

# POLICY *focus*

RECIPES FOR RATIONAL GOVERNMENT

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## Avoiding Paid Leave Pitfalls

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### What You Should Know

Americans want people to be able to take time off from work when they need it, whether that's to welcome a new baby, recover from an illness, or care for a loved one. In 2020, as a part of emergency measures passed in response to the pandemic, the federal government required businesses to provide specific, new paid leave benefits.

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Some policymakers want to make those measures permanent or create another federal program to provide similar benefits for all workers. This would be a mistake: a sweeping, permanent, one-size-fits-all paid leave regime would profoundly backfire on the American people, in terms of employment opportunities, take-home pay, and true workplace flexibility.

Debates about such entitlement programs or mandates too often focus solely on the obvious benefits, while ignoring the considerable costs and consequences they impose. This is a grave policy error, especially since those costs—including reduced take-home pay due to regressive payroll taxes, reduced wages, and lost work opportunities, particularly flexible work options—would hit lower-income workers and women the hardest. Research on paid leave programs in Europe and at the state level in the U.S. conclude they often act as Robin Hood in reverse, taking resources from poorer workers and giving them to wealthier workers.

Policymakers shouldn't impose their vision of what a paid leave package ought to contain on every American worker, many of whom are content with their existing situation. Rather, they should focus on providing those workers who currently struggle due to a lack of paid leave benefits with better options and targeted support.

## Why You Should Care

America's workplaces—and families—have grown more diverse in recent years. A one-size-fits-all government paid leave regime will leave workers with fewer options and make them worse off by:

- **Undermining existing paid leave benefits:** A majority of workers already have paid leave benefits thanks to employer-provided programs, state and city-based programs, and private disability insurance. In fact, businesses are increasingly providing workers with new benefits. A federal government program could get in the way of this trend and disrupt existing options.
- **Raising taxes and reducing wages for poorer workers:** Low-income workers are hurt most by payroll taxes taken from earnings to fund paid leave entitlements and are less likely to take benefits. They are also more likely to lose job opportunities. As employment costs go up, employers will seek to minimize their costs and exposure by reducing staff.
- **Limiting women's employment opportunities:** One-size-fits-all government programs will discourage the creation of flexible options, such as telecommuting, job sharing, and part-time arrangements. Employers may also see women, who are statistically more likely to use paid leave benefits, as less attractive hires, especially for management positions.

There are better, targeted ways to help people who lack paid leave.

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## More Information

### The Scope of the Paid Leave Problem

Too many working Americans lack adequate paid leave. However, many Americans do have paid leave benefits and want to preserve their existing compensation arrangements. Policymakers should be aware of current paid leave practices and make sure they do not make workers worse off, with less generous benefits, less flexibility, and less take home pay.

According to the **Society of Human Resource Management**, more than 90 percent of employers offer paid leave of some kind. As of 2019, 76 percent of all civilian workers (and 86 percent of all full-time workers) had access to paid sick leave benefits, according to the **Bureau of Labor Statistics**. The share of employers offering and expanding paid leave benefits is increasing: the share of part-time workers with access to paid sick leave benefits rose from 28 percent in 2009 to **43 percent in 2019**.

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For better and worse, many states have created their own paid leave entitlement programs. According to the **National Council of State Legislators**, six states (New York, New Jersey, Rhode Island, California, Washington, and Massachusetts) and the District of Columbia have

paid family and medical leave programs in effect. Three other states—Colorado, Connecticut, and Oregon—have adopted such laws, but they have not yet taken effect. Together, the workers from these states account for approximately **30 percent** of all American workers.

Additionally, millions of American workers have access to private disability insurance, which often pay benefits to workers who need maternity/paternity leave, or leaves for long-term illnesses, and even caregiving. According to the **Bureau of Labor Statistics**, in 2018, 42 percent of workers in private industry had access to short-term disability insurance through their employers, and the vast majority (85 percent) had the full cost covered by their employers.

This private insurance market—and every existing paid leave benefit program, including those privately run and those created by the states—would be affected if the federal government created an entitlement program with a defined tax and benefit, or mandated a particular arrangement on all employers. In many, if not most, cases, workers who currently have benefits will be made worse off, not better, by whatever system is imposed by the federal government.

## Types of Government Paid Leave Policies

Governments at the local, state, and national level can impose mandates on employers to offer particular benefits. This is the case with an existing leave law, the Family Medical Leave Act, which requires employers of 50 or more workers within a 75-mile radius to offer 12 weeks of unpaid leave, also known as “job protection” for certain family-related and medical events. This is also the case with the Affordable Care Act’s mandate that employers provide a particular type of health insurance benefit to workers. There are many mandates on employers at all levels of government.

Another approach, rather than mandating that employers simply cut paychecks to workers who are out on leave, is the entitlement approach. Known among advocates for this model as “social insurance,” government paid leave entitlements (as are used in many European countries and some U.S. states) *include mandates on employers* to offer unpaid leave, but the pay for workers is funded not directly by employers, but via a government office that collects payroll taxes from all workers and sends checks to beneficiaries who qualify for leaves based on what the law says.

Programs can vary on a number of factors, such as reason for leave, length of leave, pay replacement formula, eligibility, and other factors. Some programs impose taxes on employers (who pass the costs along to employees in the form of reduced wages) rather than on employees. But all of these “social insurance” programs generally depend on the same model: All workers are required to pay into a fund for the program, regardless of their interest, desire, or propensity to use the benefits of the program.

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## How Typical Government Approaches Harm, Rather than Help, People in Need

Americans tend to support proposed government paid leave programs, assuming that they will help lower-income workers who lack adequate paid leave benefits and can't afford to take leave without pay. Yet research shows that lower-income workers are less likely than wealthier workers to receive benefits from these programs. Government paid leave programs end up being regressive: poorer workers lose a larger share of their pay through payroll taxes to support the system and then receive fewer benefits from it.

In part, this is because government paid leave programs tend to replace only a share of people's wages. For example, Rhode Island's state paid leave program replaces only about **60 percent** of an individual's wages. Low-income workers are less-inclined to take paid leave, likely because they cannot live on 60 percent of wages. Yet they are still forced to fund the program through a payroll tax. In **2017**, 42 percent of the workers paying into Rhode Island's program made less than \$20,000, but only 19 percent of beneficiaries were from this income group.

This isn't just a flaw in state-based programs. European and Canadian paid leave programs also tend to act as Robin Hood in reverse. **Economists** studying Norway's expansion of its paid parental leave entitlement program put it plainly, they concluded that the paid leave program amounted to a "pure leisure transfer to middle and upper income families . . . at the expense of some of the least well off in society."

Government paid leave programs don't just disappoint those with lower incomes. By displacing existing compensation and benefit programs, they can also harm any worker who likes his or her current situation. For example, many workers (including union workers, who have union-negotiated benefit packages) have access to paid time off at full pay. Most proposed government programs only pay a fraction of workers' income. This could leave many workers with less generous benefits than they have today.

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Most proposed government paid leave programs are funded through a payroll tax. For example, the FAMILY Act proposes a 0.4 percent payroll tax for each worker (though **analysis shows** that costs would be much higher). However, even that payroll tax adds up to \$400 taken from an average worker each year, a significant loss in disposable income (and the ability to save) for people often struggling to make ends meet.

Additionally, the existence of a federal government paid leave program will limit the type of work arrangements that employers can offer employees. Currently, employees have the ability to accept jobs that offer higher pay and fewer benefits. Employees, including women who are

facing maternity leave or who have caregiving responsibilities, can work with employers to find mutually beneficial relationships, such as continuing to work from home or to performing certain tasks during leave time, in exchange for some compensation.

All these options are off the table under a government regime. Employers will have an incentive to standardized their employment relationships and use fewer, more valuable/skilled workers in less flexible positions, to reduce their exposure to having employees take leave and disrupt operations. Employers may internalize the expectation that women in their childbearing years or with small children are more likely to use paid leave benefits, and presume they are therefore not good candidates for management or leadership positions. This appears to be the case in Europe, where there are generous paid leave benefits and women are **less likely than** American women to be managers. Furthermore, more generous government paid leave requirements correlate with bigger **gender wage gaps**.

## Targeted and Flexible Approaches to Help People

There are better ways to target aid to people who lack adequate paid leave benefits, without disrupting the existing contracts and work-life arrangements of all American workers.

### Government-Funded Flexible Accounts

Just as people are encouraged to save for retirement and education expenses, they should also be encouraged to save for time that they cannot work. Workers could put pre-tax earnings, up to a maximum, into **Universal Leave Accounts** (ULA), and then those funds could be used to “pay” for their leave time when it’s needed. The government, employers, charities, or individuals (including coworkers) could make contributions to workers’ accounts to help those in need.

### Earned Leave

**IWF proposed** the idea of allowing workers to receive a share of their future Social Security retirement benefits when welcoming a new baby or child to the family. Workers would be able to decide for themselves if they need support today and are willing to postpone eligibility for their retirement benefits later in life (when most people tend to have more resources).

This approach could be used to cover other types of leave, including extended sick leave and caregiving needs. Policymakers would need to cap how many times workers can exercise this option, so that people do not push off the age of retirement too long.

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### Front-loading Tax Credits

During the last Congress, Senators Bill Cassidy, R-Louisiana, and Kyrsten Sinema, D-Arizona, introduced legislation that would allow new parents to take an advance of up to \$5,000 against their future child tax credits after the arrival of a new child in return for partially reduced child tax credits in future years to offset the cost. This approach empowers individuals and taxpayers and, like Earned Leave, has the virtues of being voluntary, not requiring meaningful taxpayer support, and not disrupting or discouraging the provision of paid leave benefits.

## UI System

Being temporarily unable to work due to illness, pregnancy or family circumstances can also be understood as temporary unemployment. States could work to expand their existing unemployment insurance infrastructure to provide coverage for people who temporarily cannot work.

However, the downside to this approach is that many state unemployment systems are cumbersome and underfunded. If this approach is to be pursued, it should be considered an opportunity to improve the UI infrastructure across the board.

## Encouraging the Purchase of Private Disability Programs

Rather than creating a one-size-fit-all mandate or entitlement, the government could adopt policies to encourage the purchase of private disability insurance to provide paid leave benefits, such as providing tax incentives for employers and subsidizing coverage for low-income workers.

The federal government could consider adopting an “individual mandate” similar to that created in the Affordable Care Act and require that people must have basic disability coverage that provides a minimum level of paid leave benefits. However, in addition to being a violation of individual liberty, such an approach would discourage people from taking other, perfectly legitimate approaches to paid leave, such as simply saving on their own for times when they cannot work. A mandate would force people to spend money on a product that they don't believe is a good value, which is a poor public policy outcome. And, just as we saw with the Affordable Care Act, most proposals that center on a mandate to carry disability insurance would put other regulations on disability insurance that would significantly raise the cost of premiums compared to today.

## Make Any Entitlement Program Voluntary

Finally, if the federal government wants to move forward with creating a paid leave entitlement program, it should be made *voluntary*. Workers should have the option to pay into and be eligible for benefits, but not be forced to pay taxes into a system if they think it is a poor value. Proponents of entitlements worry that granting such freedom to American workers will lead to too low participation, but that in itself is testament to the reality that this approach is a bad value for the average worker and ought to be refined.

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Finally, it's important to also note that the federal government took action in response to the COVID-19 pandemic to dramatically expand access to paid leave so that people could afford to stay home and help stop the virus's spread. This measure had **significant drawbacks**, but it shows that the government has the capacity to provide emergency relief in times of crisis.

Just as it would be a mistake to design all public programs to conform to the needs of a pandemic, we should not let the COVID-19 pandemic permanently warp our employment system.

# What You Can Do

## Get Informed

- [House Ways and Means Testimony](#)
- [Paid Leave and the Pandemic](#)
- [Heritage Foundation](#)

## Talk to Your Friends

Help your friends and family understand these important issues. Tell them about what's going on and encourage them to join you in getting involved.

## Become a Leader in the Community

Get a group together each month to talk about a political/policy issue (it will be fun!). Write a letter to the editor. Show up at local government meetings and make your opinions known. Go to rallies. Better yet, organize rallies! A few motivated people can change the world.

## Remain Engaged Politically

Too many good citizens see election time as the only time they need to pay attention to politics. We need everyone to pay attention and hold elected officials accountable. Let your Representatives know your opinions. After all, they are supposed to work for you!

## CONNECT WITH IWF! FOLLOW US ON:

### ABOUT INDEPENDENT WOMEN'S FORUM

Independent Women's Forum (IWF) is dedicated to building support for free markets, limited government, and individual responsibility.

IWF, a non-partisan, 501(c)(3) research and educational institution, seeks to combat the too-common presumption that women want and benefit from big government, and build awareness of the ways that women are better served by greater economic freedom. By aggressively seeking earned media, providing easy-to-read, timely publications and commentary, and reaching out to the public, we seek to cultivate support for these important principles and encourage women to join us in working to return the country to limited, Constitutional government.

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