

# A Look at the U.S. Department of Labor's 2012 Family and Medical Leave Act Employee and Worksite Surveys<sup>1</sup>

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## Key Findings

**The Family and Medical Leave Act (FMLA) provides much-needed assistance to mothers and fathers, husbands and wives, and sons and daughters covered by its protections.**

- ▶ **The FMLA provides much-needed protections to nearly 60 percent of the United States workforce.** Fifty-nine percent of employees – approximately 90 million workers – are covered and eligible to take leave under the FMLA, meaning they are able to care for their own health, an ill loved one or a new child, knowing that their health insurance will continue and their jobs will be there when they return.<sup>2</sup>
- ▶ **One-sixth of the FMLA-covered workforce takes leave for FMLA reasons each year.** Sixteen percent of covered and eligible workers reported taking leave for an FMLA reason within the previous 12 months, translating into more than 14 million workers who took FMLA leave in 2011.<sup>3</sup>
- ▶ **The FMLA helps both women and men manage the dual demands of work and family, yet women remain more likely to take leave.** Women comprised 56 percent of employees who took leave in 2011. However, the rate of leave taking among men has increased in small but steady increments in the 20 years since the FMLA's enactment. Just 13 percent of men reported taking leave over the previous 18-month period in the Department of Labor's first FMLA survey in 1995, 14 percent reported taking leave in the 2000 survey and 16 percent of men reported taking leave in this most recent survey.
- ▶ **Workers need leave at every stage of their lives – and in good times and challenging times.** More than half of employees reported taking leave for their own illness (57 percent). Just over one-fifth (22 percent) said they took leave for reasons related to a new child (including pregnancy, birth, adoption or foster care), and close to one-fifth (19 percent) reported taking leave to care for a parent's, spouse's or child's health condition. Two percent reported taking leave for another qualifying reason, including military deployment or caregiving.
- ▶ **Most leaves are relatively short.** Forty percent of workers who took FMLA leave were away from work for 10 days or less; more than 70 percent were back at work within 40 days. Only women who took leave to care for a new child took longer leaves, averaging 58 days of leave; men who took leave for a new child averaged 22 days of leave.

## **Despite the FMLA's important role in helping workers and families, too many workers must take leave with little or no pay and face significant challenges.**

- ▶ **Most workers receive some pay while on leave.** Two-thirds of employees (66 percent) reported receiving either full pay or a portion of their pay while they were away from work.
- ▶ **However, more than half of workers in middle and lower income families do not receive pay while on leave.** Fifty-four percent of workers with family incomes below \$62,500 reported that they did not receive any pay while on leave, compared to just 18 percent of workers in higher income families.
- ▶ **The majority of employees who take leave with partial or no pay report financial difficulties.** More than six in 10 (62 percent) said making ends meet during their time away from work was difficult, including 30 percent who said it was very difficult.
- ▶ **Workers who take leave with partial pay or no pay commonly face difficult financial choices.** The overwhelming majority reported limiting their spending (84 percent) and nearly half (48 percent) reported using savings put aside for this purpose, but others fared much worse. More than one-third of employees (37 percent) said they dipped into savings earmarked for another purpose or put off paying bills (36 percent). Three in 10 (30 percent) said they borrowed money. Fifteen percent said they had to go on public assistance.
- ▶ **Workers with partial or no pay also too often cut their leave short.** Half of all workers (50 percent) who took leave said their leave ended and they returned to work because they could not afford to take more time off. Nearly one-third of employees (31 percent) said they had to cut their leave time short because of the financial strain of reduced or no pay.

## **A growing share of workers need leave but do not take it – most commonly because unpaid leave is unaffordable – and women bear a disproportionate burden.**

- ▶ **Although just a small portion of workers need leave but do not take any, the unmet need for leave has grown considerably.** In this new survey, five percent of employees said they needed leave but could not take it. This is more than twice the rate of unmet leave in the 1995 and 2000 surveys.
- ▶ **Workers' inability to afford unpaid leave is the most common reason for forgoing a needed leave.** Nearly half of those who were FMLA-eligible and needed but did not take leave (46 percent) cited lack of pay as the reason. Nearly one-fifth (17 percent) said they were worried they might lose their jobs, which runs counter to the FMLA's guarantee of job protection.
- ▶ **Women are more likely than men to forgo a needed leave.** Women made up 64 percent of those who needed but did not take leave. Hispanic workers, workers who are not white, workers with earnings below \$35,000 per year and unmarried workers were more likely than their counterparts to need leave they didn't take.

## The FMLA is working well for employers, positively affecting many and burdening few.<sup>4</sup>

- ▶ **Three-quarters of worksites covered by the FMLA said administering the law is easy.** In addition, a majority of worksites said it is easy to coordinate the law with federal and state leave policies, with other federal laws, with their own leave policies and with their attendance policies. A majority also found it easy to administer the paperwork portions of the law (notification of eligibility, designation of leave as FMLA leave and certification) and to determine whether an employee's health condition meets the definition of a serious health condition.
- ▶ **Ninety percent of worksites reported that complying with the FMLA has had a positive effect or no noticeable effect on employees and their business.** In fact, 37 percent of worksites covered by the FMLA reported that compliance with the FMLA has had a "positive effect" on "employee productivity, absenteeism, turnover, career advancement and morale, as well as the business' profitability." Half (54 percent) said compliance has had "no noticeable effect."
- ▶ **Intermittent leave is not the burden businesses feared.** Most covered worksites reported that, to the extent intermittent leave has had an impact on their workplace, the impact has been more positive than negative for both profitability (15 percent positive, three percent negative) and productivity (16 percent positive, six percent negative).
- ▶ **Suspected and confirmed misuse of FMLA leave is very rare.** Just 2.5 percent of covered worksites reported suspecting that any employees are misusing the FMLA, and an even fewer 1.6 percent reported confirming a case of misuse.

## Recommended Improvements for Congress and the Department of Labor

- ▶ **Reduce the employer-size threshold and the employee eligibility requirements to expand FMLA coverage to millions of workers.** The FMLA currently covers 59 percent of the workforce. The survey estimates that two-thirds of workers (67 percent) would be covered by and eligible for the FMLA if worksites with 20 or more employees were bound by the law, rather than only those with 50 or more employees. A slightly smaller share of the workforce (63 percent) would be eligible if employees were required to work 780 hours in the previous year instead of the current 1,250 hours.
- ▶ **Educate the public about the FMLA, particularly about recent expansions for military families.** Although awareness of the FMLA has increased since 2000, just 66 percent of workers overall and 71 percent of workers at covered worksites have heard of it. Awareness of the recently enacted military family and caregiving provisions is much lower than other FMLA provisions. Few employees surveyed used the military provisions, and employers, on average, are not offering the length of leave required under the FMLA.
- ▶ **Consider a paid leave insurance program to provide workers with much-needed financial support while on leave.** Taking leave with partial pay or no pay is difficult for some and impossible for others. As a result, leaves are cut short, finances are stretched and needed health procedures are delayed or abandoned. Creating a paid

leave insurance program would ease burdens for both employees who need paid leave and employers who can't afford the full cost of offering paid leave to their workers.

- ▶ **Educate employers about particular aspects of the law to reduce violations.** Better enforcement may also be required. Although most employers appear to be in compliance with key aspects of the law, there are exceptions. For example, employers are, on average, requiring time to be taken in slightly less than one-day increments, but the law requires that increments of FMLA leave must be available in one-hour increments or less; the average duration of leave permitted by employers for military caregiving is less than the 26 weeks required by the law; and a large share of employers report that, for leaves of more than one week, they cover work by asking employees to perform some work while on leave – in violation of the law.

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1 Unless otherwise noted, all data are from Abt Associates Inc. (2012, September 6). *Family and Medical Leave in 2012: Technical Report*. Retrieved 4 February 2013, from <http://www.dol.gov/asp/evaluation/fmla/fmla2012.htm>

2 We calculate the number of workers who are covered and eligible for leave under the Family and Medical Leave Act using 2011 data (the latest available) on workforce size from the U.S. Bureau of Labor Statistics. We multiply the number of people 18 and older in the civilian labor force by the 59.2 percent rate reported in the survey of employees who both work for covered employers and meet the eligibility requirements for taking leave under the FMLA. The number of people 18 and older in the civilian labor force can be found at: U.S. Bureau of Labor Statistics. (2012, March 1). *Employment status of the civilian noninstitutional population by age, sex, and race (Table 3)*. Retrieved 4 February 2013, from <http://www.bls.gov/cps/cpsaat03.htm>

3 We calculate the number of covered and eligible workers who took leave in 2011, the reference point for survey respondents, by multiplying the calculated number of covered and eligible workers by the 15.9 percent rate of leave taking in the last 12 months for covered and eligible workers.

4 The worksite survey provides multiple units of analysis. Here, we report on worksites that report they are covered by the FMLA and report having 50 employees within a 75-mile radius. The survey report refers to these worksites as "50/75" worksites. In addition, the survey report provides a choice of two weights. Here, we report the worksites' "weighted by worksite" figures, which gives each surveyed worksite equal weight. This seems the better method for capturing the experience of the average worksite on the measures we are analyzing here.

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