April 12, 2005

The Honorable Elaine Chao
U.S. Department of Labor
Frances Perkins Building
200 Constitution Avenue, NW
Washington, DC 20210

Dear Secretary Chao,

The Family Medical Leave Act (FMLA) has enabled more than 50 million Americans to care for their newborn or sick children, their aging parents, their spouses, and even themselves. We understand that you are considering making regulatory changes to the FMLA, and are very concerned that such changes would undercut the critical protections of this vital law.

Opponents of the FMLA are calling on the Department of Labor to narrow the definition of serious health condition and restrict the use of intermittent leave. Make no mistake – these changes would deny FMLA to those currently eligible and rollback the intended protections of the law. Such changes would be unacceptable.

Last year, the Department made sweeping changes to the Fair Labor Standards Act that would deny overtime protections from more than 6 million workers. The public, and majorities in Congress, opposed those changes, but the Department implemented them anyway. We urge you not to follow that same path with the law that has enabled so many workers to balance their work and family responsibilities.

Current regulations define a serious health condition, in part, as a condition that requires more than three consecutive days of treatment and recovery. This is a fair and reasonable requirement, and we urge you not to narrow the definition to restrict the number of illnesses that are eligible. Of the 50 million Americans who have taken job-protected leave under the FMLA, half have taken leave for serious illness, whether their own or a family member’s, for 10 days or less. We are concerned that altering the definition of a serious health condition will remove much needed job protection for millions of Americans when they need it most.

FMLA opponents are also pushing for changes that could force employees to take leave for no less than a half-day at a time. This change would force many employees to take leave without pay even when they do not need the leave. Employees who require frequent, short treatments, such as chemotherapy or pre-natal visits, will be forced to exhaust their FMLA leave sooner than necessary, leaving them without adequate job-protection for medically necessary treatments and recovery time they require. The current law aims to minimize employers' administrative burdens by offering leave in the smallest units that employers already use to track employee leave while ensuring that workers are not absent from work any longer than necessary.
Businesses benefit from the FMLA. A 2000 Department of Labor survey found that 9 in 10 covered employers report that the FMLA has a positive or neutral effect on productivity and growth. The Department of Labor survey also found that, for the vast majority of employers, intermittent leave has no impact on productivity (81%) or profitability (94%).

At a time when workers are working longer and harder and struggling to balance their work requirements and family needs, we should be working to provide more flexibility for families, not less. We hope that we can work together to create policies that help meet the needs of our nation’s families and ensure the integrity of the Family and Medical Leave Act.

Sincerely,

[Signature]

Edward M. Kennedy  
Clinton  
Mary Rodham Clinton