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Equity Matters

Lessons for Paid Family and Medical Leave



CLASP
The Center for Law and Social Policy

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June 2021

Executive Summary

Paid family and medical leave (PFML) policies provide workers with partial wage replacement so they can take paid time off to care for and bond with a new child; care for a family member; or recover from their own serious health condition. Today, 33 million workers lack access to this benefit because, without a federal guarantee, policies vary across states and limit eligibility. Nine states and the District of Columbia have their own programs. People with low incomes are least likely to have access to paid leave, which most hurts communities of color due to racial and economic inequality. *As momentum grows for a federal policy and PFML gains traction in new states, decisionmakers can avoid widening inequities and ensure benefits are accessible to all workers.* In October 2019, government and community partners from states with PFML programs gathered in Tacoma, Washington for “Paid Leave Collaboration and Connections: A Convening for States Leading the Way,” hosted by the Center for Law and Social Policy (CLASP), Family Values at Work, and others.* It focused on advancing equity in state-level PFML efforts.

This report offers lessons from the event to inform state and federal policymakers, administrators, and advocates in developing and carrying out equity-focused PFML programs.

Incorporating Equity when Developing Paid Family and Medical Leave (PFML) Programs:

- 1. Building equity into a program is critical to ensuring access for workers facing racial barriers to economic security, rather than deepening disparities.** To advance equity, policymakers creating PFML programs can use a racial justice lens to assess how it will impact diverse racial or ethnic communities, which may be more likely to face barriers to economic supports. They can then act to ensure accessibility, instead of exacerbating inequities.

Some core characteristics of an equitable PFML policy include having progressive wage replacement rates; low base period thresholds; job protection and anti-retaliation provisions; and an inclusive family definition for program eligibility.

- **Progressive wage replacement rates:** Providing higher wage replacement rates to workers who earn lower incomes can improve their ability to afford to take leave when needed.
- **Low base period thresholds:** The base period of a PFML policy is defined as how long someone must work or how much they must earn to receive benefits, and what earnings count toward eligibility. Low base period thresholds help some workers, such as transient populations and part time employees, make use of these benefits.
- **Job protection and anti-retaliation provisions:** Some employers will demote or fire workers who try to use PFML benefits. This is especially true for some immigrant workers, among others. Job protection and anti-retaliation provisions help ensure all employees can take advantage of paid family and medical leave.

- **An inclusive family definition for program eligibility:** Equitable PFML policies have inclusive definitions of who counts as a “family member” to accommodate traditional and non-traditional families. This is particularly important for workers of color, who are more likely to live in multigenerational or non-traditional households.
2. **Designing PFML as a public social insurance program is more cost effective and accessible than letting employers opt out or seek a voluntary, privately administered plan.** States like Rhode Island show that public, mandatory programs are less costly to run than voluntary plans. They are also more accessible to workers, particularly for those paid low wages, who work part time, or are women or older adults. In states where employers can opt out, policymakers must create worker protections to avoid discrimination and added costs.
 3. **In successful PFML programs, administrators build relationships with external groups from the start and continually seek community input.** Community partnerships help ensure programs are designed equitably, with processes to meet the needs of diverse populations. Ongoing engagement with dedicated communications teams can also ensure access for workers who are otherwise hard to reach.

Advancing Equity throughout PFML Implementation:

1. **Invite public feedback when developing regulations, using several strategies to gather input.** In Massachusetts, program administrators held a series of listening sessions across the state. Virtual events can also help solicit feedback from workers and employers.
2. **Evaluate the PFML program’s information technology (IT) system and use it as a tool to advance equity.** IT can help program administrators engage with communities and vice versa. For example, agencies can create online spaces to gather and respond to community input, such as with virtual town halls or sharing live updates on message boards.
3. **Create research practices that adequately assess equity while ensuring accessibility.** User-friendly online forms can help collect meaningful data to analyze PFML programs for equity. Programs should ensure that surveys used to gather data don’t keep workers from seeking benefits; some may fear the program will risk their safety by sharing details, like immigration status, with other agencies. Administrators can mitigate concerns by creating cross-agency agreements and offering workers surveys after they have applied for benefits.
4. **Use a range of communications tactics and engage partners to reach diverse groups of workers and employers.** States like Washington have drawn on a variety of tools, from Google analytics to townhalls, for successful outreach. New York recruited other public agencies to educate their specific constituencies about PFML. In both states, program staff developed messages about the benefits geared for unique communities.
5. **Prioritize customer service over operational efficiencies.** Evaluate any cost-reduction effort for its impact on access for workers facing racial, economic, and language access barriers, among others—and how to ensure continued access. For example, many public programs are ending

paper applications without recognizing they expand access for many workers.

6. **Instill values of equity and empathy across agency staff.** Train front-line program staff in the values of the PFML policy, including holding respect for workers seeking benefits. Ensure staff is implementing the program in an ethical, equitable way.

Paid family and medical leave policies should center people they have traditionally excluded, such as workers with low incomes, workers of color, and those who are immigrants. State leaders at the 2019 convening shared vital lessons on the barriers and solutions to develop inclusive policies. State, federal, and community leaders can use these insights to build equitable PFML programs in new states and, ultimately, under a national policy.

*** Acknowledgement of convening hosts and report authors:**

The Washington convening was hosted by the Center for Law and Social Policy (CLASP); Family Values @ Work; the Washington State Employment Security Department (ESD); the Economic Opportunity Institute (EOI); Main Street Alliance; and MomsRising.

Several experts contributed to this report including Pronita Gupta, who was director of job quality at CLASP when authoring this paper; Michael Vorgetts, president of WildFig Partners; Gayle Goldin, a campaign advisor at Family Values at Work; Tanya Goldman, former senior policy analyst at CLASP; Adewale Maye, research assistant at CLASP; and Hannah Matthews, deputy executive director for policy at CLASP.

Introduction: Centering Equity in Paid Family and Medical Leave

Paid Family and Medical Leave (PFML) programs provide partial wage replacement for workers when they take time off work to care and bond with a new child, care for a family member, or recover from their own serious health condition. While federal policymakers continue to debate national PFML policy, several states have taken the lead in developing their own programs.

As of March 2021, PFML legislation has passed in California, Colorado, Connecticut, Massachusetts, New Jersey, New York, Oregon, Rhode Island, Washington, and the District of Columbia. As other states contemplate adopting PFML policies, and momentum builds for a federal program, lessons from the first cohort's experience incorporating equity into policy and administration will be invaluable.

Policies regarding paid family and medical leave vary across states and limit who is covered. Due to the lack of a national program, and limitations in existing programs, 82 percent of private sector workers lack access to paid family leave. Lower-earning individuals are even less likely to have access. More than 95 percent of individuals making \$10.80/hour or less do not have access to paid family leave.

Equity in any public policy is concerned with who has access, who bears the cost, and who receives the benefits. If any factor is askew, then the policy may not be equitable. Policies written with the most

equitable intentions may prove ineffective in practice. Thus, equity should remain a priority throughout the entire policy process, from development and design to implementation and evaluation.

Over the years, the PFML stakeholder community—advocates, legislators, administrators, and philanthropists—have discovered important lessons on how to “bake” equity into the design and administration of PFML policy. This includes using a racial justice lens, which offers a framework to examine an agency’s existing or potential policies, regulations, and operating procedures for negative impacts on individual racial or ethnic groups. Using this framework is necessary to ensure that PFML programs do not exacerbate existing disparities faced by people of color but rather provide equitable access to economic supports that help families with medical needs.

Core characteristics of equitable PFML programs to be considered as policymakers develop policy include:

- **Progressive wage replacement rates:** Progressive wage replacement rates increase the likelihood that workers with low incomes will be able to afford leave—making leave more equitable. Someone making lower wages has a substantially lower, if not nonexistent, discretionary budget. Instead, they use a larger portion of their paycheck for basic needs, and they will need a higher wage replacement rate to take time off work and still make ends meet. A 2014 study found that “a third of those who knew about the [California PFML] program did not apply for the benefits because the wage replacement was too low.” California has since addressed this by offering a maximum of 70 percent wage replacement for workers earning low wages and a maximum of 60 percent for higher earners. Newcomer states like Connecticut and Oregon have considered the experiences from legacy programs and offer rates between 95 percent and 100 percent of low-wage workers’ average weekly earnings.
- **Accessibility through low base period thresholds:** The base period of PFML policy is defined as how long someone must work or how much they must earn in to receive benefits and whether earnings from other jobs can count toward eligibility. For transient populations, part-time workers, and those who hold jobs with high turnover (such as the service industry), it is important to have low base period thresholds so that these individuals are also able to take time off to care for new children and ailing loved ones. California serves as a good model. It requires that workers earn only \$300 in wages during the base period, ensuring that critical financial support is universally available. By contrast, policies based on how long someone

Changes to the California PFML program’s policies over the last 15 years show the need to continuously reexamine policies with respect to equity. It’s critical to remain current with societal changes and with related policies enacted at other levels of government. In 2004, the state offered a maximum 55 percent wage replacement rate, which has since increased to a maximum of 60 percent across-the-board and 70 percent for workers considered to have low income.

This change to a progressive wage replacement helps counteract socioeconomic barriers to taking paid leave. Local jurisdictions in California offer higher wage replacement or “topping off” of what is offered by the state to make the program even more equitable.

must work can exclude workers in need. For example, if an individual works 15 hours per week on average for the year, they would not be eligible for benefits in a state that requires 820 hours of employment (“about 16 hours per week”) during the qualifying period.

- **Job protection and anti-retaliation provisions:** Occasionally, employers will demote or fire those who try to take advantage of PFML policies. This is especially true for some immigrant workers and others who have fewer job protections or workers who perceive themselves with less social capital or institutional power. By instituting job protection and anti-retaliation provisions, all populations are more likely to benefit from paid family and medical leave. The PFML policies in newer states – Connecticut, Massachusetts, and Oregon – all offer job protection.
- **Inclusive family definition for eligibility to the program:** Equitable PFML policies must be designed to accommodate traditional and non-traditional families. This is particularly important for workers of color, who are more likely to live in multigenerational or non-traditional households.¹ Oregon’s PFML legislation offers a notable example, defining a family member as “Any individual related by blood or affinity whose close association with a covered individual is the equivalent of a family relationship.”

The COVID-19 Pandemic – A Case Study on Failing to Ensure Equity in Paid Leave Policy

Within a few weeks of the initial spread of COVID-19, it was evident that the pandemic was exacerbating harms caused by existing inequities. Communities of color have been disproportionately affected by the virus, and yet they have also been disproportionately subject to exemptions and carve outs from federal emergency paid leave included in the Families First Coronavirus Response Act, which Congress passed to limit the spread of the contagion and allow people time to care for themselves and loved ones, get tested, and heal from COVID. Emergency paid leave left out over 106 million workers. A significant portion of those excluded were “essential workers” such as grocery, fast food, and delivery workers—jobs held predominantly by people of color.¹ Federal exclusions forced them to make the difficult decision between caring for a sick or quarantined family member, or healing from their own illness, and keeping their job.

COVID-19 highlights many flaws in our nation’s current policies and those developed in response to the pandemic. The federal response to COVID-19 sadly exemplifies traditional policymaking, which fails to center equity when developing far-reaching policies. Not only were workers excluded from emergency paid leave, the law set a wage replacement rate at 2/3 of the income for caregiving leave. This rate was not enough for low-income workers to take leave, as it would have meant losing a third of their income—the difference between paying for meals or making rent.

What is left of the federal emergency leave currently, is a voluntary tax credit for employers who choose to provide paid leave benefits to their workers, which continues to exclude large numbers of workers.¹ Future PFML programs must adopt best practices of current state policies and seek to incorporate equity into the system from the outset. A national program is the solution to ensure that all workers are covered.

Washington Convening: PFML Tackles Big Questions

Prior to the COVID-19 outbreak, the PFML community, including state program administrators, gathered in Tacoma, Washington for the convening, *“Paid Leave Collaboration and Connections: A Convening for States Leading the Way,”* held October 22-24, 2019. It was co-hosted by the State of Washington and a core group of advocacy organizations. The issues and discussions at the convening focused on state-level PFML policies, program implementation, and advocacy campaigns. It also facilitated connections between national PFML experts, advocates, and state government administrators. These discussions created a blueprint for inclusive program design moving forward. They highlighted key takeaways about how to center equity in PFML policy and implementation, which are laid out below.

Key Lessons: Equity in PFML Policy Development

Policy makers and administrators should incorporate a few core elements² in any policy design process focused on centering equity. Equity-focused policies must be:

- Human-centric --grounded in the needs of those historically marginalized or most in need of these policy interventions;
- Iterative --continuously evaluating and refining a policy to ensure it meets the workers’ needs;
- Responsive--ensuring those most impacted by a policy are shaping it and helping to improve it.

“Administrative structure is what all policy elements hang off of so we must ask ourselves if the structure supports equity or not.”

Marilyn Watkins, Policy Director of the Economic Opportunity Institute, Washington Convening, 2019

These design process elements hold true for designing equitable PFML policies. The process of policy development should be strategically inclusive of external stakeholders, including worker organizations and advocacy groups, who may provide important feedback to ensure that no one is left out of a program. Additionally, structural inequity in PFML design can be induced without adequate attention to the balance between public and private plan offerings and details such as employee ‘opt-out’ clauses. These aspects, explained below, provide important lessons for states looking to develop new PFML programs.

Policy Design: Voluntary Plans and Opt-outs

Most states that have recently enacted PFML laws include in their legislation a voluntary plan option that allows a company to work with a private administrator instead of the state when providing PFML. Many of these states have legacy temporary disability insurance programs, which offers some precedent for giving employers the choice to pursue private insurance. Administering voluntary plan

options can raise concerns about quality and equity and increase administration costs. Most employers choose to utilize their state's plan, as it is more convenient and efficient than developing a plan of their own. For example, voluntary plans in California must provide all the benefits of the state plan and one additional benefit. These plans may require state approval and have additional requirements. States allowing for voluntary plans may need to create a separate office to review applications for new ones and monitor existing plans for continued compliance, which can be a financial and administrative burden. This additional expense and resulting inefficiency is ultimately to the detriment of taxpayers.

Within social insurance programs like PFML, all workers are treated equally and included in the policy to maximize risk pooling (*i.e.*, spreading program costs among a large number of ratepayers). All workers automatically contribute to the fund and are covered if they meet the eligibility requirements. This community rating ensures greater equity for those who might experience discrimination based on race, gender, age, location, or other demographic factors. Allowing opt-outs makes costs unpredictable and could lead to hiring discrimination based on a perceived likelihood to take PFML.

The PFML program in Rhode Island offers a good example of a cost-effective social insurance program. Rhode Island is the only state without a private option, which has proven easier to administer. There are fewer concerns about quality control, and the cost of administering the program is less than 5 percent each year. Further, in Rhode Island, PFML is a mandatory social insurance program—meaning there are no voluntary plans available in the state. According to Matthew Weldon, Director of Rhode Island Department of Labor and Training, “It works because there are people in it that won't use it. The fear is that the only folks who will be left in the program are the ones using it, and this will drive up costs exponentially.” For other states, particularly New Jersey and California, strong regulations are in place to ensure premiums and benefit costs remain stable. Other states are following their lead.

Ultimately, without robust legislative protections, the ability of employers to opt-out can lead to serious equity concerns, especially for employees earning low wages and working part time. Other concerns include workers being forced to provide sensitive medical information to their employers; vulnerable populations being unable to have the time or resources for appeals processes; and negative economic impacts for businesses primarily employing women of childbearing age or elder populations.

Key Recommendations

- Avoid voluntary plans and opt-outs, which can be barriers to accessing PFML, particularly for employees earning low wages and working part time, women, or elder populations.
- Where opt-outs are permitted, ensure strong legislative protections to prevent discriminatory practices and unnecessary costs.

Incorporating External Stakeholders: From Design to Implementation and Beyond

Administrators of long-standing PFML programs have a valuable perspective to share with their counterparts who are working to establish new PFML programs. Matthew Weldon from Rhode Island advises that agencies should “build systems that are designed for equity.” Jill Gutierrez, Director of Strategic Planning and Outreach for the New Jersey Department of Labor and Workforce Development, warns: “do not allow the agency to be closed off from the external world.” Gutierrez and Weldon agree that a successful program is the product of effective stakeholder engagement and strong linkages with a diverse group of advocates.

“We need to work with coalitions and stakeholder groups and use their voice to amplify our voice.”

Matt Weldon, Assistant Director of Administrative Services for the Rhode Island Department of Labor and Training, November 2019

Washington and Massachusetts, whose programs are newly established, have demonstrated a commitment to build these strong relationships with external stakeholders. Washington’s PFML statute created a steering committee with employer and worker representatives. In addition, the agency’s dedicated eight-person marketing and communications team has conducted 15 focus groups across the state. The focus groups have included people of diverse racial and ethnic backgrounds as well as small business owners and “health care messengers.”

Massachusetts worked with advocacy organizations and external stakeholders to design and build turnout for a listening tour by the newly established Massachusetts Department of Family and Medical Leave, which took place at locations throughout the state. Importantly, this resulted in greater public participation in the agency’s rulemaking process, which is a key factor in building equitable systems.

The Massachusetts Department of Family and Medical Leave has maintained this kind of engagement, forging strong partnerships with advocates and other external stakeholders. Anabel Santiago, Grassroots Coordinator with the Coalition for Social Justice in Massachusetts, participated in the campaign for the state’s PFML program. She said that the convening in Tacoma fostered both structured and casual interactions with representatives of the Massachusetts agency. At a subsequent meeting, the parties worked together to address a shared challenge: Finding a way to reach the state’s thousands of nail salons, a subset of the small business community that seemed to have limited awareness of the new PFML law. The Department generated a list of nail salons in the state to aid distribution of a targeted mailer, developed with the input of external stakeholders, to these hard-to-reach constituents.

“The role of the advocate does not end when legislation is passed. It is critical to maintain the network of relationships that was built during the campaign to win passage of the law.”

Anabel Santiago, Grassroots Coordinator with the Coalition for Social Justice in Massachusetts

The success in Massachusetts shows that the roles of advocates and administrators overlap considerably and that the missions of each can be furthered by developing meaningful partnerships. Gutierrez advises that agencies should establish “rules of engagement” to interact with advocacy organizations, designed to highlight how these relationships are beneficial and appropriate rather

than fixating on how agency staff may be ‘straying too far from their lane’ as public servants.

Weldon says that “government does not have all the answers. We need to work with coalitions and stakeholder groups and use their voice to amplify our voice.” Weldon admits that the government is not always seen as trustworthy. Reaching out to external stakeholder groups and showing that “you are true to your word” goes a long way toward building strong partnerships.

Engaging with external groups also lets policymakers understand their perspectives and interests; this was one benefit of bringing diverse stakeholders together at the convening. For example, Santiago stressed that the role of the advocate does not end when legislation is passed. Maintaining the networks built during the campaign is critical successful passage of the law. Certain partners may move on to other legislative priorities but enacting a new law and creating a new government program is an opportunity to forge new relationships, particularly with the newly created agency responsible for administering the program. In Massachusetts, the advocacy network continued organizing activities during the agency’s rulemaking period and increased turn out for the agency’s listening sessions. According to Santiago, part of the role of the advocate is to be an asset for the agency, which can enhance the advocate’s ability to influence policy decisions and practices.

Key Recommendations

- Include advocacy organizations and external stakeholders in the process, from design to implementation and beyond. Their partnerships in the community, continued feedback, and participation in rulemaking and outreach can deliver access for populations that may be overlooked or difficult to reach.
- Create a statutorily established steering committee with worker and employer representatives to build in a mechanism for addressing needs of all stakeholders.
- Establish a dedicated marketing and communications team to provide equitable outreach to all constituents.

Key Lessons: Equity in PFML Implementation

Raising awareness of the importance of PFML, and similar labor and employment policies, is only half the battle. Identifying the provisions that must exist in an equitable PFML policy *and* ensuring equity in the administration of these policies are equally important. Convening attendees, which included veteran PFML program administrators and representatives of states in the program start-up phase, spoke to the similar challenges they all face. Ultimately, equity in PFML policy and administration guarantees that all constituents have access to services, and for those traditionally excluded from these programs, administrators must take care to ensure “equality of opportunity in receiving the service.”

The following sections outline perspectives on how different aspects of PFML administration can impact equitable access to the program, including rulemaking, information technology (IT), data, outreach, customer care, and implementation.

Rulemaking: Best Practices

Developing regulations is another opportunity to ensure equity in the implementation of a PFML program. Beyond posting proposed rules and regulations, programs can invite feedback from the public.

Massachusetts, for example, hosted 12 listening sessions across the state and had government officials available to answer questions. The officials present helped give real-time feedback about what could be changed and what was set in the law. Other examples include webinars, town halls, and face-to-face sessions with employers and employees to gain different perspectives. Rulemaking should be treated similarly to outreach to ensure that everyone's voices are heard. Each contact point with individuals impacted by the program provides an opportunity to ensure access and inclusion in the benefit.

Key Recommendations

- Use innovation and strategy to get public comments from all impacted stakeholders on proposed rules.
- Be prepared to educate the public on this process and answer questions along the way.

Information Technology: A Tool for Equity

While the use of advanced IT for efficiency's sake may exacerbate inequalities, it can also be used to facilitate dialogue about ways to increase access to PFML benefits. Michael Henderson, Program Analyst with Washington, D.C.'s nascent Office of Paid Family Leave, has helped his agency conduct town hall events to collect feedback from workers and employers. Several states have used creative, tech-savvy outreach activities, such as using an interactive online message board to disseminate real-time feedback to the public. This tool might also provide information for a FAQ section on states' websites in the future.

As more states enact PFML laws, Henderson said, the PFML programs will need to work together because there will inevitably be workers and employers covered in more than one jurisdiction. He also suggested that PFML programs consider developing multi-user IT systems to facilitate multiple users at one time. Henderson said the convening was another step toward a more formal network in the PFML community that may provide a platform for more collaborative endeavors.

Key Recommendations

- Take advantage of the rapid growth of technology. Incorporate it as part of the solution for equity through virtual town halls, online message boards, multi-user IT systems, and more.
- Expand use of such technologies to allow PFML programs to interact more easily with the people they serve and increase workers' and employers' access to them.
- PFML administrators should evaluate the current state and future potential of their technological systems to increase program capacity for equitable service provision, without discarding useful features for the sake of efficiency.

Data Collection: A Tension between Efficiency, Privacy, and Research

Given the powerful technology available to gather and analyze data, it appears counterintuitive that difficulties in evaluating PFML programs persist. While IT systems may be capable of tracking more information, states must navigate a deeper balancing act.

Sarah Jane Glynn, Senior Fellow at the Center for American Progress, describes the tension between efficiency, privacy, and research that states must consider when collecting program data. Administrators need adequate information to manage the programs, and any added steps may slow down the application process. This leads to an understandable hesitation to ask for more information not directly related to program administration. However, the research community has lessons that can make this a more efficient process.

Glynn includes an example of the “occupation” field found on various online application forms. An open text field may take time for the employee to complete and becomes virtually useless to an administrator or researcher when reviewing thousands of applications. Instead, simple options, such as drop-downs and text boxes with suggestion capabilities, can help both researchers and administrators. These alternatives are already being used in other government programs. They allow a user to enter their job title and instantly receive suggested occupation categories. These fields can be pre-coded to match occupation codes used by other systems for tracking and evaluation purposes.

One reason to evaluate the reach of PFML programs may be to ensure they have an equitable impact. However, questions needed to measure this impact may have an unintended consequence of dissuading some of the most vulnerable populations from applying for their PFML benefit. Glynn explained this would be particularly relevant for employees concerned that their citizenship or immigration status may harm their application. She suggests developing memorandums of understanding with other departments that may be able to help with cross-referencing to fill in some empty data points. Agencies administering PFML programs can also create a separate, optional survey that applicants can fill out *after* their application is processed so individuals are not discouraged from applying, but their feedback is still obtained.

Finally, research is more effective when it is included in the state’s plan from the beginning. Research can provide important insights to ensure equity in a program, even with the limitations on data collection listed above. Glynn recommends a few steps to ensure data quality and enlist help from the research community:

- Committing staff time to research can help ensure data is tracked properly and provides time-sensitive reports.
- Investing time early in a program to create applications with drop down boxes and suggestion fields simplify the process for the applicant and allow for greater levels of data analysis.
- Including research and data collection in policy making and internal procedures will enable appropriate and protected data sharing. This enables partnerships with the research community to help states analyze a program and provide recommendations for ongoing improvement. New Jersey’s annual reports are a great example of this practice. The reports

provide detailed information on usage of publicly administered paid leave program. These reports enable researchers, advocates, and employers to understand trends in usage, demand for leave, and actual costs of the program.

Key Recommendations

- Use available technology to create applications that are easy to fill out but also provide usable data for later analysis (i.e. drop-down lists or suggestion boxes instead of basic text fields).
- Consider a survey separate from the application that can provide data points related to equity without dissuading individuals seeking benefits.
- Commit to research, data sharing, and transparency.

Outreach Education: Lessons from Washington and New York States

Funded outreach and education is essential to ensuring awareness of PFML programs reaches all workers. Many workers still do not know about their state's PFML policies.³ In one instance, only 28.1 percent of survey participants were aware of their state's PFML program, years after implementation.⁴ Further, workers with low income or less education, as well as immigrant, Latinx, and young workers had disproportionately lower rates of awareness.

Washington's PFML law requires an outreach campaign and establishes a dedicated communications unit within the agency. This reflects how the legislature considered outreach to be an integral function, especially during the implementation phase. Executive support has been crucial to overcome challenges and achieve outcomes that satisfy both the letter and the spirit of that legislation.

Clare DeLong, Communications Director for Washington's PFML program within the Employment Security Department (ESD), leads the agency's dedicated eight-person marketing and communications team. Their goal is to reach "people with zero awareness in the exact moment they need this information." ESD believes it has a mandate to reach all communities, including urban; rural; speakers of languages other than English; communities of color; and workers whose employers may not support them taking PFML.

DeLong believes her team is responsible for creating a "universe of information" related to the PFML program. Her team undertakes the typical communications work, such as maintaining the agency website and developing materials and FAQs—taking emerging program information to create new content. In addition, the agency has an active online and social media presence that includes posting videos and hosting webinars with detailed information developed for specific employer/employee audiences. ESD is also running paid advertising. Their communications team took an innovative approach in outreach toward employers. Instead of a compliance-focused method, ESD focused on values-based messaging to connect with businesses.

“It’s a campaign, run it like one,” DeLong advises. The agency does not only rely on virtual platforms but also conducts as many in-person events as possible; although resource heavy, these events are highly effective. As mentioned previously, the agency held a series of focus groups and on-site events at locations throughout the state. The agency also uses many free and low-cost tools to conduct its communications work and get feedback, such as:

- WebEx for webinars;
- Internal ESD data for mail/email campaigns (particularly helpful to reach employers);
- Contacts with other state agencies to get information into their outreach materials; and
- Google analytics data and a “tracking pixel” on the agency website to help drive users to the most important content.

In the end, Washington’s outreach has been incredibly successful. Within the first three weeks they had 20,000 applicants, nearly four times the anticipated amount.

To spread the word of a new program, it is important to use all resources available. For New York State, this included other public agencies. Natacha Carbajal-Evangelista, Esq., who is Deputy Director, Regulatory Affairs, New York Workers’ Compensation Board, shares how their program took creative approaches in outreach. She explains that in New York, the governor’s role is clear: the state work for the people of New York. If a program can benefit New Yorkers, agencies should work together to promote outreach and education.

Her program identified those service areas that overlap with other agencies and asked for their help in spreading the word about PFML. This interagency collaboration was intentional and structured, with over 20 agencies meeting every 1-2 weeks to talk about operations and outreach of the PFML program. As this benefit could impact all private employers, the NYS Workers’ Compensation Board’s tied into the mission of other state agencies that worked with specific industries. Their team evaluated which employers would be impacted by the new program and found each agency that shared some common ground. They created baseline marketing materials, tailored them to each agency, and multiplied their contact points with employers. Outreach efforts include booths at the New York State fair, where each agency provides PFML information to their constituents. From this experience, she encourages states to “be creative and harness the full capacity of the executive branch and the executive agencies.”

“It’s a campaign, run it like one.”

*Clare DeLong, Communications
Director for Washington State
PFML Program within ESD,
November 2019*

Key Recommendations

- Create outreach strategies specific to the different communities within the state.
- Use a values-based approach to messaging with businesses.
- Find common ground with other agencies and increase contact points with employers and employees.

Operations and Customer Care: Implementation Must Prioritize Customer Service over Operational Efficiency

Socioeconomic inequality is exacerbated when policies respond to the “haves,” while the “have nots” are barely able to participate. In the past, public administrators assumed that prioritizing efficiency as a management practice would benefit individuals evenly and fairly. Later, it became clear that efficiency may advantage some individuals over others. While efficiency is important, it should not be prioritized at the expense of customer service.

Jenna Gerry, Senior Staff Attorney with California-based nonprofit Legal Aid at Work, described a scenario that illustrates the interplay between efficiency and the equitable provision of services. Gerry says that many of her clients are not fluent in English and find it easier to file a paper application for PFML benefits as opposed to an online form or using the phone service. This allows applicants to bring the form to their organization’s office for assistance or to work on it with a friend or family member who can assist with completing it correctly. People with disabilities and native English speakers with literacy challenges may prefer paper applications for the same reason. Additionally, lack of computer or internet access is still cited as a barrier for both individual applicants and underfunded community outreach programs. Many public organizations have eliminated paper applications, citing the need to increase efficiency and reduce costs. However, Gerry asserts, doing so reduces access to programs and services for certain constituents.

Key Recommendations

- When making a system change for efficiency, critically analyze who benefited from the prior method and how to ensure continued access in the new format, as well as who was excluded and how to ensure no one falls through the cracks.

Implementation and Enforcement: Making Judgement Calls

Staff morale and office culture are critical. The agency’s leadership team must take an active role in fostering a positive culture, particularly for front-line staff who will work directly with PFML customers. Because laws often lack the precision and nuance required for uniform application, front-line workers may be required to make judgement calls and should be bought into the mission of the program. Without proper direction, front-line workers and supervisors may make decisions in a way that is misaligned with the spirit of the law. Administrative discretion is a critical factor in practicing social equity, without which public administration is limited. As discussed in the Washington convening, “We understand our structure but not what it’s like on the outside trying to access it.” Discretion and

compassion that follow the values of the PFML programs are needed to ensure equitable access to these benefits.

PFML program administration can encourage a compassionate and equitable staff culture. For example, Washington State provides great examples of how to motivate staff to see claimants as people and to value caregiving. They embed their values in the office design through a wall of photos with the staffs' loved ones. Programs can take ownership of how they do it, but it is important to be clear about who this program is for.

Suzan LeVine, Commissioner of ESD in Washington State, believes that administrators can be passionate about their work (in a manner not dissimilar from advocates) without violating the ethical standards of public service. This comports with the idea that public administrators should be radically pro-government. Commissioner LeVine concluded her remarks at the convening by saying, *"It's personal. You have to feel it."*

"It's personal. You have to feel it."

Suzan LeVine, Commissioner of ESD in Washington State, November 2019

Key Recommendations

- Train front-line workers according to the values of the program and ethical and equitable implementation.

Conclusion: Equity in Policy and Administration Requires Innovative Leadership

Achieving equity in administration requires innovative leadership and buy-in from the bureaucratic hierarchy. There must be a willingness to acknowledge that the values guiding the administration of public sector agencies are not always equitable. To achieve equity, policies should center on people who they have traditionally left out. In doing so, all workers benefit rather than the piecemeal approach of trying to ensure benefits reach workers earning low wages, workers of color, and immigrant workers after the fact.

A critical first step toward equity in administration is for administrators to build relationships with external stakeholders—advocates, worker centers, unions, and advocacy organizations in particular—to achieve shared goals through mutual collaboration.

The public sector can ensure equity in PFML by learning from programs that have already faced these challenges. Intentional policymaking that addresses progressive wage replacement; flexibility in base thresholds to account for different types of work; job protection; and inclusive definitions of family all provide a foundation for equitable access. Careful planning around voluntary plans and opt-outs can enable the government to provide benefits to outreach who needs them. Partnerships and

collaborations keep the program grounded in the people it serves and highlight hidden voices in the process. In program administration, leadership and staff must give special attention to ensure customer care is not lost in a world of efficiency measures; that the values of PFML are held from leadership to the front-line workers; and that IT is used as a tool for equitable access, not a barrier.

In closing her remarks at the convening's plenary, Letitia Seng, a Program Director with the W.K. Kellogg Foundation, stated that bringing about social change requires racial equity, community engagement, and developing leaders. She said this results in "lifting up voices to create advocates to create transformative change." The need for equity in PFML is clear, and the Washington convening was abundant with discussions on baking in equity from the beginning. In states yet to adopt PFML—and as proposals advance at the federal level—policymakers, agency leaders, advocates, and other partners can learn from these lessons to build programs that can provide and retain equity, from policy development to program implementation and administration.

Acknowledgements

In October 2019, CLASP, Family Values at Work, the Washington State Employment Security Department (ESD), the Economic Opportunity Institute (EOI), Main Street Alliance, and MomsRising hosted a convening on state-level paid family and medical leave policies, program implementation, and campaigns. The authors are grateful to the state agency representatives and advocates who shared insights at the 2019 convening that informed this report.

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Endnotes

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