Hawaii State Paid Family Leave Analysis Grant
Final Project Summary
November 2017

The Hawaii State Commission on the Status of Women (HSCSW), within the Hawaii State Department of Human Services, received a grant from the U.S. Department of Labor to conduct critical research to support the positive momentum of Paid Family Leave in Hawaii. HSCSW completed research in the following categories: 1) economic analysis, eligibility and benefit modeling conducted by the Institute for Women's Policy Research; 2) a feasibility study conducted by Sarah Jane Glynn, PhD; 3) a public poll conducted by Anthology Research; 4) focus groups of labor unions and employers, also conducted by Anthology Research, and 5) focus groups of mothers, fathers, and family caregivers, conducted by the Healthy Mothers, Healthy Babies Coalition of Hawaii. This document contains a brief summary of the research findings.

Paid Family Leave for Hawaii

The United States is the only highly industrialized country in the world that fails to provide its workers with paid family leave. This lack of access to paid leave has profound consequences for Hawaii's working families. In Hawaii, 7 in 10 children live in households where both parents work,[1] and over a quarter of children live in households headed by a single parent,[2] leaving no full-time caregiver at home. When a new child is born or a serious medical emergency arises, financially vulnerable parents are forced to choose between their livelihood and the wellbeing of their child.

Children are not the only family members who require care. In 2013, Americans sacrificed an estimated 37 billion hours of unpaid adult care, resulting in an economic loss of $470 billion.[3] The population of Hawaii is both older than that of the US as a whole, and is aging faster.[4]

<u>Existing Programs in Hawaii</u>

FMLA: The Family and Medical Leave Act (FMLA) provides employees with 12 weeks of unpaid leave. However, due to the nature of its eligibility requirements, only 56% of private sector workers are covered.[5] Although some individual companies may offer employees paid leave, this benefit is typically only available to high-wage employees. Paid leave is generally unavailable to the low-wage workers who truly have the greatest need for it.

HFLL: Hawaii has its own family leave law in place, which offers up to four weeks of job-protected leave. However, like FMLA, the Hawaii Family Leave Law only provides *unpaid* leave, and fails to cover around 40% of Hawaii's workforce.

TDI: Hawaii law also requires employers to offer partial wage replacement to employees recovering from illness or injury, including childbirth. However, TDI is not offered to caregivers or non-biological parents. Hawaii's TDI law does not guarantee job security.

<u>The Impact of PFL</u>

National research has shown that mothers with access to PFL are more likely to return to work after the birth of a child, and also more likely to return to the same or higher wages than they were earning before giving birth[6]. Women who take paid parental leave are 39% less likely to receive public assistance, and 40% less likely to receive food stamps than women who do not take paid leave and return to work. This trend is also present in men.[7]

Potential Program Structures

Employer-Mandated

Under an employer-mandated structure, individual businesses are solely responsible for funding workers' paid leave benefits. Although Hawaii's current temporary disability insurance program is employer-mandated, this structure is not recommended as a model for paid family leave.

In an ideal world, women and men would share caregiving duties and take leaves at equal rates. However, because women are currently more likely to take leave than men, an employer-mandated structure unintentionally discourages employers from hiring women[8]. Employer mandates also stand to negatively impact small businesses, which are more likely than large businesses to require replacement workers while others are out on leave.

Social Insurance

Under a social insurance system, workers pay premiums (usually through payroll taxes) into a dedicated insurance fund. Each individual pays premiums at a similar rate, regardless of their likelihood to file a claim, so as to equalize financial impact. Costs are often calculated as a percentage of earnings. Higher earning workers pay more into the system, but also receive a larger benefit as a percentage of their normal wages. By spreading both risks and resources across all workers, this system provides benefits at a low per-person cost.

Social Security and Medicare are examples of national social insurance programs. California, New Jersey, Washington State, and Rhode Island all have PFL programs that operate similarly to social insurance.

If employee contributions are required, it is important to ensure that low-wage workers are not disproportionately burdened. One option is to calculate deductions based on a sliding scale; another option is to have no cap on taxable wages.

Noncontributory

Under a noncontributory program, the government provides general funds to employers to pay workers on leave. There are no premiums or payroll contributions involved. This system of paid leave is not present in the US, and is relatively less common abroad than the social insurance model.

Program Components

Determining the validity of a leave application

Despite opponents' concerns about potential abuse of the system, fraud within current systems is quite low due to procedures in place to evaluate and verify claims.

In states with paid family leave, the medical documentation required for state-benefits is much more detailed than the documentation required for unpaid leave under the FMLA. To apply for leave under the FMLA, workers are not required to provide their detailed medical history or diagnoses. A government-run PFL program, however, can require workers to waive HIPAA and provide detailed medical information. In California, for example, medical providers must submit documentation directly to the state, and the duration of care is cross-checked against the Official Disability Guidelines (ODG).[9]

Eligibility

Designing a PFL program requires access to individual-level data about workers' work histories and/or earnings. The most efficient and cost-effective option is to make use of already existing state-held data. Hawaii does not currently collect data on employees' work hours, but the state unemployment insurance (UI) system does collect data on earnings. The State Directory of New Hires also collects data on earnings, and has sharing capacities with the UI system.

However, it is not recommended that eligibility be based on wage. Wage-based eligibility would make it more difficult for low-wage workers to qualify. For example, to meet Rhode Island's qualifying base period minimum of $11,520, a $9.25 minimum wage worker in Hawaii would have to work 1,246 hours, while a worker earning the Hawaiian median wage of $19.24 would only have to work 599 hours.[10]

It is recommended that eligibility for PFL in Hawaii be based on prior labor force attachment. One potential option is to require workers to demonstrate that they have had earnings during at least one quarter out of a base period, though without establishing a minimum earnings threshold.

Length of Leave

A worker is not automatically eligible for the maximum number weeks; the amount of paid time off offered to a worker is determined by their medical circumstances. The Academy of Gynecologists and Obstetricians recommends a minimum of 4-8 weeks of recovery time after a normal birth, and more time is required to establish bonding and breast-feeding. On average, workers under existing PFL programs do not choose to maximize the full length of leave. While new parents are more likely to utilize the maximum leave amount possible, family caregivers only take the amount of time that is medically necessary.

	California	District of Columbia	New Jersey	New York	Rhode Island	Washington
Max Leave Offered	Up to 6 weeks	Up to 8 weeks of parental leave & up to 6 weeks of family care-giving leave	Up to 6 weeks	Up to 8 weeks in 2018, 10 weeks in 2019, 12 weeks in 2021	Up to 4 weeks	Up to 12 weeks

Amount of pay

Benefits can be calculated differently depending on the time period used to set a worker's base wage. Rhode Island sets base wage as the highest quarter of earnings in the past year, while New Jersey uses the prior 8 weeks. Hawaii's current UI system determines eligibility based on earnings and employment in a base period of five quarters, and calculates wage replacement based on the highest quarter of earnings.

Determining by average wages over a long period of time would prevent workers with weak ties to the labor force from drawing disproportionately high cash benefits. This system ensures that the majority of workers are included in the program, while also ensuring that workers' benefits accurately reflect their contributions.

<u>Administration</u>

Processing payments

The vast majority of workers would receive their benefits via direct deposit. However, nearly one-fifth of Hawaii households are unbanked or under-banked,[11] so alternate options should also be made available. Claimants who are unable to receive direct deposits may receive preloaded Electronic Benefit Transfer (EBT) cards. Hawaii currently has a contract with J.P. Morgan Chase to provide EBT cards for TANF, SNAP, and other programs.[12] Paper checks are another option, though less cost-effective.

Reviewing and processing appeals

Applicants would require a way to request a hearing if they feel they have been wrongly denied benefits. The Hawaii UI system currently has a process in place to evaluate unemployment insurance claims, in which the Employment Security Appeals Referees' Office (ESARO) administers a hearing in-person or over the phone. If the claimant disputes the outcome of the hearing, they may file an appeal with the circuit court.[13] This system can be expanded to include PFL appeals.

Fraud Detection

The UI program takes the preventive measures of routinely checking IP addresses and cross-checking information against state held databases such as the Directory of New Hires. Hawaii's unique geographic location combined with the entirely online application makes IP address based fraud detection relatively easy. A PFL program would include similar methods of fraud detection. The program should also notify employers and medical providers when a worker receives benefits, and have them confirm that the worker is on leave.

The Role of Employers

It is not recommended that a PFL plan include employer opt-outs or the creation of voluntary plans. Doing so would create costly administrative overhead. California, which allows employers who offer voluntary plans to exempt their employees from state PFL, has created a Voluntary Plan Administration Section in the state employment department that must verify and approve each individual employer's voluntary plan.[14] A universal program is especially preferable in a small state such as Hawaii in order to help lower overall costs.

Education and Outreach

A public education program should include information for employers, employees, and medical providers to ensure program awareness. Many workers who most need the benefit may not become aware of its availability. Although California has had PFL for over a decade, a survey of California workers found that less than half of respondents were aware of the program, particularly workers of color and low-income workers.[15]

An effective education and outreach plan for PFL in Hawaii would include: public service announcements, working with Employee Assistance Programs, coordinating with foster home training programs, and regional trainings for medical providers, among other strategies.

Four Models for Paid Family Leave in Hawaii

A 12-week or 16-week paid family leave program in Hawaii may be structured to provide higher benefits to low-wage workers, or to provide benefits as a flat percentage of wage similarly to Temporary Disability Insurance (TDI).

Models 1 and 2 provide benefits similarly to TDI, offering 58% of weekly wages up to a weekly maximum of $594.

However, research suggests that this amount may not be sufficient for low-wage workers to support their families. A study of Rhode Island's PFL program, which offers 60%, found that 80 percent of respondents did not even use the program because they could not afford the loss of income. California now offers 70% while New Jersey offers 90% for low-wage workers.

Models 3 and 4 provide a higher percentage of weekly earnings to low-wage workers. Those who earn less than half of the average weekly wage receive 90% of their weekly earnings; those who earn 50 to 100 percent receive 75%; above average earners receive 50%; the weekly maximum is $1000.

	Model 1	Model 2	Model 3	Model 4

Structure	**12 weeks, benefits similar to TDI**	**16 weeks, benefits similar to TDI**	**12 weeks, benefits higher for low-wage workers**	**16 weeks, benefits higher for low-wage workers**
Annual cost for a full-time, minimum wage worker ($9.25/hr)	$12.82	$15.00	$20.69	$32.10
Annual cost for a full-time, $15/hr worker	$20.78	$24.32	$33.55	$51.81
Annual cost for a full-time, average wage worker ($48,184/year)	$32.10	$37.56	$51.81	$57.76
Administrative Cost	$1 million	$1.1 million	$1.5 million	$1.7 million
Total Cost	$18.3 million	$21.4 million	$29.5 million	$32.9 million
Average weekly benefit	$405	$407	$608	$608

Source: Estimates based on IWPR-ACM Family Medical Leave Simulation Model based on 2011-2015 American Community survey and 2012 FMLA Employees survey (U.S. Department of Labor 2012; U.S. Census Bureau 2015)

Note: Total Quarterly Census of Employment and Wages (QCEW) are based on BLS Databases for Private, State, and Local government workers; $48,148 average annual wage in 2016 QCEW.

Polling Results

Anthology Research conducted a quantitative study in the form of a statewide mixed-mode (online and telephone) survey. A total of 322 interviews were completed online and a total of 133 interviews were completed via telephone contacts. A total of 455 surveys were completed. The margin of error for a total sample of this size is +/- 4.69 percentage points with a 95% coincidence level. All respondents were employed in the State of Hawaii. The majority — 88% — of respondents worked full-time, with 12% working part-time.

Key Findings

- More affluent segments of the working base have greater access to leave benefits
- 62% of respondents has wanted to take time off work in the past to care for a new child or an ailing family member
- Among the respondents who wanted to take time off to care for a new child, only 80% ended up doing so
- Among those who wished to take time off to care for an ailing family member, only 65% ended up doing so

- Roughly three out of four respondents who have taken time off to care for a new child received pay for at least a portion of the time they were away from work
- Male respondents (73%) who took off from work to care for a new child were more likely to be on paid leave than were females (44%)
- Of those who took time off to care for a family member, 68% of respondents had at least a portion of the time they were out covered, while 32% in this group took unpaid leave
- The men (67%) who took off to care for a family member were more likely to be on paid leave than their female (48%) counterparts
- The average number of weeks taken off to care for a new child was 9.53
- The average number of weeks taken off to care for an ailing family member was 4.27
- Of those who took time off to care for a family member, roughly half (47%) used the leave to care for a parent
- One in four (26%) of respondents said they were "very likely" to need time off from work in the future to care for either a new child or a family member, and another 29% believe it is somewhat likely they will need time off from work in the future to care for either a new child or a family member
- Women are more likely (62%) than men to anticipate taking time off from work in the future to be a caregiver than their male counterparts (49%)
- The majority (89%) of respondents said they would use this benefit if offered
- Almost all respondents (94%) had either a "very favorable" (60%) or "somewhat favorable" (34%) perception of paid family leave
- 51% believe that 12 weeks of paid time off is sufficient in most instances, while 33% believe this is too long a period to be on leave from work with pay and 14% believe this is not enough time
- The average percentage of take home pay that respondents said would be necessary to survive during a paid family leave was 75%
- Over half (59%) of respondents said they would be willing to contribute a small portion of their paycheck each month toward a paid family leave program
- The average dollar amount that respondents said they would be comfortable contributing was $41.88/month

Focus Group Findings

Labor Union Representatives and Employers

Labor union members and leaders, as well as employers with both small and large businesses, were asked to provide their own definition of 'paid family and medical leave'. Most participants had a basic understanding of the concept yet seemed to confuse it with standard healthcare insurance benefits and maternity leave. After being presented with a detailed description of paid family leave, participants generally favored the idea.

One issue participants debated over was whether a program such as this would be treated like TDI or like a flexible spending plan to which employees could contribute and draw on at a later date. This idea was discussed among union representatives who tended to favor a flexible spending approach.

Many of those taking part in the research believed that the employee should financially contribute to help pay for this benefit. This sentiment was shared not only by employers but also by many union representatives. Most agree that if such a benefit were to be offered that for it to be truly successful the employer would need to contribute their fair share. Business owners preferred the New Jersey system of PFL; union representatives had no clear preference.

When discussing employee funding, one of the primary topics that was brought up was whether this should be an optional choice for employees. Some feel that this benefit should be an additional optional coverage or benefit for employers, while others argue such a policy would raise costs and ultimately punish those that may have opted out originally but need the benefit at a later time. These sentiments support the recommendation that PFL be a universal program.

Mothers, Fathers, and Family Caregivers

Parent and family caregiver focus group participants were asked questions about their awareness of and experience with paid family leave, as well as questions about their opinion on different paid family leave policy components. The majority of the participants had a very positive opinion of paid family leave. All participants had taken some sort of leave to care for a new child, and most had taken leave to care for a family member. Many had experienced a time in which they felt it necessary to leave the workforce because of their family caregiving responsibilities. None of the participants worked for an employer who offered paid family leave as a benefit. Most participants believed that a wage replacement rate of 60% while on leave would not be sufficient to sustain themselves. Most participants agreed that the cost of the program should be shared by employers and employees. All participants would be willing to contribute a portion of their paycheck towards a benefit that provided 12 weeks off of work to care for a new child or a family member.

Sources

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[9] Medical certification is accepted from: licensed medical or osteopathic physicians/ practitioners; authorized medical officers of a U.S. government facility; chiropractors; podiatrists; optometrists; dentists; psychologists; nurse practitioners after examination and collaboration with a physician and/or surgeon; licensed midwives; nurse-midwives or nurse practitioners for normal pregnancy or childbirth; and/or accredited religious practitioners in order to claim benefits. See State of California. 2017. *Basics for Physicians-Practitioners*. Sacramento, CA: Employment Development Department.

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[11] Federal Deposit Insurance Corporation. 2016. *2015 FDIC National Survey of Unbanked and Underbanked Households*. Washington, DC: Federal Deposit Insurance Corporation. https://www.fdic.gov/householdsurvey/2015/2015appendix.pdf

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[15] Milkman, Ruth, and Eileen Appelbaum. 2013. Unfinished business: Paid family leave in California and the future of US work-family policy. Ithaca, NY: Cornell University Press.