

CLASP

Policy solutions that work for low-income people

September 14, 2020

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U.S. Department of Labor
200 Constitution Avenue NW
Room S-3002
Washington, DC 20210

Submitted Electronically

Re: Request for Information; Paid Leave, RIN 1290-ZA03

Dear Harrigan-Farrelly,

The Center for Law and Social Policy (CLASP) is writing to comment on the request for information (RFI) issued by the Women's Bureau of the U.S. Department of Labor (DOL) on July 16, 2020. CLASP is an anti-poverty organization that advocates for paid family and medical leave as a critical work support that can help reduce and prevent poverty and safeguard the economic security of families. CLASP has long advocated for paid family and medical leave as a critical support for all workers, and especially for low-income workers, parents, children, seniors, and people of color.

There is popular support and growing momentum for this benefit. Currently California, New Jersey, Rhode Island, New York, Washington, the District of Columbia, Massachusetts, Connecticut, and Oregon either have or will soon have paid family and medical leave programs, and several states have strengthened their policies since they first passed. California's law, passed in 2002, has successfully been in effect for over 15 years. At CLASP we provide many of these states with technical assistance about paid family and medical leave policy and operations. We know, however, that we need a comprehensive national solution—informed by evidence from the states—that benefits all workers and their families, regardless of where they work or live.

The RFI notice indicates that DOL seeks to “gather information concerning the effectiveness of current state- and employer-provided paid leave programs, and how access or lack of access to paid leave programs impacts America's workers and their families,” in order to “identify promising practices related to eligibility requirements, related costs, and administrative models of existing paid leave programs.”

Although it is not mentioned in the RFI, there is already a vast wealth of information demonstrating the effects of not having paid family and medical leave and the benefits of state programs that provide it. DOL itself enabled several valuable studies on paid leave program design and implementation through the innovative Paid Leave Analysis Grant Program administered by the Women's Bureau, in addition to the Chief Evaluation Office funded Worker Leave studies. Pronita Gupta, director of CLASP's Job Quality team, oversaw the Paid Leave Analysis Grant program when she was the Deputy Director of the Women's Bureau under the Obama Administration. The Women's Bureau was able to collect and share valuable information from both existing state Paid Family and Medical Leave (PFML) programs, that had

applied for the funds to study ways to strengthen their programs, and new states that were interested in determining the feasibility of adopting a new PFML program. After each cohort of studies (there were 3 cohorts from 2014-2016, funding 17 states and municipalities), the Women’s Bureau held a symposium to share lessons, new research and build a community of learning. These feasibility studies helped pave the way for three states and the District of Columbia to develop and adopt new PFML programs funded using a social insurance model and has allowed four other states to introduce legislation to create similar programs. The two states with existing PFML programs were able to use research funded under this grant program to improve their outreach and education programs to enable more workers, especially workers of color, to fully benefit from these programs. Additionally, DOL produced a report in 2015 answering many of the questions addressed in this RFI, in addition to several produced by other executive branch agencies.¹ These reports reflect the overwhelming weight of research which makes clear: the private sector as a whole has failed to solve the paid leave crisis faced by America’s workers, and publicly funded social insurance represents the only viable path forward, especially as the COVID-19 pandemic continues to rage.

This Response to the RFI includes three main points: (1) What a Comprehensive Paid Family and Medical Leave Program Should Include to Work for Low-Income Individuals and Families; (2) A Publicly Run Paid Leave Program Is the Best Option for Workers and Businesses; and (3) Research Demonstrates the Clear Benefits of Public Paid Leave Programs for Workers and Businesses.

I. What a Comprehensive Paid Family and Medical Leave Program Should Include to Work for Low-Income Individuals and Families

At some point in their lives, nearly every working person will welcome a new child, deal with their own serious health issue or need to provide care to a seriously ill, injured or disabled loved one. Yet most people still do not have the security they need to take time away from their jobs. Millions of people are forced to choose between their wages and their ability to care for themselves or their families. Just 19 percent of the workforce has paid family leave through their employers, and only 40 percent has personal medical leave through an employer-provided disability program.² The reality is especially stark for people of color and low-wage workers, who face the greatest disparities in their ability to access and afford leave. The lack of paid leave costs U.S. workers and their families \$22.5 billion each year in lost wages alone.³

Evidence from the states with paid leave programs has shown that in order to truly meet the needs of working people, a paid family and medical leave program must meet certain basic standards, including being comprehensive; being available to all workers; having adequate wage replacement; being inclusive of all families; including job protection and robust anti-retaliation provisions; and being of sufficient duration to meet families’ needs.

¹ See, e.g., “The Cost of Doing Nothing: The Price We All Pay Without Paid Leave Policies to Support America’s 21st Century Working Families,” U.S. Department of Labor, 2015, <https://www.dol.gov/wb/resources/cost-of-doing-nothing.pdf>; Pamela Winston, Ariel Pihl, Lincoln Groves, Colin Campbell, Elizabeth Coombs, and Sharon Wolf, “Exploring the Relationship Between Paid Family Leave and the Well-being of Low-Income Families: Lessons from California,” U.S. Department of Health and Human Services, 2017, <https://aspe.hhs.gov/pdf-report/exploring-relationship-between-paid-family-leave-and-well-being-low-income-families-lessons-california>; The Council of Economic Advisors, The Economics of Paid and Unpaid Leave, June 2014, https://obamawhitehouse.archives.gov/sites/default/files/docs/leave_report_final.pdf.

² U.S. Bureau of Labor Statistics. National Compensation Survey: Employee Benefits in the United States, March 2019, “Table 16. Insurance benefits: Access, participation, and take-up rates, civilian workers, March 2019; Table 31. Leave Benefits.: Access, private industry workers, March 2019,” Retrieved 27 August 2020, from <https://www.bls.gov/ncs/ebs/benefits/2019/employee-benefits-in-the-united-states-march-2019.pdf>

³ Glynn, Sarah Jane, *The Rising Cost of Inaction on Work-Family Policies*, 2020, Center for American Progress, <https://www.americanprogress.org/issues/women/news/2020/01/21/479555/rising-cost-inaction-work-family-policies/>

a. Paid Leave must be Comprehensive

Paid leave must be comprehensive by allowing leave for all FMLA-covered events, particularly as our nation ages and the shortage of paid caregivers means more working people are called upon to care for their family members. Paid leave is critical for new parents, but a parental leave program alone would not meet all individuals' needs and could exacerbate gender and racial inequities.⁴ According to data from the U.S. Department of Labor, roughly 70 percent of people take leave to care for a seriously ill, injured, elderly or disabled loved one, a serious personal injury, illness or disability or to address the deployment or injury of a military service member, compared to the 25 percent of leaves taken for the birth or placement of a new child.⁵ Data from the states also illustrate this—in California from 2004 to 2017, workers filed 9.5 million claims for their own disability in contrast to the 2.4 million claims they filed to care for a new child.⁶

A comprehensive policy is also needed to support the roughly one in five Americans who live with a disability, and the approximately one in four households with a child, adult, or senior with a disability, as well as their caregivers.⁷ With a growing elderly population, many people are also providing care for an elder loved one. Today, 43.5 million people provide unpaid care to family members and most also have full-time, paying jobs.⁸ Additionally, an estimated 5.5 million caregivers take care of wounded veterans and service members.⁹ That's why a number of the new states to adopt paid family and medical leave laws have explicitly broadened and included language about caring for a service member in their eligibility requirements, including New York, Washington and Massachusetts.

b. Paid leave should be available to all workers, regardless of sector or employer size and include part-time and self-employed workers.

Lessons from the Family and Medical Leave Act demonstrate that when leave policies are limited by employer size and eligibility restrictions, they exclude many workers. States have been more inclusive in covering small businesses and part-time workers. Additionally, most states allow self-employed workers to opt into coverage. A national policy should cover all workers.

c. Paid leave should include a wage replacement rate that keeps all families financially secure during a caregiving episode.

⁴ Additionally, a parental-only policy may have unintended consequences affecting women. In enacting the FMLA, Congress included family and medical leave, in addition to parental leave, in part to minimize hiring discrimination against women of childbearing age. FMLA Findings and Purposes, 29 U.S.C. § 2601(b)(4) (“minimizes the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity-related disability) and for compelling family reasons, on a gender-neutral basis”).

⁵ Brown et al., “Family and Medical Leave in 2012: Technical Report.” Abt Associates Inc. (prepared for U.S. Department of Labor), 2020,

https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHI_FMLA2018SurveyResults_FinalReport_Aug2020.pdf

⁶ National Partnership for Women and Families, “Paid Leave Works in California, New Jersey, and Rhode Island, 2018,” <http://www.nationalpartnership.org/our-work/resources/workplace/paid-leave/paid-leave-works-in-california-new-jersey-and-rhode-island.pdf>

⁷ Suma Setty, Heather Koball, Seth Hartig, and TJ Sutcliffe, “Disability Perspectives on Paid Leave,” The Arc and National Center for Children in Poverty, 2019, https://drive.google.com/file/d/1ytwaSqgtWcjQmZz_8x789aXqLTYcrdrs/view

⁸ *Caregiving in the U.S.: 2015 Report*, National Alliance for Caregiving and AARP Public Policy Institute, 2015, <http://www.aarp.org/content/dam/aarp/ppi/2015/caregiving-in-the-united-states-2015-report-revised.pdf>.

⁹ Rajeev Ramchand et al., “Hidden Heroes: America’s Military Caregivers,” RAND Corporation, 2014, https://www.rand.org/pubs/research_reports/RR499.html.

Paid leave must replace individuals' wages at an adequate level so that people can actually afford to take time off. Evidence from California's first years suggests that an insufficient wage replacement rate will prevent many low-wage workers from taking leave for which they are eligible—and for which they have paid—because the low benefit level places them at risk of financial instability.¹⁰ California implemented new wage replacement levels in 2018, with workers now receiving from 60 to 70 percent of their income and a higher percentage going to lower-income workers.¹¹ Many states use a progressive wage replacement model to provide affordable levels of wage replacement to workers.¹² For example, Oregon replaces 100 percent of low-income workers' wages. The WORLD Policy Analysis Center found that a higher wage replacement rate is necessary to keep families out of poverty, ensure middle-income families can meet essential needs during paid leave and ensure gender equity in leave-taking.¹³

d. Paid leave should be inclusive of all families.

Comprehensive paid family and medical leave programs must reflect the diversity of families in the United States. The RFI describes family leave as leave to “[care] for the employee’s spouse, child, or parent who has a serious health condition.” By limiting its request to only ask about spouses, children, and parents, the RFI misses the reality of caregiving – namely, that families come in all shapes and sizes, and that caregiving transcends the boundaries of blood, age, and legal formality.

This restrictive definition of “family” especially leaves out single-parent and blended families, families headed by same-sex couples, chosen families, and multi-generational families. These families and their stories are essential to the inquiry on which DOL is embarking. According to the most recent DOL-commissioned study of the Family and Medical Leave Act, nearly 5 percent of leaves taken for family caregiving purposes is to care for an individual not covered under the FMLA’s limited definition of “family member.”¹⁴

In 2014, 85 million people nationwide were living in “extended families,” defined as families departing from the “nuclear family” model of married parents and their minor children.¹⁵ The number of multi-generational family households in the U.S. has doubled since 1980.¹⁶ People of color disproportionately live in extended families¹⁷ and multi-generational families: about 25% of Latinos and African Americans,

¹⁰ Appelbaum and Milkman, *Leaves that Pay*.

¹¹ Molly Weston Williamson, Sherry Leiwant, and Julie Kashen, “Constructing 21st Century Rights for a Changing Workforce: A Policy Brief Series; Brief 2: Paid Family and Medical Leave & Nonstandard Employees,” 2019, <https://www.abetterbalance.org/resources/report-constructing-21st-century-rights-for-a-changing-workforce-a-policy-brief-series-brief-2/>.

¹² For full details on all the states, see “Comparative Chart of Paid Family and Medical Leave Laws in the United States,” A Better Balance, <https://www.abetterbalance.org/resources/paid-family-leave-laws-chart/>.

¹³ “A Review of the Evidence on Payment and Financing of Family and Medical Leave,” WORLD Policy Analysis Center, 2018, https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Payment%20and%20Financing%20of%20Paid%20Family%20and%20Medical%20Leave_0.pdf.

¹⁴ Brown, S., Herr, J., Roy, R., & Klerman, J. A., *Employee and Worksite Perspectives of the Family and Medical Leave Act: Supplemental Results from the 2018 Surveys* (Exhibit B4-3), U.S. Department of Labor, 2020, https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHd_FMLA2018SurveyResults_Appendices_Aug2020.pdf

¹⁵ Michela Zonta, *Housing the Extended Family*, Center for American Progress, 2016, <http://www.americanprogress.org/issues/economy/reports/2016/10/19/146422/housing-the-extended-family/>.

¹⁶ Richard Fry & Jeffrey S. Passel, *In Post-Recession Era, Young Adults Drive Continuing Rise in Multi-Generational Living*, Pew Research Center (July 17, 2014), <http://www.pewsocialtrends.org/2014/07/17/in-post-recession-era-young-adults-drive-continuing-rise-in-multi-generational-living>.

¹⁷ Zonta, *supra* note X.

and about 27% of Asian Americans, live in multi-generational households.¹⁸ Many LGBTQ adults—especially older adults—do not have accessible relationships with biological relatives for several reasons, such as moving to a more LGBTQ-friendly area away from biological family, LGBTQ stigma within biological families, and family planning choices.¹⁹ Given the extraordinarily high rates of LGBTQ individuals living in poverty as a result of being denied employment and other opportunities—1 in 4 LGBT people earn less than \$24,000 annually and 1 in 3 transgender individuals live in poverty²⁰—it is critical that paid family and medical leave programs be inclusive of all families.²¹

All nine states (including the District of Columbia) that have enacted paid leave allow leave to care for a more inclusive range of family members that more accurately reflects the lived realities of workers and their families.²² Paid family and medical leave laws in Oregon and Connecticut, along with the recently expanded New Jersey paid family leave law, cover loved ones with whom a worker has a close relationship equivalent to a family relationship. In addition, New York’s and Massachusetts’s paid family leave laws have flexible domestic partner definitions that do not require legal registration and cover a range of loved ones. Existing state paid family leave laws show that an inclusive family definition provides important protection to workers without abuse or a significant increase in costs.

e. Paid leave must include job protection and robust anti-retaliation provisions.

Paid leave must guarantee job protection so that people can take the time off they need without having to worry if their job will still be there for them when they return. Job protection is critical to helping workers—particularly those being paid low wages, who are disproportionately women, people of color, and people with disabilities—retain their jobs at a critical moment in their lives when economic stability is especially important.²³ A 2018 U.S. Department of Labor survey found that among employees needing leave for a qualified family and medical reason but not taking it, the fear of losing their job was the second most commonly cited reason (45 percent), behind unaffordability.²⁴ This number is even higher for workers paid low wages, with 59 percent fearing job loss. Job protection also enhances the probability that men will take leave, which can help reduce gender inequality at home and in the labor market. Job protection may also improve women’s likelihood of returning to their same employers after taking leave for the birth of a child.²⁵ Indeed, a law that doesn’t protect a worker’s job while that worker is away from work is not really a leave law at all but rather just a law that provides financial benefits—which the

¹⁸ Richard Fry & Jeffrey S. Passel, *In Post-Recession Era, Young Adults Drive Continuing Rise in Multi-Generational Living*, Pew Research Center, 2014, <http://www.pewsocialtrends.org/2014/07/17/in-post-recession-era-young-adults-drive-continuing-rise-in-multi-generational-living>.

¹⁹ “Still Out, Still Aging: The MetLife Study of Lesbian, Gay, Bisexual, and Transgender Baby Boomers,” MetLife Mature Market Institute and American Society of Aging, 2010, <https://www.asaging.org/sites/default/files/files/mmi-still-out-still-aging.pdf>.

²⁰ Sandy E. James et. al, *The Report of the 2015 U.S. Transgender Survey*, National Center for Transgender Equality, 2016, <https://transequality.org/sites/default/files/docs/usts/USTS-Full-Report-Dec17.pdf>.

²¹ Lourdes Ashley Hunter, Ashe McGovern, and Carla Sutherland, eds., *Intersecting Injustice: Addressing LGBTQ Poverty and Economic Justice for All: A National Call to Action*, Social Justice Sexuality Project, Graduate Center, City University of New York, 2018, <http://socialjusticesexuality.com/files/2018/04/Poverty-Reports-Exec-Summary.pdf>.

²² The federal government also uses an inclusive family definition in other laws, including the final rule the Department of Labor published in 2016 implementing Executive Order 13706, Establishing Paid Sick Leave for Federal Contractors.

²³ Kristin Smith, “Job Protection and Wage Replacement: Key Factors in Take Up of Paid Family and Medical Leave Among Lower-Wage Workers,” University of New Hampshire Carsey School of Public Policy, Spring 2019, <https://scholars.unh.edu/cgi/viewcontent.cgi?article=1363&context=carsey>.

²⁴ Brown et al., “Family and Medical Leave in 2012: Technical Report.” Abt Associates Inc. (prepared for U.S. Department of Labor), 2020, https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHDFMLA2018SurveyResults_FinalReport_Aug2020.pdf

²⁵ Tanya Goldman, “The Importance of Job Protection for Paid Leave,” Center for Law and Social Policy, 2020, <https://www.clasp.org/publications/fact-sheet/importance-job-protection-paid-leave>

worker must risk his or her job to access.

We know from the states that including job protection is feasible and critical. Massachusetts's law includes full job protection for all leave-taking, while Connecticut and Oregon provide job protection to all workers who have been employed with their employer for approximately three months. California just amended its law to provide job protection for 6 million workers.²⁶ Rhode Island and New York's existing paid leave laws protect workers' jobs while they are on family leave. In addition, several states prohibit retaliation against workers for exercising their rights; for example, Massachusetts has particularly robust anti-retaliation provisions and New Jersey recently amended their law to add anti-retaliation language.

- f. Paid leave should include leaves that are long enough to meet individual and family care needs.

Paid leave must provide a meaningful duration of leave, so that people have enough time to meet their family or medical needs. In 2018, the WORLD Policy Analysis Center released a report on the health benefits and economic feasibility of paid family and medical leave. Its recommendations included six months of paid parental leave to support health, economic benefits, and gender equity, with three months as the minimum.²⁷ Not only can parents bond with their child, behavioral health research also finds that breastfeeding rates increase when mothers have access to paid leave.²⁸ These benefits also trickle down and provide children with several health benefits, including the time to visit the doctor for well-baby visits and timely immunizations.²⁹

II. A National, Publicly Run Paid Leave Program Is the Best Option for Workers and Businesses

Paid leave should be funded and administered through a social insurance program, ensuring it will be funded affordably and sustainably, without cutting other essential programs that working people need. International and state-based examples all illustrate that a social insurance model is the best mechanism to administer a paid family and medical leave program, and if designed well, can provide universal coverage that is portable at a very low per-person cost.³⁰ All the states that have passed paid family and medical leave programs are using a social insurance program, meaning workers and/or employers pay a small premium through their payroll taxes to a dedicated trust fund. When workers need to use their paid family and medical leave, their wages are replaced through this fund. This allows each state to pool its funds and risk across a large group of workers and employers, including small businesses, and makes the coverage equitable and affordable.³¹ None of the states have experienced any challenges administering the program through this mechanism, and some states, such as New Jersey and California, have expanded their programs.

²⁶ Ca. SB 1383 (2020).

²⁷ "A Review of the Evidence on the Length of Paid Family and Medical Leave." WORLD Policy Analysis Center, 2018, <https://www.worldpolicycenter.org/sites/default/files/WORLD%20Brief%20-%20Length%20Paid%20Family%20and%20Medical%20Leave.pdf>.

²⁸ Gault, et al, *Paid Parental Leave in the United States*.

²⁹ Brigid Schulte et al., "Paid Family Leave: How Much Time is Enough?" New America, 2017, <https://www.newamerica.org/better-life-lab/reports/paid-family-leave-how-much-time-enough/>.

³⁰ Sarah Jane Glynn, "State Paid Leave Administration, Center for American Progress, 2015, <https://cdn.americanprogress.org/wp-content/uploads/2015/09/30062044/StatePaidLeavereport1.pdf>.

³¹ Sarah Jane Glynn, Alexandra L. Bradley, and Benjamin W. Veghte, "Paid Family and Medical Leave Programs: State Pathways and Design Options," National Academy of Social Insurance, 2017, <https://www.nasi.org/sites/default/files/research/NASI%20PFML%20brief%202017-%20Final.pdf>.

This also eliminates employers' large up-front costs of providing paid leave out of their own pockets – especially important for small businesses, who otherwise might not be able to afford this benefit, making it harder to compete with large businesses for the best employees. Polls of small businesses repeatedly demonstrate overwhelming support for a national paid leave policy structured as social insurance, and hundreds of small businesses have endorsed federal paid family and medical leave legislation.³²

Leaving paid leave to the private sector has failed most working people. Nationwide, only 18 percent of private sector workers have access to paid family leave through their employers, and only 42 percent have employer-provided short-term disability insurance. These numbers become even more dismal when exploring workers with the lowest wages, part-time workers, and small business employees – the very workers who would benefit the most from paid leave. In fact, access to paid family leave for the lowest-income workers has increased by just 2 percentage points in the last 7 years, to a paltry 5 percent in 2019,³³ even after the enactment in 2017 of tax credits intended to incentivize employers to offer paid leave. Following enactment of the Families First Coronavirus Response Act and the CARES Act, employers are still denying their employees leave, even when it is fully reimbursed by the government.³⁴ These low access rates and minimal progress prove that private sector policies alone are insufficient to solve our nation's paid leave crisis. Too few businesses are adopting paid leave policies, and those that do often limit access to only their highest paid, white collar employees.

Publicly administered paid leave programs are meant to create baseline benefits that employers are free to build upon. For example, employers can “top-up” paid leave benefits provided through a public plan to replace more or all of their workers' wages and they can offer a longer period of leave. While opponents of publicly provided and administered paid leave often claim some workers will lose better benefits that they currently have if a public program is implemented, there is absolutely no evidence from states that this has happened. The incentives that high-road employers have to use paid leave as a recruitment and retention tool will remain as it is now and the insurance market will adjust.

III. Research Demonstrates the Clear Benefits of Public Paid Leave Programs for Workers and Businesses

Research from paid leave programs has demonstrated that working families with paid leave are more economically secure and more able to manage work and family responsibilities. Parents in California and Rhode Island reported that paid leave improved their ability to arrange child care.³⁵ State paid leave programs improve the labor force participation of family caregivers,³⁶ reduce the likelihood that new

³² See, e.g., Small Business Majority and Center for American Progress, Small Businesses Support Paid Family Leave Programs, 2017, <https://smallbusinessmajority.org/our-research/workforce/small-businesses-support-paid-family-leave-programs>

³³ See note 1; U.S. Bureau of Labor Statistics. (2012). *National Compensation Survey: Employee Benefits in the United States, March 2012* (Table 32). Retrieved August 27 2020, from <https://www.bls.gov/ncs/ebs/benefits/2012/ebbl0050.pdf>

³⁴ See, e.g., Ben Penn, “Paid-Leave Promise Turns ‘Mirage’ for Most Workers in Pandemic,” Bloomberg, May 27, 2020, <https://news.bloomberglaw.com/daily-labor-report/paid-leave-promise-turns-mirage-for-most-workers-in-pandemic>

³⁵ Appelbaum, E., & Milkman, R. (2013). *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy*. Ithaca, NY: Cornell University Press; Silver, B., Mederer, H., & Djurdjevic, E. (2015). *Launching the Rhode Island Temporary Caregiver Insurance Program (TCI): Employee Experiences One Year Later*. Rhode Island Department of Labor and Training and University of Rhode Island. Retrieved 27 August 2020, from <https://web.uri.edu/ssirep/files/RI-Paid-Leave-Final-Report-April-2016.pdf>

³⁶ Saad-Lessler, J., & Bahn, K. (2017, September 27). The Importance of Paid Leave for Caregivers. Retrieved 27 August 2020, from Center for American Progress website: <https://www.americanprogress.org/issues/women/reports/2017/09/27/439684/importance-paid-leavecaregivers/>

mothers will fall into poverty,³⁷ and increase household incomes.³⁸

Evidence also shows that effective access to paid family and medical leave can improve the health of mothers and children; reduce racial disparities in wage loss between workers of color and white workers; improve employer experience by improving employee retention and reducing turnover costs; and increase women's labor force participation, which can lead to greater economic security for a family and strengthen the overall economy.³⁹ A number of paid family and medical leave studies and analyses from the states currently operating paid family and medical leave programs demonstrate the following key benefits of paid family leave and medical leave:

- a. Paid family and medical leave strengthens individuals' and families' economic security and increases women's labor force attachment.

Without access to paid leave, workers and their families have no good choices. On the one hand, they may forego leave, trying to work through a baby's infancy or a loved one's or their own serious illness – at the risk of damaging their health and family stability, as well as losing their job if the juggling act becomes impossible. Or workers may take unpaid leave and lose income during a critical moment for the family – again risking ill health, further instability (for example, missed rent or mortgage payments), and a cycle of instability at work and at home. At a time when four in ten adults struggle to cover even an unexpected \$400 expense, families face acute challenges in taking unpaid leave.⁴⁰

As our economy changes, it's critical for low-income families that women stay in the labor force. In 2015, 64 percent of mothers were primary or co-breadwinners. Of this number, Black women were sole breadwinners in 70 percent of their families.⁴¹ For those moms, the loss of a job from a family's medical situation can plunge them into economic turmoil. When workers have access to and can afford to take paid family and medical leave, however, they are able to succeed at work and sustain their family's economic security.⁴² Numerous studies have found that women who took paid leave following the birth of a child had better outcomes on several measures of work, income, and family economic security than those who didn't. Studies prove that California's paid family leave program has increased labor force attachment and long-term wages for lower-income households.⁴³ The Institute for Women's Policy Research recently released a report confirming that state paid family leave legislation increases mothers'

³⁷ Stanczyk, A. (2019). Does Paid Family Leave Improve Household Economic Security Following a Birth? Evidence from California. *Social Service Review*, 93(2), 262-304. DOI: 10.1086/703138

³⁸ Ibid.

³⁹ Pronita Gupta et al., "Paid Family and Medical Leave is Critical for Low-wage Workers and Their Families," CLASP, 2018, https://www.clasp.org/sites/default/files/publications/2018/12/2018_pfmliscriticalfor_0.pdf.

⁴⁰ Board of Governors of the Federal Reserve System, "Report on the Economic Well-Being of U.S. Households in 2017," 2018, <https://www.federalreserve.gov/publications/files/2017-report-economic-well-being-us-households-201805.pdf>

⁴¹ Sarah Jane Glynn, *Breadwinning Mothers Are Increasingly the U.S. Norm*, CAP, 2016, <https://www.americanprogress.org/issues/women/reports/2016/12/19/295203/breadwinning-mothers-are-increasingly-the-u-s-norm/>.

⁴² Baum and Ruhm (2016). "The Effects of Paid Family Leave in California on Labor Market Outcomes." *Journal of Policy Analysis and Management* 35 (2): 333–56. Bartel et al., "Paid Family Leave, Fathers' Leave-Taking, and Leave-Sharing in Dual Earner Households." *Journal of Policy Analysis and Management* 37(1): 10-37 (2018). Rossin-Slater, Ruhm, and Waldfogel (2013). "The Effects of California's Paid Family Leave Program on Mothers' Leave-Taking and Subsequent Labor Market Outcomes." *Journal of Policy Analysis and Management* 32(2): 224- 245.

⁴³ Ann Bartel, Charles Baum, Maya Rossin-Slater, Christopher Ruhm, and Jane Waldfogel, "California's Paid Family Leave Law: Lessons from the First Decade," U.S. Department of Labor, 2016, <https://www.dol.gov/asp/evaluation/WorkerLeaveStudy/WL-California-Paid-Family-Leave-Law.htm>; Joelle Saad-Lessler and Kate Bahn, *The Importance of Paid Leave for Caregivers: Labor Force Participation Effects of California's Comprehensive Paid Family and Medical Leave*, Center for American Progress, 2017, <https://www.americanprogress.org/issues/women/reports/2017/09/27/439684/importance-paid-leave-caregivers/>.

labor market attachment.⁴⁴ The study found that paid family leave increases the labor force participation of mothers by six percentage points in the year of a birth, with beneficial effects up to five years after a birth. The effects include reducing birth-year maternal labor market detachment by 20 percent in the year of a birth and up to 20-50 percent five years after a birth.

Paid family and medical leave thus supports overall economic growth through increased labor force participation, worker retention and productivity.⁴⁵ Without it, studies show, we are limiting labor force participation, especially of women and losing potentially \$500 billion in additional economic activity per year, as calculated by the Department of Labor.⁴⁶

- b. Paid family and medical leave contributes to improved health for working people and their children and families.

Extensive evidence points to the health benefits associated with economic stability and paid family and medical leave. Paid leave provides necessary time for children and families to prevent and treat illnesses, spend critical time bonding, seek preventive care, and better maintain their mental health and overall wellbeing.⁴⁷ The health benefits of paid leave for children begin in infancy, but continue throughout their childhood. For mothers who give birth, access to paid leave means they can recover from childbirth, are less likely to experience symptoms of postpartum depression, and more likely to breastfeed longer, which benefits the mother and infant.⁴⁸ When more paid leave is available, rates of infant mortality and hospitalizations fall.⁴⁹ Fathers also benefit, as those who take longer leaves are more likely to be involved in child care later in their child's life.⁵⁰ Children's health also benefits from care in the years following birth or adoption: For a seriously ill child, the presence of a parent shortens their hospital stay by 31

⁴⁴ Kelly M. Jones, PhD, "Paid Family Leave Increases Mothers' Labor Market Attachment," IWPR, 2020, <https://iwpr.org/publications/paid-family-leave-increases-mothers-labor-market-attachment/>

⁴⁵ "The Economic Benefits of Paid Leave: Fact Sheet," Joint Economic Committee, Ranking Democrat Carolyn B. Maloney, United States Congress, https://www.jec.senate.gov/public/_cache/files/646d2340-dcd4-4614-ada9-be5b1c3f445c/jec-fact-sheet---economic-benefits-of-paid-leave.pdf.

⁴⁶ "The Cost of Doing Nothing: The Price We All Pay Without Paid Leave Policies to Support America's 21st Century Working Families," U.S. Department of Labor, 2015, <https://www.dol.gov/wb/resources/cost-of-doing-nothing.pdf>.

⁴⁷ Barbara Gault et al., "Paid Parental Leave in the United States: What the data tell us about access, usage, and economic and health benefits," Institute for Women's Policy Research, 2014, <https://iwpr.org/publications/paid-parental-leave-in-the-united-states-what-the-data-tell-us-about-access-usage-and-economic-and-healthbenefits/>; Amy Raub, et al., "Paid Parental Leave: A Detailed Look at Approaches Across OECD Countries," WORLD Policy Analysis Center, 2018, https://www.worldpolicycenter.org/sites/default/files/WORLD_Report_-_Parental_Leave_OECD_Country_Approaches_0.pdf.

⁴⁸ Ann P. Bartel, Elizabeth Doran, Christopher J. Ruhm, and Jane Waldfogel (2019) "California's Paid Family Leave Law Improves Maternal Psychological Health." Paper presented at the Population Association of American Annual Meeting, Austin, TX, April 2019. Ann P. Bartel, Jessica Pac, Christopher J. Ruhm, and Jane Waldfogel (2019). "The Effects of California's Paid Family Leave Law on Breastfeeding." Paper presented at the Work and Family Researchers Network Conference, Washington DC, June 2018.

⁴⁹ Amy Raub, et al., "Paid Parental Leave: A Detailed Look at Approaches Across OECD Countries," WORLD Policy Analysis Center, 2018, https://www.worldpolicycenter.org/sites/default/files/WORLD_Report_-_Parental_Leave_OECD_Country_Approaches_0.pdf; Ariel Marek Phil and Gaetano Basso (2019). "Did California Paid Family Leave Impact Infant Health?" *Journal of Policy Analysis and Management* 38(1): 155-180. Maya Rossin (2011). "The Effects of Maternity Leave on Children's Birth and Infant Health Outcomes in the United States," *Journal of Health Economics* 30(2): 221-239. Christopher J. Ruhm (2000). "Parental Leave and Child Health." *Journal of Health Economics* 19(6): 931-960.

⁵⁰ Maria Carmen Huerta, William Adema, Janeen Baxter, Wen-Jui Han, Metta Lausten, RaeHyuck Lee, and Jane Waldfogel (2014). "Fathers' Leave and Fathers' Involvement: Evidence from Four OECD Countries." *European Journal of Social Security* 16(4):308-347. Lenna Nepomnyaschy and Jane Waldfogel (2007). "Paternity Leave and Fathers' Involvement with Their Young Children: Evidence from the ECLS-B." *Community, Work, and Family* 10(4): 425-451. Sakiko Tanaka and Jane Waldfogel (2007). "Effects of Parental Leave and Working Hours on Fathers' Involvement with Their Babies: Evidence from the UK Millennium Cohort Study." *Community, Work, and Family* 10(4): 407-424.

percent.⁵¹ Despite these benefits, a quarter of U.S. mothers return to work within less than 2 weeks of giving birth.

Paid family and medical leave programs help. Research from the U.S. Department of Health and Human Services finds that California's paid family leave program has given low-income parents the time they need to find "affordable and trustworthy child care arrangements, or to gain a subsidized child care slot," which are critical work supports for low-income families.⁵²

Furthermore, paid family and medical leave also helps workers with their own illness and disability. Survey data finds, for example, that paid medical leave allows cancer patients to access, afford and follow-through with needed treatment and manage side effects.⁵³

- c. Paid family and medical leave programs are endorsed by employers, who may see benefits such as reduced turnover.

Employers have adapted well to state paid leave programs. The vast majority of California employers reported a positive or neutral effect on employee productivity, profitability and performance.⁵⁴ The California Society for Human Resource Management, a group of human resources professionals that initially opposed California's paid family leave law, declared that the law is less onerous than expected, and few businesses in their research reported challenges resulting from workers taking leave.⁵⁵ In New Jersey, the majority of both small and large businesses say they have adjusted easily.⁵⁶ Just one year after implementation of New York's paid family leave program, 93 percent of employers were in compliance with the new law.⁵⁷ Employer surveys in California, New Jersey, and Rhode Island found that two-thirds of employers were supportive of the laws; another 15-20 percent were neutral.⁵⁸

⁵¹ Heymann, J. (2001, October 15). *The Widening Gap: Why America's Working Families Are in Jeopardy—and What Can Be Done About It*. New York, NY: Basic Books.

⁵² Pamela Winston, Ariel Pihl, Lincoln Groves, Colin Campbell, Elizabeth Coombs, and Sharon Wolf, "Exploring the Relationship Between Paid Family Leave and the Well-being of Low-Income Families: Lessons from California," U.S. Department of Health and Human Services, 2017, <https://aspe.hhs.gov/pdf-report/exploring-relationship-between-paid-family-leave-and-well-being-low-income-families-lessons-california>.

⁵³ "At A Glance: The Case for Paid Medical Leave," A Better Balance, 2019, <https://www.abetterbalance.org/wp-content/uploads/2019/02/ABB-Medical-Leave-Talking-Pts-Factsheet-2.28.19.pdf>.

⁵⁴ Appelbaum, E., & Milkman, R. (2013). *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy*. Ithaca, NY: Cornell University Press; Bartel, A., Baum, C., Rossin-Slater, M., Ruhm, C., & Waldfogel, J. (2014, June 23). *California's Paid Family Leave Law: Lessons from the First Decade*. Retrieved 20 August 2019, from U.S. Department of Labor website: <http://www.dol.gov/asp/evaluation/reports/PaidLeaveDeliverable.pdf>

⁵⁵ Redmond, J., & Fkiaras, E. (2010, January). *California's Paid Family Leave Act Is Less Onerous Than Predicted*. Society for Human Resources Management Publication. Retrieved 27 August 2020, from https://www.sheppardmullin.com/media/article/809_CA%20Paid%20Family%20Leave%20Act%20Is%20Less%20Onerous%20Than%20Predicted.pdf

⁵⁶ Ramirez, M. (2012). *The Impact of Paid Family Leave on New Jersey Businesses*. New Jersey Business and Industry Association and Bloustein School of Planning and Public Policy at Rutgers, The State University of New Jersey Presentation. Retrieved 27 August 2020, from <https://bloustein.rutgers.edu/wp-content/uploads/2012/03/Ramirez.pdf>

⁵⁷ Office of Governor Andrew C. Cuomo. (2019, August 13). *New York State Paid Family Leave: 2018 Year in Review*. Retrieved 27 August 2020, from

https://www.governor.ny.gov/sites/governor.ny.gov/files/atoms/files/PFL_EOYReport_2018_FINAL.pdf

⁵⁸ Ann P. Bartel, Maya Rossin-Slater, Christopher J. Ruhm, and Jane Waldfogel, "Employer Attitudes to Paid Family Leave," Stanford University, 2017, https://web.stanford.edu/~mrossin/Bartel_et_al_EmployerAttitudesReport_Aug2017.pdf; Eileen Appelbaum and Ruth Milkman, "Leaves That Pay: Employer and Worker Experiences with Paid Family Leave in California," Center for Economic and Policy Research, 2011, <http://cepr.net/documents/publications/paid-family-leave-1-2011.pdf>; National Partnership for Women and Families, "Paid Family and Medical Leave: Good for Business," 2018, <http://www.nationalpartnership.org/our-work/resources/workplace/paid-leave/paid-leave-good-for-business.pdf>; Sharon

Additionally, state paid leave programs provide a model that works for small businesses. The majority of small business owners support the creation of family and medical leave insurance programs at the state and federal levels, as these programs make the benefit affordable, reduce business costs, increase their competitiveness and can allow small business owners themselves to take paid leave when the need arises.⁵⁹ In California, although most employers of all sizes report positive or neutral outcomes associated with paid leave, small businesses reported more positive or neutral outcomes than large businesses in profitability, productivity, retention and employee morale.⁶⁰ A New Jersey survey found that, regardless of size, New Jersey businesses say they have had little trouble adjusting to the state's law.⁶¹

Finally, paid leave boosts employee morale and reduces costly turnover. In California, virtually all employers (99 percent) report that the state's program had positive or neutral effects on employee morale and 87 percent say that the state program had not increased costs. Sixty percent report coordinating their benefits with the state's paid family leave insurance system – which likely results in ongoing cost savings.⁶² Firm-level analysis of employers in California before and after paid family leave was implemented confirmed that for the average firm, wage costs had not increased and turnover rates had decreased.⁶³

Workers in lower quality jobs who used the state paid leave program reported returning to work nearly 10 percent more than workers who did not use the program.⁶⁴ Women who take a paid leave are 93 percent more likely to be in the workforce nine to 12 months after giving birth than women who take no leave.⁶⁵ In multiple studies, New Jersey employers have noted that the state's paid leave program is beneficial for employees and manageable for employers.⁶⁶

Lerner and Eileen Appelbaum, "Business As Usual: New Jersey Employers' Experiences with Family Leave Insurance," Center for Economic and Policy Research, 2014, <http://cepr.net/documents/nj-fli-2014-06.pdf>.

⁵⁹ Rouzer, S. (2017, February 7). *New Report: Small Business Owners Support Paid Family Leave, FAMILY Act*. Retrieved 27 August 2020, from Main Street Alliance website:

http://www.mainstreetalliance.org/small_business_owners_support_family_act; Small Business Majority & Center for American Progress. (2017, March 30). *Small Businesses Support Paid Family Leave Programs*. Retrieved 27 August 2020, from <http://www.smallbusinessmajority.org/our-research/workforce/small-businesses-support-paid-family-leave-programs>;

Mason, J. (2019, August). *Meeting the Promise of Paid Leave: Best Practices in State Paid Leave Implementation*. Retrieved 27 August 2020, from <http://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/meeting-the-promise-of-paid-leave.pdf>

⁶⁰ Appelbaum, E., & Milkman, R. (2013). *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy*. Ithaca, NY: Cornell University Press

⁶¹ Ramirez, M. (2012). *The Impact of Paid Family Leave on New Jersey Businesses*. New Jersey Business and Industry Association and Bloustein School of Planning and Public Policy at Rutgers, The State University of New Jersey Presentation. Retrieved 20 August 2019, from <http://bloustein.rutgers.edu/wpcontent/uploads/2012/03/Ramirez.pdf>

⁶² Appelbaum, E., & Milkman, R. (2013). *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy*. Ithaca, NY: Cornell University Press

⁶³ Bedard, K., & Rossin-Slater, M. (2016, October 13). *The Economic and Social Impacts of Paid Family Leave in California: Report for the California Employment Development Department*. Retrieved 27 August 2020, from https://www.edd.ca.gov/disability/pdf/PFL_Economic_and_Social_Impact_Study.pdf

⁶⁴ Appelbaum, E., & Milkman, R. (2013). *Unfinished Business: Paid Family Leave in California and the Future of U.S. Work-Family Policy*. Ithaca, NY: Cornell University Press

⁶⁵ Houser, L., & Vartanian, T. P. (2012, January). *Pay Matters: The Positive Economic Impacts of Paid Family Leave for Families, Businesses and the Public*. Center for Women and Work at Rutgers The State University of New Jersey Publication. Retrieved 27 August 2020, from <https://www.nationalpartnership.org/our-work/resources/economic-justice/other/pay-matters.pdf>

⁶⁶ Lerner, S., & Appelbaum, E. (2014, June). *Business As Usual: New Jersey Employers' Experiences with Family Leave Insurance*. Retrieved 27 August 2020, from Center for Economic and Policy Research website: <http://www.cepr.net/documents/nj-fli-2014-06.pdf>; Mason, J. (2019, August). *Meeting the Promise of Paid Leave: Best Practices in State Paid Leave Implementation*. Retrieved 27 August 2020, from <http://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/meeting-the-promise-of-paid-leave.pdf>

IV. **Conclusion: The Urgent Need for a National Paid Family and Medical Leave Program**

Roughly 95 percent of the private sector’s lowest-wage workers have zero access to paid family leave.⁶⁷ Most of these workers cannot afford to take unpaid time off to care for a seriously ill loved one. A national paid family and medical leave program will provide a critical, portable, work-based benefit for all workers, including those who are self-employed. As the economy and nature of work change, a national paid family and medical leave program is likely to be the only option available to many workers, especially low wage workers, needing time to care.

Workers are not earning enough to support or save for caregiving needs on their own. The erosion of job quality and expansion of low-wage jobs has contributed to stubbornly high poverty rates, particularly for families with children. As of 2018, nearly 38 million people were living in poverty in this country. Children under the age of 5 had the highest poverty rates (17.7 percent)—during a crucial and foundational developmental time period.⁶⁸ Two-thirds of children living in poverty live with at least one worker, so the issue for these families is not the absence of work but parents struggling to support a family in low-wage work that offers too little stability and too few hours. The COVID pandemic had made these conditions worse as more families have lost wages and livelihoods in addition to dealing with increased caregiving needs.

Paid family and medical leave is one of a crucial cluster of policies that, taken together, can have an important effect on child poverty. It can do so by supporting steady work and success on the job for young workers and others seeking to move up and by protecting families who have achieved stable incomes from being destabilized by a birth or family member’s illness.

Reaching all workers in the United States demands national action. While state paid family and medical leave initiatives have been enormously important in covering workers and modeling successful approaches, a state-only strategy leaves out workers, families, and communities who need help the most. Paid family and medical leave works, but we cannot achieve the health, developmental, and poverty reduction benefits of paid family and medical leave without a national program and standard.

Together with affordable quality child care and universal health care, paid family and medical leave allows individuals to stay employed steadily over the course of a career while also caring for loved ones and providing for their own health. We cannot afford as a nation to delay these solutions.

We appreciate the opportunity to submit this comment.

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⁶⁷ U.S. Bureau of Labor Statistics, National Compensation Survey, “Table 31. Leave benefits: Access, private industry workers, March 2019,” <https://www.bls.gov/ncs/ebs/benefits/2019/ownership/private/table31a.pdf>

⁶⁸ “Children and Families in Trouble: Census Data Show Declining Health Coverage and Enduring Poverty,” CLASP, 2019, <https://www.clasp.org/publications/report/brief/children-and-families-trouble-census-data-show-declining-health-coverage>