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# TRANSITION BRIEFING & RECOMMENDATIONS

**Recommendations for Providing Long-Overdue  
Paid Leave to All Workers and Their Families**

**PRONITA GUPTA,**  
DIRECTOR OF JOB QUALITY  
[pgupta@clasp.org](mailto:pgupta@clasp.org)

**CLASP**  
The Center for Law and Social Policy

## Why Paid Leave is Both Urgent and Fundamental

Almost all working people will experience a caregiving need at some point in their lives, whether to welcome a new child, care for a seriously ill loved one, or to treat their own serious illness. However, only 20 percent of private-industry employees have access to paid family leave through their employers, and the numbers are worse for workers in jobs paying low wages. Approximately 95 percent of low-wage workers<sup>1</sup> have zero access to paid family leave, and the majority of these workers are women, people of color, and immigrant workers. Most of these workers cannot afford to take unpaid time off to heal, bond with a new child, or care for a seriously ill loved one.<sup>2</sup> These disparities in access have been further exacerbated by the COVID-19 pandemic. With more than 7 million people infected with coronavirus in the United States<sup>3</sup> and many more people dealing with mental health challenges worsened by the pandemic,<sup>4</sup> communities of color are bearing the brunt of the virus. People of color face much higher rates of infection and death from the virus compared to their share of the nation's population.<sup>5</sup> Black workers are also more likely to be “essential workers” at risk of contracting COVID.<sup>6</sup>

Without a strong paid leave system to help prevent the spread of contagion, workers and families suffer, more people fall seriously ill and die, and the economy is unable to recover rapidly. This is especially critical as significant numbers of women leave the labor force due to caregiving challenges. As of September 2020, approximately 865,000 women had left the labor force, including 324,000 Latinx women and 58,000 Black women.<sup>7</sup> This can seriously harm the economic wellbeing of families, especially since 41 percent of women are now co-breadwinners or sole breadwinners in their families. In particular, Black women who are sole or primary breadwinners in 68 percent of their families.<sup>8</sup> Along

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<sup>1</sup> Workers in the bottom quarter of wage earners.

<sup>2</sup> Pamela Joshi, Maura Baldiga, Rebecca Huber, *Unequal Access to FMLA Leave Persists*, the [Institute for Child, Youth and Family Policy](https://www.instituteofchildyouthandfamily.org/) at the Heller School for Social Policy and Management at Brandeis University, January 2020, <http://www.diversitydatakids.org/research-library/data-visualization/unequal-access-fmla-leave-persists>.

<sup>3</sup> *Covid in the U.S.: Latest Map and Case Count*, the New York Times, November 2020, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>.

<sup>4</sup> Czeisler MÉ, Lane RI, Petrosky E, et al. *Mental Health, Substance Use, and Suicidal Ideation During the COVID-19 Pandemic — United States, June 24–30, 2020*. MMWR Morb Mortal Wkly Rep 2020;69:1049–1057. DOI: [http://dx.doi.org/10.15585/mmwr.mm6932a1external icon](http://dx.doi.org/10.15585/mmwr.mm6932a1externalicon).

<sup>5</sup> Daniel Wood, As Pandemic Deaths Add Up, Racial Disparities Persist—And in Some Cases Worsen, National Public Radio, September 2020, <https://www.npr.org/sections/health-shots/2020/09/23/914427907/as-pandemic-deaths-add-up-racial-disparities-persist-and-in-some-cases-worsen>.

<sup>6</sup> Elise Gould and Valerie Wilson, “Black workers face two of the most lethal preexisting conditions for coronavirus—racism and economic inequality,” EPI, 2020, <https://www.epi.org/publication/black-workers-covid/>.

<sup>7</sup> Claire Ewing-Nelson, Four Times More Women Than Men Dropped Out of the Labor Force in September, National Women's Law Center, October 2020, <https://nwlc.org/wp-content/uploads/2020/10/september-jobs-fs1.pdf>

<sup>8</sup> Sarah-Jane Glynn, *Breadwinning Mothers Continue to be the U.S. Norm*, Center for American Progress, May 2019, <https://www.americanprogress.org/issues/women/reports/2019/05/10/469739/breadwinning-mothers-continue-u-s-norm/>.



with harming the economic security of individual families, the U.S. economy as a whole stands to lose billions in activity per year as more women leave the labor force.<sup>9</sup>

**This is why we need a permanent, national, comprehensive and inclusive paid family and medical leave program.** Paid Family and Medical Leave (PFML) is a critical work support. It helps keep workers attached to the labor force.<sup>10</sup> When workers have access to and can afford to take paid family and medical leave, they are able to succeed at work and sustain their family's economic security.

## Presidential Action

The President can lead on leave by:

- Calling on Congress to take immediate action on short-term comprehensive and inclusive paid leave during this pandemic and establishing a long-term paid family and medical leave program; and
- Using the bully pulpit of the White House by issuing a Presidential Memorandum directing a series of important actions in the first 100 days and onward to prioritize paid leave.

These actions can be taken simultaneously and should include:

- 1) **Meeting the immediate needs of the COVID health and economic crises;**
- 2) **Championing the need for a permanent national comprehensive and inclusive PFML program through a series of executive actions; and**
- 3) **Building the capacity of the federal government to administer a new paid family and medical leave law.**

Together, these steps will also serve as a signal to Congress to pass a national paid family and medical leave law that gives every worker up to 12 weeks of job-protected paid leave to bond with a new child, care for a seriously ill loved one, or treat their own serious illness, including serious mental health conditions.

### 1. Meeting the immediate needs due to the COVID health and economic crisis:

#### Day 1:

- **The President must urge Congress to extend the Families First Coronavirus Response Act (FFCRA) beyond its current expiration date of December 31, 2020, expand its coverage to ensure more workers are eligible for the program, and then require Department of Labor (DOL) to fully implement and enforce these provisions.** This should include engaging in a robust outreach and education campaign so that the

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<sup>9</sup>The Cost of Doing Nothing: The Price We Pay Without Paid Leave Policies to Support America's 21<sup>st</sup> Century Working Families, U.S. Department of Labor, September 2015, [https://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?referer=https://r.search.yahoo.com/\\_ylt=AwrCwOLp105fPS4ARwEPxQt.;\\_ylu=X3oDMTBByOHZyb21tBGNvbG8DYmYxBHBvcwMxBHZAaWQDBHNIYwNzcg-/RV=2/RE=1599031401/RO=10/RU=http%3a%2f%2fdigitalcommons.ilr.cornell.edu%2fviewcontent.cgi%3farticle%3d2609%26context%3dkey\\_workplace/RK=2/RS=Dzym6FCypqvKxFPb3dY0ygv1xAg-&httpsredir=1&article=2609&context=key\\_workplace](https://digitalcommons.ilr.cornell.edu/cgi/viewcontent.cgi?referer=https://r.search.yahoo.com/_ylt=AwrCwOLp105fPS4ARwEPxQt.;_ylu=X3oDMTBByOHZyb21tBGNvbG8DYmYxBHBvcwMxBHZAaWQDBHNIYwNzcg-/RV=2/RE=1599031401/RO=10/RU=http%3a%2f%2fdigitalcommons.ilr.cornell.edu%2fviewcontent.cgi%3farticle%3d2609%26context%3dkey_workplace/RK=2/RS=Dzym6FCypqvKxFPb3dY0ygv1xAg-&httpsredir=1&article=2609&context=key_workplace).

<sup>10</sup> 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/>.

public is aware of this critical program during this pandemic. With the pandemic still raging, people must be able to access the emergency paid sick and paid leave provisions in FFCRA. However, millions of workers, especially those earning low wages, are unaware of their rights to these emergency benefits, or were excluded from accessing them by DOL.<sup>11</sup>

- **Direct DOL's Wage and Hour Division (WHD) to draft new regulations**, if FFCRA is extended and the regulations vacated. This will ensure all eligible workers can access the program.
- **Direct DOL to create an "enforcement strike force" to review current enforcement efforts by the DOL enforcement agencies:**
  - rescind bad/harmful regulations and sub-regulatory guidance; and
  - ensure these agencies are using all the tools and policies at their disposal, including robust outreach and education, to fully enforce the labor laws, including FFCRA.

This will signal to the public the Administration's commitment to rigorous enforcement of labor laws/labor standards to protect the health, safety and wellbeing of workers, especially low-wage workers, women, workers of color and immigrant workers.

- **Direct OPM to permit federal agency leave banks to allow use of paid leave for COVID-related child care needs** when schools and places of care are still closed or only available remotely. This will help millions of federal workers.

#### **First 60 Days:**

- **Direct senior White House staff and DOL staff to hold a series of virtual listening sessions** with unions, worker centers, and state and national advocates to hear first-hand accounts of the strengths and limitations of FFCRA's emergency paid sick days and paid leave provisions. This will help identify potential solutions to include in future recovery/stimulus legislation.

## **2. Championing the need for a national comprehensive and inclusive PFML program**

#### **First 60 Days:**

- **Underscore the need for a permanent, comprehensive and inclusive national paid family and medical leave policy** during an early presidential address to Congress.
- **Direct OPM to engage in robust outreach and education to federal employees** so they are aware of their rights to paid parental leave under the new Federal Employee Paid Leave Act (FEPLA) that went into effect in October 2020. This will highlight the federal government as a model employer.

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<sup>11</sup> Miller, Claire Cain and Jim Tankersley, *Paid Leave Law Tries to Help Millions in Crisis. Many Haven't Heard of It*, The New York Times, May 2020, <https://www.nytimes.com/2020/05/08/upshot/virus-paid-leave-pandemic.html>.

#### At First State of the Union:

- **Announce that the Biden-Harris Administration will hold a new “Working Families Summit” with the President and First Lady, and the Secretaries of Labor and Health and Human Services (HHS).**
  - It can be modeled on the success of the June 2014 [Summit on Working Families](#) under the Obama Administration.
  - The Administration can convene working parents, advocates, business leaders, labor leaders, economists and researchers, and the media to engage in discussions about the challenges, successes, and innovations in meeting 21st century caregiving needs that have been exacerbated by the pandemic.
  - A “Working Families Summit” will allow the Administration to set a new agenda focused on rebuilding the economy centered on strengthening the caregiving infrastructure, including paid leave and child care.

### **3. Building the capacity of the federal government to administer a new paid family and medical leave law**

#### Day 1:

- **Establish a federal interagency Task Force on Paid Family and Medical Leave.**
  - Bring together key agencies—DOL, HHS, SSA, EEOC, and Treasury—within the federal government
  - Charge the Task Force with developing an implementation framework by addressing critical questions about the design and structure (including the location, financing, implementation, and enforcement) of a new comprehensive and inclusive PFML program.

This action will signal to Congress that the Administration is up for the task of implementing a new national, comprehensive and inclusive PFML program.

The Paid Family and Medical Leave Task Force will:

- **Invite state advocates and state paid leave agencies to a listening session** to learn about how a new national PFML program can center its program on equity.
  - Examples and lessons from 10 states, including the District of Columbia, that have their own PFML laws and can be a “roadmap” for a national program.
  - Identify and remove potential policy and design barriers that would prevent workers from accessing the program, especially those workers (low-wage, women, immigrant and workers of color) who have traditionally been denied access or unable to access employer-provided or state-provided PFML.
- **Evaluate existing research on PFML programs and identify gaps in information and data about effective federal implementation;** develop a plan to commission new research to fill these knowledge and data gaps.

- **Examine the interagency coordination necessary to implement a national PFML program**, including necessary investments needed to maximize the effectiveness of a future program.
- **Publish findings, recommendations and an action plan** in the Federal Register and unveil them at a national convening on paid family and medical leave.
- **Develop an interagency action plan** within 90 days of this charge.

The findings and action plan developed by these agencies can inform the legislative process as the FAMILY Act and other paid leave legislation are debated in Congress. The work of the task force can also improve and build support for this legislation as it works its way through Congress—and can help ensure relatively smooth implementation upon enactment.

- **Require that one of the political appointees in the Social Security Administration (SSA) be focused on paid family and medical leave** and serve as a liaison from the SSA to a federal interagency task force on PFML.

#### **First 60 Days:**

- **Include significant funding in both the “skinny” budget for FY 2021 and the first full budget for FY 2022 for U.S. DOL to strengthen its enforcement capacity.** This enforcement capacity will be critical not only for existing labor laws but also for a future PFML law.