

# Paid Family and Medical Leave: The Foundation for Nationwide Access is There

Expanding paid family and medical leave benefits to all Americans is crucial for workforce development, strong families, and fairness in the modern economy. Life insurers, along with private employers, are ready to help.

## Overview

For the past several years, the prospects for a national paid family and medical leave program have been intensely debated. Proponents point out that the United States is the only wealthy nation without a national program. Opponents insist that a national program is a nonstarter due to its massive cost.

What many on both sides of the issue are overlooking is that the foundation for a national paid leave policy has already been laid.

Disability income insurance replaces a portion of earnings if an insured employee is unable to work due to accident, illness or childbirth. Coverage can be from a group policy, usually provided by an employer, or from an individual disability policy. Some larger employers also deliver these benefits by self-funding them, usually with administrative help from the disability income insurers that have built systems that pay claims quickly and help employers manage the various types of leave offered to their employees.

More than 47% of full-time civilian workers receive paid medical leave benefits through the private sector in the form of disability income insurance or administrative services. Nearly 62 million Americans benefit from employer-based paid leave. In 2021, life insurers and employers paid American workers approximately \$9.5 billion in benefits after the birth of a child or as they recovered from other conditions that kept them from working.

Private insurers have the expertise and experience to cover the paid family and medical leave needs of American workers through employer-based plans. However, more must be done to increase access to these benefits and make them more widely available.

Paid family leave replaces a portion of earnings if an employee needs time away from work to care for a family member that has a serious illness, injury, or to welcome a new child into the home. These benefits are becoming more popular as several states now require that employers offer these benefits along with paid medical leave benefits to their employees.

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A public-private partnership can build on this proficiency, allowing our nation to reach more workers with coverage swiftly and cost-effectively.

This paper explains the paid leave options that are currently available now, explores strengths of those benefits and where they are being used successfully, and offers four ways to expand coverage to make the benefits available to more people.

As the nation debates the path to paid family and medical leave for all, life insurers are a critical partner in making it happen. We can build from a highly successful and high-functioning private sector paid leave infrastructure to expand access to paid leave protections more broadly.

# Paid Family and Medical Leave – A Look at What’s Available Now

When many Americans think of family and medical leave in the United States, they often think of the Family Medical Leave Act (FMLA). As such, employers and employees have become accustomed to the basic FMLA standards. FMLA was designed to provide 12 weeks of unpaid, job-protected leave for certain employees who need to take time from work for family and medical reasons. It applies to public employees and companies with over 50 employees.

However, over the years, citizens, policymakers, government leaders and others have come to believe job-protected leave is not enough. People need income replacement in addition to job protection. Otherwise, many have not been able to afford to take advantage of FMLA.

Additionally, a growing number of employers have been looking for additional ways to support employees who need to take time from work. These types of leave typically fall under these categories:

- **parental leave**, to bond with a newborn child or newly-placed adopted or foster child
- **family leave**, to care for a close family member suffering from a serious illness or injury
- **medical leave**, to recover from serious injury, illness, or childbirth

Generally, day-to-day leave regarding minor illness, temporary childcare coverage, or medical appointments are not considered family and medical leave, but rather “sick leave” that is usually paid as part of a person’s regular salary.

Federal law does not require employers to provide paid family and medical leave, although many choose to do so. In fact, 47% of full-time and 16% of part-time civilian workers (62 million workers) in the United States are covered by some kind of paid *medical* leave (paid via employer), which is provided and/or administered by insurance carriers. Additionally, 27% of full-time and 11% of part-time workers (34 million workers) are provided paid *family* leave benefits. Those numbers will continue to grow as federal and state policies encourage and support employers to offer these benefits.

The product insurance carriers use to provide paid medical leave benefits is called short-term disability income insurance (STD). The carriers pay cash benefits – usually a percentage of income – to the employees when they are unable to work. The carriers also perform a substantial amount of work in administering the leave.

### Typical Private Sector Short-Term Disability Insurance Benefits

- ☑ 22- 26 weeks of paid leave
- ☑ Assistance in transitioning to different types of leave (e.g., maternity to bonding)
- ☑ 60 – 70% of wages replaced
- ☑ Trained medical and vocational experts to assess and assure appropriate leave duration and resources
- ☑ Return to work programs (e.g., special accommodations, workspace modifications)
- ☑ Facilitation of communication with employer and HR department

For employees who have access to this kind of leave, the benefit is working quite well. In 2021, life insurers and employers paid American workers approximately \$9.5 billion in benefits after the birth of a child and as they recovered from other conditions that kept them from working.

Yet, there are still significant coverage gaps. Regulations prohibit short-term disability income insurance from being used for anything other than one’s own medical leave (which includes the birth of a child). Options for independent and gig workers are limited, because the products are often offered as group insurance through an employer. Currently, there are few supports or incentives for small employers to offer STD benefits. Paid medical leave in the form of disability income insurance has been a popular employer benefit offering for decades. Paid family leave benefits are a newer concept. These benefits are becoming more popular as several states now require employers to offer comprehensive paid family and medical leave benefits. Many private insurers that offer and administer paid medical leave disability income insurance in those mandate states have now added paid family leave benefits to their products to assure that employers and their works have a private option to meet their needs.

# The Paid Leave Triangle

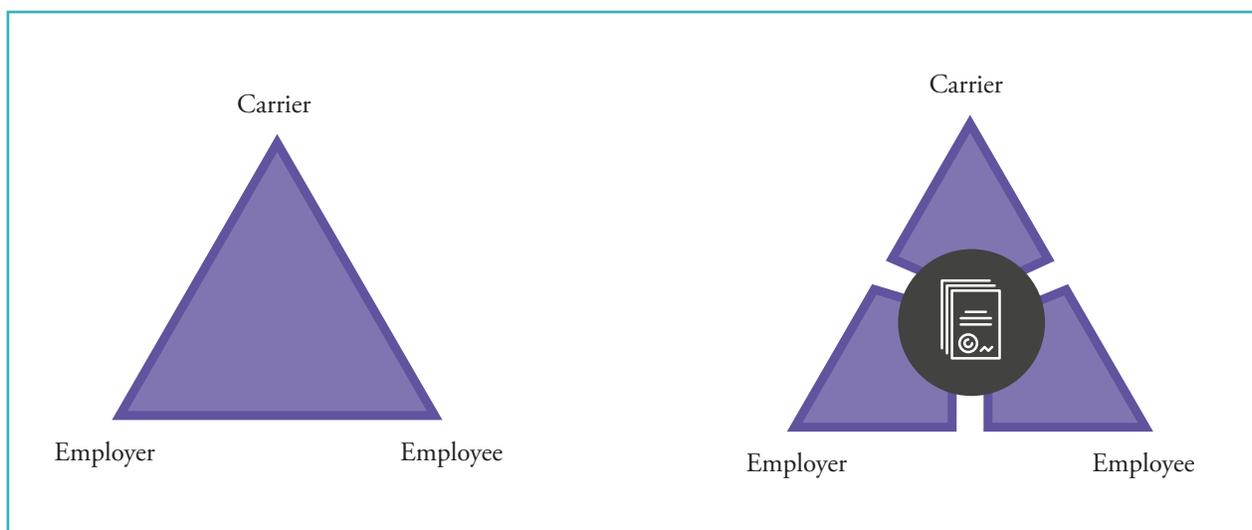
Some proposals have suggested that paid leave should be given and administered through a national, government-run program. However, the cost of such a program would be extremely high and burdensome due in large part to the administrative tasks associated with family and medical leave.

Private carriers that offer short-term disability income and paid family leave (PFL) benefits and services do a significant amount of claims administration, compliance, and employer/employee support work surrounding paid and unpaid leave. Private carriers help employers determine eligibility for these types of leave, track absences and ensure employers comply with a wide range of federal, state and local leave laws. Within a single claim, carriers routinely evaluate employees' needs and coordinate all benefits available to them under specific programs and policies.

This includes guidance and coordination to make sure workers take advantage of everything available to them; meeting the needs of unique leave such as military leave, crime victims leave, organ donation leave, school conference/activities leave, and pandemic-related vaccine and school closure leave; facilitating vocational and accommodation services needs and return-to-work accommodations that might be needed if the worker has ongoing limitations; and helping with resources when one is on leave acting as a caregiver.

When the carrier administers paid leave, they become the single point of contact for employees and employers. This provides a strong triangle of support for the employee to assure that their entire leave experience is a good one.

Some proposals for a government-run national paid leave program would place the administrative burden on the Social Security Administration, an agency already overwhelmed with claims related to long-term disability. In fact, in states that have mandated paid leave without private insurance, employees are on their own to apply for and coordinate state-mandated benefits with other available federal leave benefits, or to move from short-term to other types of leave if necessary, and employers receive little to no assistance in managing the complex needs that arise from each leave instance.



# Learning State by State

Americans prefer building on the existing system, rather than starting from scratch. Indeed, 75% of Americans support a partnership between the government and private plans that provides paid leave for employees of small businesses and self-employed workers.

Private insurers have assisted states in the administration of paid family leave for decades. The expertise has resulted in timely claims payments and valuable services to both employers and employees.

*75% of Americans support a partnership between the government and private plans*

**We can look to states across the country for an example in paid family and medical leave implementation models.**

## Government Run vs. Public-Private Partnership

Several states have successfully implemented programs that allow private insurance as an alternative or use private entities to administer and deliver benefits. In contrast, states like Washington have had little private sector involvement and have had difficult roll outs with beneficiary issues and complaints.

Furthermore, if employers are required to offer state-mandated medical leave benefits as a part of the PFML program, they may choose to discontinue existing or perhaps more robust, STDI coverage provided by the private market, creating a coverage gap and increasing pressure on state-run systems.

Some states, like Maryland, [Delaware](#) and [Virginia](#), have recently passed legislation that recognized the importance of the existing private market system in any paid leave policy initiatives.

### Case Studies in Implementation

Case studies of three states provide an example of what works.

#### New York



- 95% of employers use private insurance with only 5% using the State Insurance Fund.
- Successful expansion of their existing statutory Disability Income program (paid medical leave) to include paid family leave benefits with 27 insurance carriers providing benefits to 8.5 million constituents, including 2.2 million not covered by FMLA.
- Benefit expansion was rolled out smoothly because it built upon the existing competitive private carrier model and lets the carriers do all administration.
- Claims were processed and paid within 14 days of receiving all information.
- Employers and the state received timely reports so employers knew how to provide job protections and maintain healthcare coverages.

#### Massachusetts



- Built a paid family and medical leave government program while allowing a robust private option to work alongside it.
- Over 20 insurers offer PFML products and meet or exceed the benefits offered in the private sector.
- The insurance industry and the government worked together to assure that both private and public options were built to meet the needs of the workers and their employers.
- This cooperation allowed the public program to leverage private expertise for a smoother roll-out, but also help avoid being overwhelmed as the program got off the ground.

#### Connecticut



- Connecticut's PFML claims are administered by a private carrier, thus allowing the state to avoid the expense of building, staffing, and maintaining a new claims and customer service system.
- This partnership enabled a smoother benefits roll-out than in other states that built a completely new infrastructure since claims were managed by a vendor with years of experience making timely benefit payments.
- In the first four months of its implementation, 19,700 claims and \$81 million in benefits had been paid out and the system continues to work well.
- The Connecticut program also allows a private option for employers and their employees that choose to maintain their existing paid leave coverage or opt to receive benefits from private carriers.

Experience has shown that PFML systems that include or are built in cooperation with well-established private carriers and administrators will lead to a more successful PFML implementation and faster benefits to people who need it, when they need it the most.

As more states consider their own paid leave programs, they should keep the existing paid leave infrastructure in mind and build upon what is already working well. And as federal lawmakers consider a national program, they should know that America's life insurance companies stand ready to work with government and private employers to expand this crucial coverage.

### **Mandates vs Non-Mandates**

States wanting to offer paid family and medical leave benefits have generally approached the concept in two ways: through mandates and non-mandates.

In the mandate states, both paid family and medical leave is typically offered, because states either 1) built off an old mandate that offered paid medical leave through disability income insurance and then added family benefits, or 2) created a mandate for both paid medical and family leave.

In non-mandate states, paid medical leave is typically offered through disability income insurance and there is growing interest in adding paid family leave benefits.

It's important to understand these two approaches. While mandates instantly create benefits for all workers and create markets for PFML products, they are extremely expensive for government budgets and without proper supports can be highly disruptive, especially to smaller businesses with less manpower and financial resources.

For those policymakers that don't support mandatory PFML coverage, there are other ideas that can be explored to encourage employers to offer benefits and to support them as they make these benefits available to their employees. This, in turn, creates new market demand for innovative PFML products that insurance companies are ready and willing to meet.

# Three Ways to Expand Coverage

Delivering paid leave for all doesn't require starting from scratch. Working with employers, private insurers have the tools and experience to cover more workers and families through employer-based plans. The government can set guidelines, provide employer incentives, and support workers who don't have access through their jobs. A public-private partnership is the quickest, most cost-effective way to extend that security to all workers.

## Here's how it can work.

<p><b>Give employers not currently offering paid leave benefits the supports and incentives they need to offer paid leave benefits to employees.</b></p> <ul style="list-style-type: none"> <li>• Making enhancements to the Fischer Tax Credit will make PFML available to more employers, especially smaller employers that don't have the means to self-insure to provide these benefits.</li> <li>• Allow credits to be taken against premiums paid, making it more likely that smaller employers will offer PFML benefits.</li> <li>• Get creative about how to solve practical problems employers face when offering robust paid leave:             <ul style="list-style-type: none"> <li>• Financial supports (tax credits, subsidies)</li> </ul> </li> <li>• Match state and local jobs training programs with employers needing to fill seats during absences</li> <li>• Encourage coordination and administrative simplification initiatives between state and local PFML programs to ease administrative burden on employers</li> </ul>	<p><b>Expand access to benefits more broadly.</b></p> <ul style="list-style-type: none"> <li>• Extend income protection to those working for employers currently subject to the Family Medical Leave Act (FMLA) and consider special support and services to expand to smaller employers.</li> <li>• Match income protections to current job protection standards of the FMLA to assure ease for workers and their employers.</li> <li>• Match leave eligibility criteria to current job protection standards of the FMLA to assure ease for workers and their employers.</li> <li>• Use a sliding scale formula for income replacement to provide lower-income workers with higher benefit amounts.</li> <li>• Give low-income individuals participating in the partnership access to the same high quality private paid leave opportunities as other workers by giving them premium payment assistance.</li> <li>• Create public-private partnerships that make it easier for independent workers and self-employed individuals to access PFML benefits.</li> </ul>	<p><b>Recognize paid family leave benefits as a form of insurance</b></p> <ul style="list-style-type: none"> <li>• Pass model legislation in the states that allows insurance regulators to recognize family benefits as a form of insurance that can be offered alongside disability income or paid medical leave insurance.</li> <li>• Conform federal and state tax law to give paid family leave the same tax treatment as disability income/paid medical leave benefits</li> <li>• This will eliminate consumer confusion and ease the administrative burden on workers and employers</li> </ul>
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And this is just a start. There are many other considerations for building successful national paid leave policy, including exploring ways to support employers who will need to cover workloads when employees take temporary leave.

We know the impact of the \$9.5 billion in disability (medical leave) claims we deliver to workers. These benefits make it possible for them to take care of themselves and their loved ones, and provide the certainty of knowing their incomes, and jobs, are protected. We know the value we deliver to employers is our expertise in navigating complex regulations, and the ease and confidence we give their employees.

Making sure support is there when the unexpected happens is at the core of what life insurers do, and the life insurance industry stands ready to help.

## Read More

[The Foundation Starts with Disability Income Insurance](#)

[Close the Gap!](#)

[Paid Leave for All Takes All of Us](#)