Implementation

D1. Which state department or agency will administer the program?

A state must determine whether a new state government agency will be created to administer the program, or the program will be administered through existing infrastructure, such as the state's department of labor or the state's existing temporary disability program.

- Four states (including the District of Columbia) that have adopted a paid family and medical leave program created a new state agency to administer their program.


☐ The following department or agency will administer the program:

☐ The state will establish a new department or agency:

☐ Initial start-up operational funding is required. The estimated total costs are \$_____ for fiscal year(s) _____.

D2. How frequently will families need to apply to receive benefits?

States vary in how often individuals need to apply or file claims for benefits, ranging from a one-time application to weekly claims.

 A paid family and medical leave program that minimizes the number of times an individual needs to file a claim for the same qualifying event may increase access to and participation in the program.

☐ Filing frequency for family leave: _____

☐ Filing frequency for medical leave: _____

☐ If claimants are permitted to take intermittent leave, then their filing frequency will look as follows:

D3. How will the application be designed to reduce administrative burden? Select all that apply.

Reducing barriers to accessing paid family and medical leave ensures workers benefit from the program they have paid into. A short and simple application that collects only the information needed can reduce the burden placed on new parents and reduce errors in paperwork. States can use administrative data, such as from the state unemployment insurance system, to determine a worker's eligibility or weekly benefit rather than ask claimants to provide detailed information on wage and work history.

 Ensuring materials are accessible from mobile devices and in multiple languages is crucial to supporting equitable access.

☐ Applications will be available online and as a hard-copy form.

☐ The online application will be designed to be mobile-friendly.

☐ Applications will be available in languages other than English.

☐ The application will be written in plain language.

☐ Eligibility and wage replacement rate will be verified using linked administrative data.

D4. What will outreach and education activities include?

Investing in outreach and education to build awareness throughout communities increases uptake, particularly among underserved groups. States often partner with community-based organizations (CBOs) and train employers to provide technical assistance to claimants. A trained network of navigators can assist individuals with limited access to technology, limited English proficiency or literacy, or disabilities that might otherwise hinder access.

- ☐ Legal requirement that employers notify employees in writing of the state program.
- ☐ Partnerships with local CBOs.
- ☐ Free technical assistance with the application.
- ☐ Trainings or webinars for employers/HR departments.
- ☐ Video tutorials for workers.
- ☐ Dedicated webpage with all application materials and guidance.
- ☐ Other: _____.

Projected budget for outreach and education activities for fiscal year(s) ____: \$ _____.

D5 How will the state monitor and evaluate the program? Select all that apply.

Implementing a robust system to collect and analyze paid family and medical leave claims data enables states to track program uptake and inform ongoing adjustments to the implementation process. States may also use various tools to solicit feedback from claimants to iteratively improve on user experience.

 Disaggregating program claims data by demographic characteristics such as race, ethnicity, or ZIP code can help states to identify areas for additional outreach.

- ☐ The state will analyze claims data by demographic characteristics.

Disaggregated claims data will be publicly accessible in the following formats:

- ☐ Online dashboard
- ☐ Annual reports
- ☐ Other: _____

- ☐ The state will solicit feedback from former claimants and eligible program participants every _____ month(s)/year(s) (circle one). Data collection methods will include:

- ☐ Advisory Committee
- ☐ Surveys
- ☐ Focus Groups
- ☐ Other: _____

States must determine how much of the program's administrative budget will be allocated to evaluation work to ensure these efforts are sufficiently funded.

Projected budget for evaluation activities for fiscal year(s) ____: \$ _____.