Independent Women's Forum

IWF Policy Brief

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March 18, 2009

Mandated Paid Sick Leave: The Wrong Medicine for Workers

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Brief #18

Talking Points:

- Employment mandates, such as requiring businesses to provide workers with paid sick leave, raise the cost of employing workers.
- Smaller employers (currently less likely to provide paid leave benefits) would be particularly affected by a paid leave mandate. Not only would they face the new costs associated with paying absent workers, but they would also face increased workplace disruptions and an increased administrative burden.
- Low-income and part-time workers, which currently receive a larger share of their compensation as take-home pay, would also be disproportionately affected. They may see their take-home pay go down and fewer job opportunities as companies seek to reduce benefit costs.
- Workers are best suited to know whether they want more of their compensation as benefits or as take-home pay. Government mandates reduce workers' freedom, make our workplace less flexible, and are an improper use of federal power.

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Executive Summary

President Obama and Members of Congress have offered numerous proposals to create new federal regulations to require employers to provide workers with specific leave benefits. One such proposal, the Healthy Family Act, would mandate that employers must provide seven days of paid sick leave.

Everyone understands the appeal of paid leave benefits, which is why most employers already offer paid leave to their employees. Yet these benefits entail real costs, and a government mandate would have several important unintended consequences for employees and the economy.

A new paid leave mandate would raise employment costs, which would discourage job creation—a particularly unwelcome development during our current climate of rising unemployment and stagnating economic growth. Many workers would also likely see their take-home pay reduced as a result of the increased cost of providing the new benefit. The

American workforce would be less flexible and workers would have fewer options in terms of employment arrangements. Not all employees or employers would be equally affected. Small businesses, part-time workers, and low-income workers would be most likely to bear the costs associated with the new mandate.

This is the wrong direction for the U.S. economy. Policymakers can better advance workers' interests by embracing policies that encourage growth and allow a dynamic, flexible workforce that will provide workers with a wide range of employment options.

Introduction

As a candidate, President Obama offered numerous proposals for expanding workplace regulations, such as the Family and Medical Leave Act, to require employers to provide specific benefits for workers. Similarly, during the last Congress, Members offered numerous bills that would increase the federal government's role in dictating the terms of employment contracts.

One proposal that has received significant attention is the Healthy Family Act, which would require covered employers to offer seven days of paid sick leave to employees (part-time employees would be eligible for paid leave on a pro-rated basis). This law would apply to employers with fifteen employees or more. Employees would be able to take this paid leave for a personal medical condition (including related to mental health), the diagnosis of a condition, or for the medical condition or diagnosis of a family member or "any other individual…whose close association with the employee is equivalent of a family relationship."

As a Senator, President Obama cosponsored this legislation, and his campaign website reiterated his commitment to requiring that "employers provide seven paid sick days per year."[i]

Overwhelmingly, Americans sympathize with the need for workers to take time off from work due to periods of illness and pressing family needs, and, indeed, most employers provide workers with paid time off. Yet, as is discussed in this policy brief, government mandates of such benefits entail real costs and fail to advance many workers' interests.

Most Employers Already Provided Paid Leave

Before proceeding with a government mandate to dictate some of the terms of an employer-employee contract, policymakers should review the role that benefits already play in most compensation packages. Indeed, the Bureau of Labor Statistics' National Compensation Survey, conducted in March 2008, found that three-quarters of all civilian workers (defined as those employed in the private, non-farm sector and the public sector, excluding federal employees and those working in private households) had paid vacation benefits. Forty-one percent had paid personal leave.[ii]

This Department of Labor data did not specifically consider paid sick leave, but other sources suggest that paid sick leave is included in most employment packages. Indeed, according to a survey by the Society of Human Resource Professionals for 2006, 74 percent of companies offer paid sick leave and 82 percent offer paid vacation days.[iii]

In general, full-time workers were more likely than part-time workers to have paid leave benefits: 86 percent of full-time had paid vacation and 46 percent had paid personal leave compared to 37 percent and 22 percent of part-time workers, respectively.[iv] Also, large employers were more likely to offer paid leave than were small employers. For example, 90 percent of those working for a private employer of more than 500 employers received paid vacation compared to 70 percent of those working for an employer with less than 50 workers. Fifty-eight percent of private workers in the largest companies had paid personal leave compared to one quarter in firm of less than 50.[v]

Similarly, those with higher wages were more likely than those with lower wages to have access to paid leave benefits. Among those with wages 90 percent of greater than the average, 88 percent had paid vacation and 54 percent had paid personal leave. Among those in the bottom 10 percent, 43 percent had paid vacation and 17 had paid personal leave.[vi]

Clearly, while these statistics demonstrate that most employers provide paid leave benefits, there are still millions of workers who do not have paid leave. Importantly, those who tend to be more economically vulnerable (such as those who have lower wages or who work in part-time positions) are less likely to have paid leave benefits. It is tempting to use this fact to justify a government mandate. Yet, as will be discussed in the upcoming sections, it is important to recognize that those who are the intended beneficiaries of such regulations are also the most likely to suffer adverse unintended consequences as a result.

Raising Employment Costs of Financially Vulnerable Workers and for Small Businesses

How much money a worker receives as take-home pay from an employer and how much it costs to employ that worker are two very different issues. When a business considers whether to hire a new employee, it must consider the entire costs associated with that employee. That includes the taxes the business must pay related to that employee, the costs of space and overhead that comes with an additional staff member, and the total costs of the employee's benefits.

The Department of Labor estimates that less than 70 percent of the total costs of employing a civilian worker go to cover wages and salaries. More than 30 percent goes to provide for benefits, including taxes to pay for government programs, such as Social Security, Medicare and unemployment insurance.[vii] Specifically, insurance costs account for 8.4% of total compensation costs, "legally required" compensation (such as taxes) accounts for 7.9%, and paid leave benefits account for 7.0 percent.[viii]

Of course, the breakdown is not the same for all employees or employers: it varies depending on the sector of the economy and the job arrangement. For example, benefits account for a larger share of total compensation for state and local workers than for those in private industry (34.2% compared to 29.3%).[ix]

Benefits also tend to consume a larger share of employment costs for large employers than for small ones. For example, benefits account for 25.4% of compensation in employers with fewer than 50 employees (the smallest subset contained in this Department of Labor report), and paid leave accounts for just 5.2% of total costs. Among the largest employers (those with 500 or more workers) benefits account for 32.9% and paid leave for 8.6% of total compensation.[x]

Similarly, benefits consume a larger share of the employment costs of full-time workers than part-time workers. All benefits account for 30.4 percent of the compensation of full-time private sector workers, with 7.2 percent going to paid leave. Benefits account for 21.6 percent of part-time workers' compensation, with just 3.2 percent going to provide paid leave.[xi]

What this suggests is that while a paid leave mandate would raise the cost of employment generally, it would not affect all employees—and employers—equally. Smaller employers that are less likely to dedicate as much to benefits today will be particularly affected if a paid leave mandate is created. Not only will they face the new costs associated with paying absent workers, but they will also face increased workplace disruptions since the availability of paid leave would increase the likelihood of employee absences and an increased administrative burden of accounting for the additional leave.

The higher employment costs faced by small businesses will have an effect on how many workers they keep on staff and on the take-home pay which can be offered to those workers. The Congressional Research Service described how raising paid leave benefits is expected to lower take-home pay in its analysis of creating paid family and medical leave. Yet this dynamic would hold for paid sick leave (or any other paid leave) as well:

> If Congress were to pass…paid family-medical leave…one would expect the compensation costs of employers to increase. Because employees generally are no more valuable (i.e., productive) to businesses after imposition of a benefit, however, they have no economically sound reason to raise their workforce's total compensation… Economists therefore theorize that firms will try to finance the added benefit cost by reducing or slowing the growth of other components of compensation.[xii]

Just as small businesses would be more affected than large businesses, some workers would be more affected than others. For example, part-time workers, who currently receive a larger share of their compensation as take home pay, will be more affected as the costs associated with their employment will go up relative to their full-time counterparts. Companies may simply make up for these new costs by lowering part-time workers' take-home pay, but it would also give them an incentive to find ways to reduce the number of part-time workers they employ, either by outsourcing jobs or opting to replace part-time workers with full-time workers. This is particularly bad news for those who purposefully seek out part-time arrangements (for example, women who both want to work and spend time caring for children).

The Department of Labor study does not include information on the breakdown of compensation for lower-income workers as compared to higher-income workers; however, other data showing that lower-income workers are less like to have paid leave benefits suggests that low-income workers would also be disproportionately affected by a paid leave mandate. As with part-time workers, low-income workers may see their pay reduced and employers may also seek ways to decrease the number of lower income workers, again either by outsourcing or by retaining fewer, more productive higher-wage workers in order to reduce workplace disruptions.

In summary, while most of the attention is focused on the obvious benefit of creating a paid leave mandate—workers who currently do not receive paid leave would now enjoy that benefit—there is also a significant cost to creating this benefit, and those costs would disproportionately be borne by small businesses, lower-income workers, and those who seek flexible work arrangements.

Who Should Decide the Right Mix of Benefits Versus Take-Home Pay?

Policymakers should study the economic impact of regulations such as those that would require employers to provide paid sick leave. Yet even before undertaking that analysis, policymakers should consider if creating a mandate is a proper use of federal power.

After all, why should the federal government make it illegal for an employer to offer, or an employee to accept, a work arrangement that does not include a specific benefit, such as paid sick leave? Individuals, not policymakers, are best positioned to know whether they prefer to take a greater share of their compensation in the form of benefits or if they would prefer more take-home pay. Particularly during a period of rising unemployment, we should question the logic of making it more expensive to hire a worker and making our labor markets less flexible.

At its core, this debate is about individual freedom. Regulations such as mandatory paid sick leave benefits reduce the options available for workers, and represent an inappropriate use of federal power.

Conclusion

Government employment mandates, such as paid sick leave, discourage job creation by raising the cost of employing a worker. By restricting the types of employment arrangements that can be legally agreed upon, they make our labor market less flexible and reduce options for workers and employers alike.

While these facts have consequences for the economy in generally, they will disproportionately affect those employers and workers who currently do not offer or have paid sick leave benefits. Small employers currently dedicate a smaller portion of overall employee compensation to benefits, including paid leave. They would be particularly affected by a mandate, which would raise their employment costs, encouraging them to reduce worker pay and reduce the number of jobs offered. Part-time and low-income workers would also be most affected. Many would enjoy a new benefit—paid leave time—but many would also pay a high price in the form of lower take-home pay and fewer job opportunities.

This is the wrong direction for the U.S. economy. Policymakers can better advance workers interests by embracing policies that encourage growth and allow a dynamic, flexible workforce that will provide workers with a range of employment options.

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Endnotes

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[i] See http://www.barackobama.com/issues/family/.

[ii] U.S. Bureau of Labor Statistics, "Table 6, Selected paid leave benefits: Access, National Compensation Survey," Department of Labor, March 2008. Available at: http://www.bls.gov/news.release/ebs2.t06.htm.

[iii] James Sherk, "Mandatory Paid Sick Leave Invites Misuse That Harms Co-Workers and Customers," Heritage Foundation Web Memo #1450, May 10, 2007. Available at: http://www.heritage.org/Research/Labor/wm1450.cfm#_ftn1.

[iv] U.S. Bureau of Labor Statistics, "Table 6, Selected paid leave benefits: Access, National Compensation Survey," Department of Labor, March 2008. Available at: http://www.bls.gov/news.release/ebs2.t06.htm.

[v] U.S. Bureau of Labor Statistics, "Table 21, Leave benefits: Access, private industry workers, National Compensation Survey," Department of Labor, March 2008. Available at: http://www.bls.gov/ncs/ebs/benefits/2008/ownership/private/table21a.pdf.

[vi] *Ibid.*

[vii] U.S. Bureau of Labor Statistics, "Employer Costs for Employee Compensation—September 2008," Department of Labor, December 10, 2008, p. 1.

[viii] *Ibid.,* p. 3.

[ix] *Ibid.*

[x] *Ibid.*, p. 17.

[xi] *Ibid.*, p. 20.

[xii] Linda Levine, "Leave Benefits in the United States," Congressional Research Service, Order Code RL34088, May 7, 2008, p. 22.