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PAID FAMILY AND MEDICAL LEAVE PROGRAMS: STATE PATHWAYS AND DESIGN OPTIONS

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SUMMARY

Time off to provide care for the health and well-being of a family member or for a worker's own illness or injury is a near-universal need of workers from all backgrounds. Paid family and medical leave offers protection against financial hardship for employees requiring such time away from work to provide or receive care. The United States is an extreme outlier in its lack of a national paid leave program. In the absence of a national program, several states have established paid leave programs for medical and family caregiving needs. States have taken different pathways to creating their paid leave programs, and have pursued different design options in terms of structure, funding, and program administration. States considering developing new paid leave programs can learn much from the study of existing programs.

All workers face the risk of needing time away from work at some point during their careers, regardless of their age, sex, health, or family status. During their adult years, most working people will have a child through birth or adoption, need to provide care for a family member, and/or experience their own serious health condition that temporarily prevents them from working. Yet, most workers do not have access to paid leave to cover these common, serious life events. Given the tenuousness of many families' economic security—with 44 percent of adults reporting they could not easily manage an unexpected $400 emergency expense—access to paid rather than unpaid leave is critically important.[1] This challenge is becoming more acute as changes in society and the labor market reduce the number of families with stay-at-home caregivers, and as the population ages. Broader access to paid leave could also offset the decline in labor force participation experienced since 2000.[2]

Social insurance programs pool risk across a large group of individuals and/or employers, making the coverage of that risk as efficient and affordable as possible. In the case of paid family and medical leave, social insurance programs pool the risk of lost wages from needing to take time off from work to care for a family member or one's own illness. This risk can be pooled across workers in a state or a nation. Several states have had programs in place since the 1940s that provide paid *medical* leave, commonly referred to as temporary disability insurance (TDI). Over the past two decades, all of these states but one have incorporated paid *family* leave into their TDI programs. Other states seeking to implement paid family and medical leave in the future face

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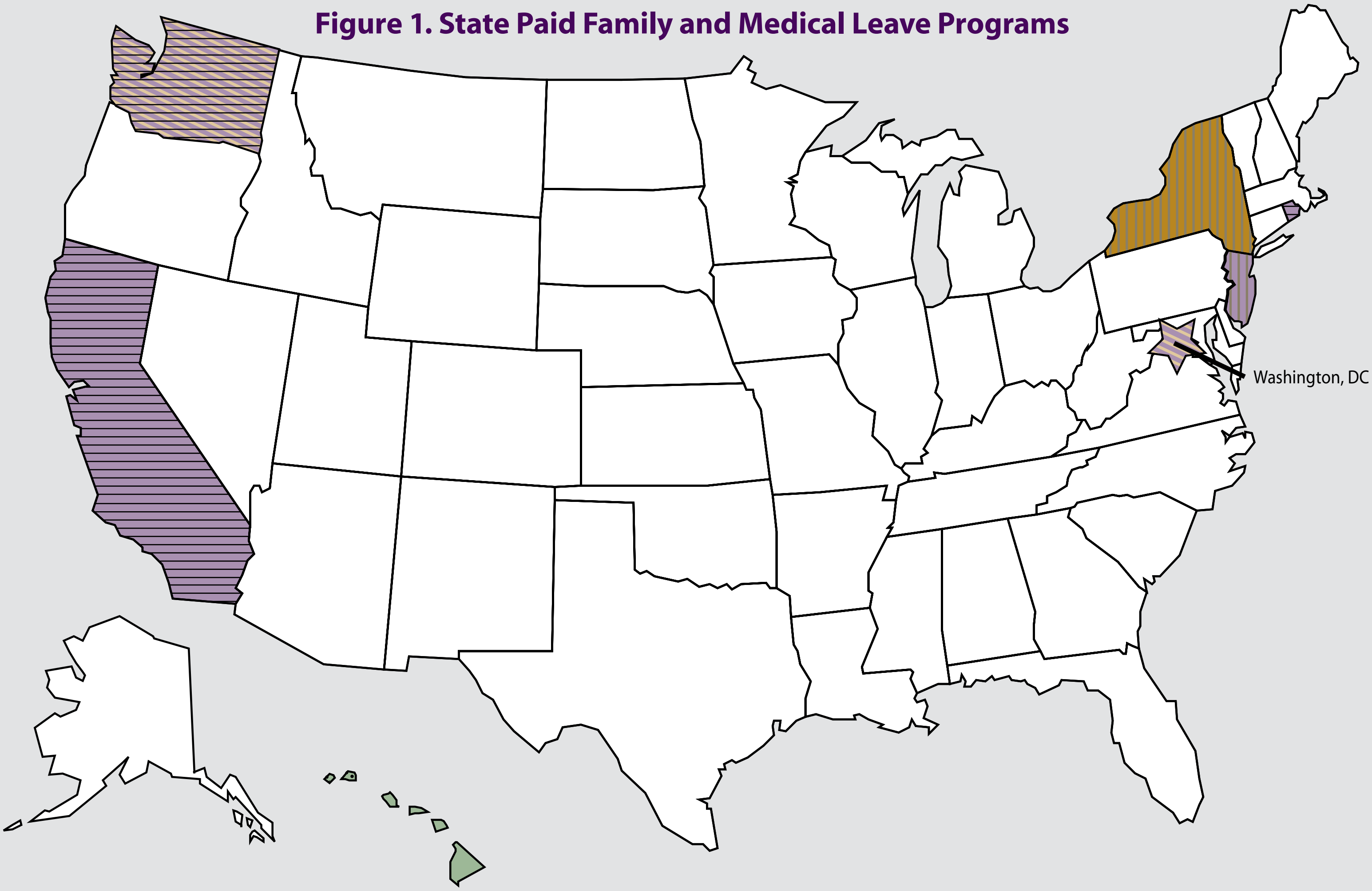
Figure 1. State Paid Family and Medical Leave Programs



Program Design

- Social Insurance
- State Fund with Highly Regulated Private Options
- Employer Mandate

Who Pays?

- Employer
- Employee
- TDI: Employee & Employer
  PFL: Employee

Note: All of the states highlighted on this map have paid family and medical leave programs with the exception of Hawaii, which has only a paid medical leave (TDI) program.

In 2002, California became the first state to add paid family leave to its TDI program. New Jersey did so in 2008, followed by Rhode Island in 2013. New York added paid family leave to its TDI program in 2016, effective 2018. Its paid family leave premiums are community rated, meaning that all employees are treated similarly and are not subject to cost variations based upon age, gender, geographic location, or any other demographic factor.[64] The law also gives the state's regulatory authorities the discretionary power to apply a risk-adjustment mechanism, which would pool risk across insurers by loss ratio (the ratio of claims paid to premiums collected).[65] Hawaii is the only state with TDI that has not adopted paid family leave.

The District of Columbia and Washington state both passed comprehensive family and medical leave laws in 2017, effective 2020. The District of Columbia adopted the Rhode Island model of a social insurance system with an exclusive state fund, but the DC program will be financed through an employer rather than employee contribution.

Table 1. Key Features of Existing Family

Jurisdiction	Structure and Funding		Administrative Agency	Cost	
	Temporary Disability Insurance (TDI)	Paid Family Leave (PFL)		TDI	PFL
United States (Family and Medical Leave Act)	Unpaid		United States Department of Labor	n/a	
California	Social insurance with limited private options; Funded through employee payroll tax		California Employment Development Department	0.9% of taxable wages, up to a maximum of $998.12	
New Jersey	Social insurance with limited private options; Employers may request approval to opt out of state plan to self-insure or provide insurance through private carrier; Funded through employee/ employer payroll tax	Funded through employee payroll tax	New Jersey Department of Labor and Workforce Development	Employee: 2017 – 0.24% up to wage base of $33,500; 2018 – 0.19% up to $33,700; New employers: 0.5%; All other employers: experience rated, 2017 wage limit – $33,500; 2018 wage limit – $33,700	2017: 0.10% of employee's wages up to the wage base of $33,500; 2018: 0.09% of employee's wages up to $33,700
Rhode Island	Social insurance with exclusive state fund; Funded through employee payroll tax		Rhode Island Department of Labor and Workforce Development	1.2% of the first $68,100 in earnings	
New York (PFL: Enacted in 2016, effective 2018)	State fund, with highly-regulated private options; Employers must provide coverage either through private insurance or the state plan, or request approval to self-insure; Employers may wave the employee contribution to fully fund coverage; Funded through employee/ employer payroll tax	Funded through employee payroll tax	New York State Workers' Compensation Board	Employee: 0.5% of wages paid, up to $0.60 per week; Employer: all additional costs	0.126% of employee's weekly wage up to the state average weekly wage (AWW)
Hawaii	Employer mandate	n/a	Hawaii Department of Labor and Industrial Relations	Employee: up to 0.5% of weekly wages, up to $5.12; Employer: all additional costs	
District of Columbia (Enacted 2017, effective July 2020)	Social insurance with exclusive state fund; Funded through employer payroll tax		To be determined	0.62% of the annual wages of each covered employee	
Washington (Enacted 2017, effective 2019 (premiums) / 2020 (benefits))	Social insurance with limited private options; Funded through an employee/ employer payroll tax		Washington State Employment Security Department	0.4% of wages, with a minimum of 37.5% paid for by employers and the remaining amount, up to 62.5%, by employees	

Sources: Family and Medical Leave Act of 1993; State of Rhode Island, 2017; State of Hawaii, 2017a; State of California, 2017; State of New Jersey, 2017; New York State Paid Family Leave, 2017; District of Columbia, 2016; State of Washington, 2017.

and Medical Leave Programs

Length of Leave Available: TDI	Length of Leave Available: PFL	Wage Replacement	Eligibility Requirements*	
Up to 12 weeks		None	Worked at current job for at least 12 months & logged at least 1,250 hours in previous year AND Work for an employer with at least 50 employees within a 75-mile radius	**U.S.**
Up to 52 weeks	Up to 6 weeks	55%, weekly max of $1,173; In 2018, benefit increases to 70% for those earning <1/3 of state average weekly wage (AWW), & 60% for all others, up to benefit cap	Earned at least $300 in base period	**CA**
Up to 26 weeks	Up to 6 weeks	66%, weekly max of $633	Earned at least $8,400 in base year OR Earned at least $168 per week for a minimum of 20 weeks	**NJ**
Up to 30 weeks	Up to 4 weeks	60%, weekly maximum of $817, plus dependent benefits	Earned at least $11,520 in base or alternate base period** OR Earned at least $3,840 in base period & at least $1,920 in a quarter & have total base period earnings of at least 150% of highest quarter's earnings	**RI**
Up to 26 weeks	Up to 8 weeks in 2018, 10 weeks in 2019, 12 weeks in 2021	**TDI:** 50%, with a weekly maximum of $170 **PFL:** 50% up to 50% of state AWW in 2018, 55% up to cap of 55% of state AWW in 2019, 60% up to cap of 60% of state AWW in 2020, 67% up to a cap of 67% of state AWW in 2021	**TDI:** worked at least 4 consecutive weeks for a covered employer OR Work for an employer who provides voluntary coverage OR Work at least 40 hours per week for one employer as a domestic or personal employee **PFL:** currently employed by a covered employer & worked at least 26 consecutive weeks for a covered employer OR Worked at least 175 days for a covered employer if part-time	**NY**
Up to 26 weeks	n/a	58%, with a weekly maximum of $594	Worked at least 20 hours per week for at least 14 weeks AND Earned at least $400 in the 52 weeks prior to the claim date AND Be in current employment	**HI**
Up to 2 weeks	Up to 8 weeks of parental leave; Up to 6 weeks of family caregiving leave; No more than 8 weeks of total leave in a 52-week period	For workers with weekly earnings <150% of DC min wage ($690 in 2017), 90% of AWW; For workers with weekly earnings >150% of DC min wage, 90% of earnings up to 150% of DC min wage, plus 50% of earnings above this threshold, with weekly max of $1,000	Worked more than 50% of the time for a covered private-sector employer in DC AND Worked for a covered employer for at least some time in last 52 weeks; OR Self-employed with self-employment income for work performed more than 50% of the time in DC AND Opted into paid leave program & paid appropriate taxes into system	**DC**
Up to 12 weeks, OR up to 14 for serious pregnancy-related complications resulting in incapacity	Up to 12 weeks; Combined family/medical leave may not exceed 16 weeks; OR 18 in case of serious pregnancy-related complication	For workers with earnings at <50% of state AWW, 90% of worker's AWW; For workers earning over 50% of state AWW, 90% AWW up to 50% of state AWW, plus 50% of employee's AWW for all earnings above 50% of statewide AWW, with weekly max of $1,000	Worked at least four out of five completed quarters prior to application AND Worked for at least 820 hours in the qualifying period	**WA**

* Coverage exclusions may apply in individual states, and coverage for public sector workers varies by state.
** In Rhode Island, the base period is defined as the first four of the last five completed calendar quarters before the starting date of a new claim. If an individual is not eligible due to insufficient earnings using the base period, the state will recalculate earnings from an alternate base period consisting of the last four completed calendar quarters before the starting date of a claim. While the same earnings requirements must be met to qualify for this alternate base period, it allows for wage replacement to be set based on more recent earnings when the employee might have been earning higher wages that would permit them to qualify for benefits.