

PAID PARENTAL LEAVE OPTIONS

There are a variety of options of proposal to advance in support of paid parental leave.

- I. Create a Commission/Working Group:
 - (1) A Paid Parental Leave Commission could conduct research necessary to assess existing paid leave proposals and develop additional options if appropriate.
 - (2) The ERISA Advisory Council could be asked to study utilization of benefit practices -- e.g. disability insurance plans, savings plans and/or cafeteria plans -- to provide wage replacement without jeopardizing retirement savings.
- II. Create a Research and Development Fund to support States to develop innovative paid parental leave policies. Approaches that States could adopt include:
 - (1) Expansion of State Temporary Disability Insurance (TDI) programs as models for paid leave. TDI programs currently exist in 5 States (CA, HI, NJ, NY, RI) and Puerto Rico; these programs provide partial wage replacement for workers out of the workforce due to pregnancy complications. One or two States are looking at building on this benefit.
 - (2) Creation of State wage replacement system for new parents, administered by U.I. systems but funded from general revenue or new payroll tax.
 - (3) Use of State unemployment compensation programs to provide partial wage replacement for parental leave-takers. Vermont has asked DOL for authority to pursue this approach, and has been thwarted.
- III. Create a Federally-Funded, State Administered Paid Parental Leave Proposal Administered by the U.I. System. Eligibility criteria would include:
 - Income Eligibility. Tied to income (below median income) to assist the families that are most likely to face a financial barrier to leave-taking. Non-FMLA covered workers (likely benefit recipients) would be eligible.
 - Workforce Attachment. Eligible new parents must be authorized to work in the U.S. and have been in the workforce -- full or part time -- for 1 year prior to birth or adoption. Linking eligibility to the workplace reinforces the purpose of the plan as a wage replacement plan, and one-year requirement demonstrates pre-pregnancy workforce participation. Workers could receive the benefit regardless of whether they intend to return to their job, or whether they in fact return.
 - Benefit Duration, Timing, and Amount. Benefit would be available for a set time only immediately following birth or adoption. A worker with access to employer-paid leave

Paid Family Leave

PRESIDENT CLINTON is proposing to change the terms of the Family and Medical Leave Act, the first legislation he signed in 1993. The act, which had become a campaign issue when his predecessor vetoed it, requires employers to give employees up to 12 weeks of unpaid leave per year to care for newborn or newly adopted children or sick family members, or to recover from serious illnesses. The employees then have a right of return to their prior or comparable jobs.

The benefit has been heavily used and has caused little if any of the disruption opponents predicted. Mr. Clinton now would allow states to experiment with using their unemployment insurance systems to convert some of the leave from unpaid to paid. The leading argument in favor is that in its present form the law is of relatively little help to the lower-income women who may be most in need; without some form of replacement income, they can't afford to take the leave. A commission found that nearly one in eight were resorting to welfare, yet the current impulse at all levels of government is to induce such women to stay off welfare.

The question is whether an extension of unemployment insurance is the right solution. The states already clearly have authority to levy a tax and use the proceeds to provide any level of paid family and medical leave they wish. The president's order, which the administration hopes to make final within a couple of months, would merely allow them to do so in the familiar name and within the existing framework of unemployment insurance.

The advocates favor that in part because it's politically easier to stretch an existing system than to create a new one, and in part because, after more than eight years of uninterrupted

economic growth, many states have built up fairly impressive unemployment insurance reserves. In some of those states, this is a simple fight about whether now to add a benefit or grant employers a cut in the underlying payroll tax.

But nationally, if not in every state, the unemployment insurance system is not in strong condition. The benefit structure and available resources have been allowed to deteriorate until they no longer do a decent job even of sustaining the unemployed through recessions, their traditional function. In the last recession, fewer than a third of unemployed workers were covered. To graft new obligations onto a system that can't—or doesn't—fulfill the obligations it already has may not make much sense.

The system needs to be reformed; it's not clear to us that paid family leave—even the leave to care for a new child, which is the only kind this order would cover—is the place to start. It's hard to quarrel with a regulation that seems to do no more than give the states an option they already may have, but this is a reach for more than that. Our instinct would be to means-test the benefit if it were added; provide it for the needy, but not as a matter of right to all. Many women now bear a heavy double burden in the society. They are breadwinners who also fulfill traditional responsibilities in the home. The politics and substance of that compound burden are what this fight is mainly about.

An argument can be made for using public resources to help lower-income women survive the competing responsibilities. There are better uses for those limited resources than to create a right to such help for women of greater means.

William S. Cohen

Europe Must Spend More on Defense

For 50 years, the political unity and military deterrence of the North Atlantic Treaty Organization (NATO) has kept Western Europe secure, peaceful and prosperous. But this year's engagement with Yugoslavia revealed that NATO's military capability—while powerful—doesn't match its political solidarity.

NATO's successful air campaign against Yugoslavia and the subsequent deployment of 50,000 peacekeepers to Kosovo revealed some serious military shortcomings. The United States relied heavily on precision guided munitions to hit targets with high accuracy and low collateral damage and used unique electronic countermeasures to defeat enemy air defenses. But supplies of some of our all-weather munitions fell to uncomfortably low levels, and our jamming and reconnaissance assets were stretched. We are moving to correct these and other shortfalls.

For our allies, the lessons of Kosovo were much more sobering. Kosovo revealed a huge military disparity between the United States and our 18 NATO allies. During the air campaign, many allies found that they lacked the equipment necessary to gather detailed intelligence, to strike targets with precision and to sustain their forces during 78 days of high-tempo operations.

When it came time to deploy their peacekeeping troops to Kosovo, they found it more difficult than expected. George Robertson, NATO's secretary-general, recently described this problem: "There are around 2 million people in Europe's armies today, and yet the European allies frankly had to struggle hard to get some 40,000 troops together to serve in Kosovo. That's about 2 percent of the armies on paper that we have in Europe, so clearly there is a problem with deployment."

Not only have the European allies failed to invest enough in capabilities, some of their investments have yielded inefficient results. Italian Prime Minister Massimo D'Alema

**Our European allies
had to struggle to
get 40,000 troops
together for the
war.**

recently noted that "Europe spends over 60 percent of what the U.S. spends on defense but gets only 10 percent as much" either because Europeans aren't buying the latest technology or because they are du-

plicating one another's investments.

Critical self-examination, however, is not a prescription for despair, but rather the basis for repair and reconstitution.

I just returned from Europe, where I addressed the leadership of the German military in Hamburg and attended a meeting of NATO defense ministers in Brussels. Our European allies are in the middle of a spirited defense debate, one that may strike many Americans as contradictory. On the hand, European allies want to create a regional defense structure—called the European Security and Defense Identity—that would make it possible for them to operate in situations in which NATO itself is not engaged. On the other hand, Europeans recognize that they lack the military capability to sustain such a force.

This debate is encouraging because it is focusing attention on

Europe's need to strengthen its defenses, and a stronger Europe means a stronger Atlantic alliance.

NATO's deployments to Bosnia and Kosovo suggest that future missions to protect European security may require countries to move forces rapidly, to sustain them outside their national territories without preexisting communications, logistics, headquarters or other infrastructure and to equip them with modern technology that will enable them to be highly effective and precise in combat.

Not every NATO member enjoys a dynamic economy and can secure large defense increases from its parliament. But some countries can unlock money for modernization by reforming their procurement practices, reducing the size of their forces and eliminating excess infrastructure. Other countries may be forced to pool resources and rationalize capabilities with their neighbors and

partners. In fact, allied efforts are underway to establish a regional mobility command and a rapid-reaction force, called the Eurocorps.

But in the final analysis, allies will have to spend more on defense, if they are to measure up to NATO's military requirements and establish a European Security and Defense Identity that is separable but not separate from NATO.

NATO Secretary General Robertson was direct at last week's meeting of defense ministers. "The time for a peace dividend is over because there is no permanent peace in Europe or elsewhere, and if NATO is to do its job protecting future generations, it can no longer expect to do its job on the cheap," he said.

The challenge Europe faces today is to turn words into action.

The writer is secretary of defense.



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For Immediate Release

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Tuesday, November 9, 2001

New Survey Results: Millions of Americans Benefit from, Support FMLA

The U. S. Department of Labor today released a report on the results of employee and employer surveys on family and medical leave policies, including the 1993 Family and Medical Leave Act (FMLA) - the first legislation President Clinton signed. Balancing the Needs of Families and Employers reports on 2000 updates to surveys conducted in 1995.

"The results of these surveys show that FMLA is working well for tens of millions of Americans. And it is working without the burden to business many have feared. But we can and should do more for those workers who still face the challenge of balancing work and family," U.S. Labor Secretary Alexis M. Herman said of the findings.

Surveyed workers reported overwhelming support for the ideas embodied in the FMLA. Further, more than eight out of ten employers report that providing family and medical leave resulted in either positive or no noticeable impact on company productivity, profits or growth.

"Family leave is like 911 -- you don't use it unless you truly need it but it's critically important when you do," said Senator Chris Dodd, author of the FMLA. "Thankfully this report indicates that family and medical leave is doing what it should - helping families - but now we need to do more to ensure that even more people can access its benefits." Senator Dodd has introduced in the past and is expected to introduce legislation in this session to increase the number of workers covered by family leave and a measure to make taking leave more affordable.

The FMLA allows workers to take up to twelve weeks of unpaid leave to care for a seriously ill child, spouse or parent; a newborn, newly

adopted or newly placed child; or for their own serious health problem, without fear of losing their jobs. More than six in ten American workers are covered and eligible under the Act. Survey results are provided to inform policy discussion about the Act and are posted on

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FOR IMMEDIATE RELEASE
January 9, 2001

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New Labor Department Study Finds Family and Medical Leave Act A Resounding Success, Expert Says

WASHINGTON, DC – Today's U.S. Department of Labor study of employees and employers provides strong new evidence that the Family and Medical Leave Act (FMLA) is working for America, according to National Partnership for Women & Families Vice President and General Counsel Donna Lenhoff. Since the FMLA was enacted in 1993, over 35 million covered and eligible employees have taken leave for family and medical reasons. Nearly two-thirds of covered employers say that compliance is very or somewhat easy. The new study also underscores the need for a family leave benefit to help low-income workers afford to take leave, Lenhoff added.

The new federal study explores workers' use of the FMLA and the policies and practices of employers. It finds that employees are happy with the law, and the majority of employers have had little trouble implementing it. "This new survey shows once again that the FMLA has been one of the most successful and important laws for working families in years," said Lenhoff, who drafted the original bill. "The FMLA has created a sea change in the workplace, and encouraged employers to be much more flexible."

Today's study updates a 1995 study by the bi-partisan Commission on Family and Medical Leave that was released in 1996; Lenhoff served as Vice Chair of that Commission. It found that, overall, the FMLA had a positive effect or no noticeable effect on employers' productivity, profitability and growth. Although more covered employers report that complying with the FMLA is very or somewhat difficult now than in the 1995 survey, nearly two-thirds say that complying with the Act is very or somewhat easy. Both in 1995 and in 2000, 90 percent of covered employers said that complying with the FMLA brought either no, or just a small, increase in their administrative costs.

In a study released yesterday by the Society for Human Resource Management – a longtime opponent of the FMLA – a majority of respondents said that administering the FMLA is easier now than it was when the Act was first established in 1993.

"We have found that the FMLA has played a critical role for our company in maintaining a skilled, productive and committed workforce," said Sharon Schainker, Human Resources Manager for the National 4-H Council in Chevy Chase, Maryland. "The FMLA makes good business sense and has been relatively easy to implement. We believe strongly from practice and in principle that when you support an employee in crisis, the employee will support the organization." The National 4-H Council has more than 170 employees.

more

Add One

The new survey also found that too many workers are still not able to take needed leave, and most cite the inability to afford unpaid leave as the main reason for not taking time off. While 66 percent of respondents said that their inability to afford unpaid leave was one reason they did not take needed leave in 1995, 78 percent say that today. In fact, almost nine in ten (88 percent) of those who needed leave but did not take it said they would have taken time off if they had received some benefit during their leave.

“Too many Americans still cannot take the unpaid leave the law provides,” Lenhoff added. “Without a family leave benefit, millions of Americans will not realize the promise of the FMLA. The National Partnership is leading a Campaign for Family Leave Benefits. Last year, the Department of Labor adopted a new regulation that allows states to let new parents collect unemployment benefits while on otherwise unpaid parental leave. That is one important solution. State legislators, researchers, and activists for women, children, seniors and working families are promoting a range of innovative proposals to make family leave more affordable.”

Other key findings of the new Department of Labor study include:

- *Knowledge of the law is limited:* While 84 percent of employers knew that their establishments were covered, nearly 50 percent of employees did not know if they were. According to the employee survey, only 56 percent of covered employees report that their employers had posted notices about the FMLA as required by law.
- *Employees support the FMLA:* Eight in ten employees (81 percent) believe that every worker should be able to take family and medical leave. Two-thirds believe that such leave is not a burden to fellow employees.
- *Workers who take leave do so infrequently and for relatively short periods of time:* The median length of leave is ten days, and most workers (75 percent) took only one leave in an 18-month period.
- *Employers experience cost savings through decreased turnover:* More than three in four employers (77 percent) reported cost savings through decreased turnover due to the FMLA.

The National Partnership for Women & Families, formerly the Women’s Legal Defense Fund, wrote the first draft of the FMLA and led the nine-year fight for its passage. In 1999, the National Partnership launched the Campaign for Family Leave Benefits, a multi-year initiative to make family and medical leave more affordable for all working Americans. The National Partnership is a non-profit, non-partisan organization that promotes fairness in the workplace, quality health care, and policies that help women and men meet the dual demands of work and family.

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NOTE: To arrange an interview with Lenhoff or with employers who support the FMLA, please call Kirsten Weeks at 202/986-2600.

1/8

Society for Human Resource Mgt
- not nationally representative

→ majority resp. said Admin. FMLA
easier now than when it was
first established in 1993

agreed

bad # → both in 1995 + 2000

Say it's no different

Cost #



~~WILLIAM WILLIAM~~

Q&A
Family and Medical Leave Survey
January 9, 2001

Background: Today, the Department of Labor released a report on the results of employee and employer surveys on the Family and Medical Leave Act (FMLA), the first legislation the President signed in 1993. The report updates surveys conducted in 1995. Among the significant findings: Since 1993, 35 million workers have taken leave for family or medical reasons; the number of workers unable to take needed leave has declined; workers strongly support FMLA, most employers report no effect from FMLA; and, the number of employees who reported that they could not take unpaid leave, because they could not afford it, increased. The report also found that the number of employers reporting that complying with FMLA was difficult doubled from the 1995 survey.

In addition, the Society for Human Resources Management yesterday released a report on a survey of human resource professionals, timed to coincide with the Department of Labor report, purportedly showing that the FMLA has caused problems for employers and that implementation had been "rocky."

Q: What does the Department of Labor study show about the effectiveness of the Family and Medical Leave Act?

A: The Department of Labor's report provides new evidence that FMLA, one of the earliest accomplishments of this Administration, is working for both employees and employers. More than 35 million workers have taken advantage of it, and the majority of employers have felt no noticeable effect on their overall productivity, profitability or growth.

Still, the President feels strongly that we must build on the success of FMLA and do more to help working families balance the competing demands of work and family. That is why he has advocating expanding the reach of FMLA and finding ways to provide paid leave to those who cannot afford to take unpaid leave.

Q: What about the statistic showing the number of employers reporting difficulty complying with FMLA doubled since the 1995 survey?

A: That number must be taken in context. The study also found that 90% of employers said FMLA didn't hurt their profitability, and nearly 2/3 of employers say that complying with the Act is very or somewhat easy. Overall, most employers reported no effect from FMLA.

Q: What is your reaction to the study by the Society for Human Resources Management, which reported that employer experiences are quite different than the Department of Labor Survey?

A: The surveys themselves are quite different, so I am not sure that comparisons between the findings are useful.

FMLA Study Q&A

DRAFT 1/09/01

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Purpose of Surveys

Question: What is the purpose of the report? Why did the Department commission an update to the 1995 employer and employee surveys?

Answer:

This report presents results from two new surveys of employees and establishments on family and medical leave policies and practices. These surveys were commissioned by the Department of Labor to update the employee and establishment surveys that were conducted five years ago by the Family and Medical Leave Commission.

The Commission's report on the 1995 surveys, A Workable Balance: Report to Congress on Family and Medical Leave Policies, provided the first in-depth look at family and medical leave following the implementation of the FMLA. It was decided that updating information on family and medical leave and its effects was needed to learn if there were differences in employer and employee experiences due to awareness of and use of the law since 1995.

The primary purposes of the report are:

- First, the Surveys document the types of family and medical leave benefits establishments are currently providing and, correspondingly, the benefits that employees are using.
- Second, the Survey of Employees documents the extent to which current family and medical leave policies meet the needs of different types of employees as well as the areas where these needs are unmet.
- Third, the 2000 Survey of Establishments provides extensive information on the impact that providing such leave has had on establishments. These experiences shed light on the extent to which the FMLA and other family and medical leave policies are used, and the extent to which FMLA protected leave imposes undue burden on establishments.

Together the surveys provide a window on the wide range of current family and medical leave experiences of employees and establishments

Source: p. 1-2

Major Findings of the 2000 Surveys

Question: What are the major findings of the 2000 surveys and how to they compare to the 1995 surveys?

Answer:

The total number of workers who took leave for FMLA reasons during the 18-month survey period was 23.8 million or 16.5 percent of all workers. This is an increase in number, but not in rate of leave taking since the 1995 survey.

On average, workers who took leave did so infrequently and for relatively short periods of time. This is basically unchanged since the last survey.

The distribution of reasons for taking leave shifted with fewer leave-takers reporting taking leave for their own serious health condition.

The number of workers unable to take leave declined, though the number who needed leave but did not take it was still large -- 3.5 million workers.

In general, employers' and employees' awareness of whether they were covered by the Act was unchanged.

Note that covered employee awareness is low – for employees in covered establishments, just 38 percent correctly reported that the FMLA applied to them and about one-half did not know if it did.

A larger proportion of establishments not covered by the FMLA provide family and medical leave than did so in 1995.

Generally, employees view family and medical leave policies very favorably. The findings were more positive than in the 1995 survey.

Two-thirds of covered employers reported that, overall, complying with the Act was very or somewhat easy. However, more reported that complying with the Act was very or somewhat difficult than in the 1995 survey.

The 2000 survey found that for most employers, intermittent leave had no impact on their business. (New questions in 2000 survey)

The percentage of employers offering paid leave was unchanged since the 1995 survey.

Source: pp. ix-xii, A-2-30

What was the Cost of the Surveys

Question: What was the cost of surveys and who did the survey work?

Answer:

The surveys were conducted by Westat, a Rockville, Maryland research firm. The Department of Labor contracted with Westat at a cost of \$1.25 million to conduct the surveys and write a report on the survey findings.

Source: Office of the Assistant Secretary for Policy

Who was Surveyed

Question: Who was surveyed and how were they surveyed?

Answer:

The 2000 Survey of **Employees** was a telephone survey designed to sample U.S. residents aged 18 years and older who had been employed at any time since January 1, 1999. Telephone numbers were randomly generated using a list-assisted procedure. Once a household was contacted, the interviewer identified those who used leave, those who needed leave, or those who were employed only. All persons said to have taken or needed leave were eligible for the extended interview. Those not having taken or needed leave were sub-sampled for the extended interviews.

2,558 interviews of employees were conducted using a Computer Assisted Telephone Interview system.

The sample for the 2000 Survey of **Establishments** was designed to cover all private business establishments. The sample frame was the Dun and Bradstreet's Dun's Market Identifiers. The sample frame was stratified by establishment size and by industry group.

- 1,839 establishment interviews were conducted.

Source: pp. C-2, C-16, C-17

Employer Complaints

Question: What is the most common complaint that employers have in administering the

Family and Medical Leave Act?

Answer:

The overall rating respondents gave for complying with the FMLA was as follows: 63.6 percent find that complying with the Act was at least somewhat easy, while 36.4 percent reported that it is very or somewhat difficult.

Establishments also answered a series of questions about the ease of administering the various aspects of FMLA leave. These included record-keeping, determining eligibility, and coordinating with other leave and attendance policies and state and federal leave policies.

Overall, a majority of respondents (57.7 percent to 86.0 percent) reported most aspects of administering FMLA are very or somewhat easy. However, a substantial minority of establishments reported that these tasks are somewhat or very difficult, including maintaining additional records (38.0 percent), coordinating with state and federal leave policies (42.9 percent), coordinating the Act with other leave policies (40.1 percent), coordinating with employee attendance policies (34.5 percent) and determining whether a health condition qualifies as serious health condition under the FMLA (42.3 percent).

Source: pp.6-7, 6-8

Changes in Employer Complaints

Question: Why has the number of employer complaints about the FMLA increased since the 1995 survey?

Answer:

Survey responses indicating administrative burden increased substantially in 2000, compared to 1995. Across the board, administrative issues are perceived to be more difficult in 2000 than they were in 1995; this is statistically significant for all but one issue (i.e., determining whether the Act applies to the organization).

- The survey did not collect information that would explain this trend. It may be that as employees have used leave covered under the Act and information about it has become more widespread, establishments have experienced a greater need to understand the Act and follow its guidelines. This may have caused an increase in the number of establishments reporting greater burden.

Source: p. 6-8

Impact on Businesses

Question: A higher percentage of employers reported that the FMLA had a negative effect on productivity, profitability and growth than in what was reported in 1995 survey results. To what do you attribute the increase?

Answer:

None of the changes in negative effects from the 1995 survey to the 2000 survey were statistically significant. In essence, there was no measurable change.

Source: p. 6-11; employer survey

Impact on Employee Performance

Question: Similarly, more employers reported a negative effect on employee performance

measures than what was reported in the 1995 survey. Do you think the negative responses are more common because employers now have more experience with the effects of the law than in 1995?

Answer:

The only differences that were statistically significant were for productivity and absences. Other than an indication that the negative effects were more pronounced for larger establishments, we do not know why this change occurred.

Source: p. 6-11, A 2-6.12; employer survey

Intermittent Leave

Question: How many employers reported problems associated with intermittent leave? And what was the nature of the problem reported?

Answer:

The survey found that for most employers, intermittent leave had no impact on their business. Slightly more than 81 percent of employers said the use of intermittent leave had no impact on productivity and 94 percent said it had no impact on their profitability. However, larger employers did report more negative impact than did smaller employers.

Comparisons to SHRM Survey

Question: A study from the Society of Human Resource Management (SHRM) shows employer experiences are quite different than the DOL survey. Why are there so many differences?

Answer:

The surveys themselves are quite different, so I don't know if any comparisons should be made between the surveys.

- The DOL establishment survey is based on a sample designed to represent all private business establishments. The sample frame was the Dun and Bradstreet's Dun's Market Identifiers. The sample frame was stratified by establishment size and by industry group. 1,839 establishment interviews were conducted. The final weighted response rate was 65.0 percent.
- In the DOL survey, 5 percent of covered establishments had more than 250 employees. 13 percent of these establishments were in the manufacturing sector; 20 percent in retail; and 29 percent in services.
- DOL's survey collected data on both those establishments covered by the FMLA and those not covered.
- The SHRM survey was of randomly selected SHRM members. 830 responses were mailed in for a response rate of 17 percent. 40 responses were not used.
- 42 percent of SHRM's respondents had 500 or more employees; 55 percent had 100 to 499. 29 percent of these respondents were in manufacturing and only 3 percent were in retail. In addition government sector respondents were included.
- The SHRM survey results included only those who were covered by the FMLA.

Source: pp. 3-3, C-16, C-17

SHRM Survey: Employer Problems

Question: A study from the Society of Human Resource Management (SHRM) suggests that nearly 60 percent of human resource professionals reported problems complying with the rules and regulations of the FMLA. Does this study support those findings? If not, to what do you attribute the differences in results?

Answer:

- The surveys are quite different, so I'm not sure comparisons between the findings are useful. (See question on p. 12.)

If pressed:

Overall, a majority of respondents (57.7 percent to 86.0 percent) reported that most aspects of administering FMLA are very or somewhat easy.

Source: p. 6-7; employer survey

SHRM Survey: Coordination of Leave Policies

Question: The SHRM study also suggest that over 63 percent were uncertain about how to coordinate employee leave under FMLA, the American with Disabilities Act and short-term disability programs. Does the 2000 study support these findings?

Answer:

- The surveys are quite different, so I'm not sure comparisons between the findings are useful. (See question on p. 12.)

If pressed:

When compared to 1995 survey results, the 2000 survey of employers did show an increase in employer difficulty in coordinating with other Federal laws and other leave policies. However, 2000 survey findings still show that a majority of employers find it easy to coordinate with other leave polices (59.9 percent).

Source: p. 6-9; employer survey

SHRM Survey: Unscheduled Leave

Question: The SHRM study also suggest that 60 percent of employees taking FMLA leave do not schedule leave in advance?

Answer:

- The surveys are quite different, so I'm not sure comparisons between the findings are useful. (See question on p. 12.)

If pressed:

Since the majority of leaves are taken for the serious health condition of the employee or his or her spouse, child or parent, one would expect many of those conditions to arise unexpectedly.

SHRM Survey: Costs

Question: The SHRM study also suggest that loss of productivity was costly. Does the 2000 study support these findings?

Answer:

- The surveys are quite different, so I'm not sure comparisons between the findings are useful. (See question on p. 12.)

If pressed:

Only 16 percent of establishments said loss of productivity had a negative effect on business performance and only 17 percent said loss of productivity had a negative effect on employee performance.

SHRM Survey: Business Effects

Question: The SHRM study also suggest that the FMLA and its regulations as having the most negative effect on employee absences and business productivity. Does the 2000 study support these findings?

Answer:

- The surveys are quite different, so I'm not sure comparisons between the findings are useful. (See question on p. 12.)

If pressed:

76 percent of establishments said absences had no effect on employee performance. In addition, of the establishments that had cost savings, 77 percent had savings associated with decreased turnover.

- 76.5 percent of employers said there was no impact on business productivity and 7.1 percent said there was a positive effect.

Source: pp. 6-11, A2-6.19.

Use of Family and Medical Leave

Question: How many individuals have used FMLA leave? And, how many needed leave for an FMLA reason but did not take leave?

Answer:

From January 1, 1999 to the end of the survey period, about 15.2 million employees who were covered and eligible to take leave under the FMLA took leave.

In the 18 month period of the 2000 survey, about 3.5 million employees reported needing but not taking leave for a reason covered under FMLA; 2.4 million of these employees were covered and eligible.

Source: pp. 3-5, 2-13

Change in Use of Leave

Question: Has the number of people who have used FMLA leave increased on average since the 1995 survey?

Answer:

- * From January 1, 1999 to the end of the survey period, between 14 and 16.4 million covered and eligible employees took family and medical leave. This is a significant increase compared to 1995 which found that between 11.6 and 13.6 million covered and eligible workers took leave in the 18-month period before the 1995 survey.
- * However, the rate of leave taking did not change significantly.

Note: This is not the number who said they took FMLA leave -- that number is much smaller

Source: pp. 3-5, A2 - 2.16

Reasons for Taking Leave

Question: What were the most common reasons for taking leave?

Answer:

For all leave-takers, the most common reason for taking leave in the 18 month survey period for their longest leave was for one's own health (47.2 percent), followed by care for a newborn, newly adopted or newly placed child (17.9 percent), care for an ill parent (11.4 percent), and care for an ill child (9.8 percent).

For covered and eligible leave-takers, the most common reason for taking leave in the 18 month survey period for their longest leave was for one's own health (37.8 percent), followed by care for a newborn, newly adopted or newly placed child (24.4 percent), care for an ill child (13.5 percent), maternity-related disability (10.9 percent), and care for an ill parent (10.6 percent).

Note: For all leave-takers for all leaves (not just the longest), the most common reason for taking leave in the 18 month survey period was for one's own health (52.4 percent), followed by care for a newborn, newly adopted or newly placed child (18.5 percent), care for an ill parent (13.0 percent), and care for an ill child (11.5 percent).

Source: pp. 2-6, 3-16, 2-5

Length and Frequency of Leave

Question: How long did leaves last and how many did employees take?

Answer:

Three-quarters of leave-takers took only one leave during the 18 month survey period.

Over one-half of the leaves (54.1 percent) taken since January 1, 1999 have been for 10 or fewer workdays. The median length of leave was 10 days, which was the same length of leave found in the 1995 survey.

Source: p. 2-3

Paid Leave

Question: How many employees who took family and medical leave got pay?

Answer:

Two-thirds of leave-takers received at least some pay during their longest leave.

Source: p. 4-5

Return to Work

Question: How many employees who took family and medical leave returned to work?

Answer:

Almost all workers returned to work for their same employer -- 94.4 percent returned to their employer when they returned to work from their longest leave. Only 3.8 percent did not return to work at all.

Source: p. 4-12

Impact of Leave on Co-workers

Question: Critics have said that many employees are at a disadvantage due to the FMLA, because they have to assume the work assignments of those employees who take

leave. Is this conclusion supported in the survey findings?

Answer:

No. 67.4 percent of employees felt that co-workers taking leave had no impact on them and 17.4 percent said it had a positive effect on them.

Most employees said every person should be able to take up to 12 weeks of unpaid leave in a year for medical and leave problems (81.4 percent) and a majority said this would not be an unfair burden on co-workers (63.9 percent).

Source: pp. 4-20, 4-18; employee survey

Fathers Use of Leave

Question: How many fathers take advantage of FMLA? How many fathers took advantage of FMLA leave to care for a newborn or newly adopted child?

Answer:

- ☐ The survey reports that 46.0 percent of all leave takers were male.
- ☐ Approximately 15.1 percent of all males who took leave reported taking leave to care for a newborn, newly adopted or foster child, and 6.6 percent reported taking leave to care for an ill child.
- ☐ Among males with young children, 34.1 percent took leave to care for a newborn, newly adopted, or newly placed foster child.

Source: pp. A2-2.12, A-2-2.16

Care of Ill Parents

Question: How many workers take FMLA leave to care for ill parents?

Answer:

Approximately 8.8 percent of all females and 6.0 percent of all males report taking leave to care for an ill parent.

Source: p. A2 - 2.16

Need for Leave

Question: How many workers who needed leave for an FMLA-qualified reason were not entitled to leave? Is this a good estimate of the numbers of individual workers not protected by the law?

Answer:

Since January 1, 1999, 3.5 million people needed leave but were not able to take it. Of these, 2.4 million were covered and eligible under the Act. Thus, 1.1 million leave needers were not covered by the Act.

Source: pp. ix, 2-13; employee survey

Lowering the Threshold

Question: How many more workers would be covered if the coverage threshold were lowered to businesses with 25 or more employees as the Administration has proposed?

Answer:

DON'T HAVE ANSWER YET ON EMPLOYEES

It is estimated that close to 600,000 more employers would be covered by the Act if the threshold was lowered to 25 or more employees.

Source: Calculations by Westat based on survey data.

DOL Guidance

Question: The FMLA Technical Corrections Coalition testified in 1999 that employers have

not been provided clear and complete guidance that they need to comply with the FMLA. Does the data in this survey support this contention?

Answer:

According to the 2000 Survey, most employers find it very or somewhat easy to determine whether the Act applies to them (86.0 percent) and to determine if employees are eligible (83.4 percent). However, when compared to the 1995 survey results, a smaller proportion of employers find it easy to administer FMLA's notification, designation, and certification requirements (45.6 percent) or to determine if a health condition is serious (57.7 percent).

Source: p. 6-19; employer survey

FMLA Education Efforts

Question: While the 2000 Survey reported that 84 percent of covered employers were aware that they were covered under FMLA, it also reported that 50 percent of employees did not know if FMLA applied to them. How are you ensuring that you reach both employers and employees concerning the FMLA?

Answer:

- ☐ Compliance assistance is an important component of the Department of Labor's compliance efforts. The Department has initiated and maintained an aggressive outreach program which over the last seven years includes:

Delivering over 3,600 speeches, seminars to both employer and employee groups, as well as conducting media interviews.

Responding to over 797,000 telephone inquiries.

Providing over 465,000 FMLA publications to both employers and employees.

- ☐ Coupled with these outreach activities, the Labor Department has placed informational materials on the Internet. There have been over 383,000 visits to the ESA site since August 1993. Over 240,000 of these visits were made in a one-year period between Oct. 1999 and Sept. 2000.
- ☐ The Department of Labor has established an interactive system on the Internet that allows individuals (employers and employees) to ask FMLA questions and have them answered through an expert system -- *elaws*.

There have been over 250,000 visits to the FMLA ELAWS system since Sept. 1993. More than half of these visits occurred between Oct. 1999 and Sept. 2000.

- ☐ The Department of Labor is partnering with the American Academy of Pediatrics (AAP) and other groups to educate physicians, patients and workers on the provisions of the FMLA. Together, we have developed a poster and brochure (in both Spanish and English) with user-friendly information on FMLA which the AAP has distributed to its 45,000 members.
- ☐ And, in Springfield, Illinois, several local hospitals and clinics have agreed to distribute copies of the FMLA brochure in their waiting rooms and with new patient packages.

Question: Only 56 percent of employees at covered work sites reported that their employer posted the required notice explaining the FMLA. About 20 percent did not know if there was a notice. Doesn't the law require posting? What is the Department doing to ensure that employers comply with this part of the law?

Answer:

- Section 109(a) states that each employer shall post and keep, in conspicuous places on the premises of the employer where notices to employees and applicants for employment are customarily posted, an FMLA poster.
- Section 109(b) provides for a penalty not to exceed \$100 for any employer that willfully violates this posting requirement.
- The Department informs employers investigated under FMLA about the posting requirement and where necessary provides copies of the FMLA Posters.
- The Department of Labor's interactive system on the Internet informs employers of their posting requirement and FMLA Posters are also available for downloading from the Department's web page.

DOL Positions on Intermittent Leave and Serious Health Condition

Question: Will the Department re-examine its positions on “serious health condition” and intermittent leave given the survey findings?

Answer:

- In developing the FMLA implementing regulations, a number of complex issues had to be addressed, including the definition of “serious health condition,” and the use of “intermittent leave.” Some employers continue to express concern over these issues, however, we can assure you that we carefully weighed the comments received within the context of the statutory requirements and legislative history. The final regulations sought to balance the benefits and protections afforded employees with concerns raised by employers.
- As with any new law adjustment problems can be expected. The majority of respondents in this recent survey (57.7 percent) found that determining “serious health condition” was very/somewhat easy and our enforcement experiences do not indicate substantial problems with this law.
- The Department’s opinion letters on this issue – which explain the existing regulations in response to requests for such explanation – have sought to clarify that normal, everyday illnesses are usually not “serious health conditions” because they don’t meet the definition, but in some circumstances, the condition may indeed be serious.
- With regard to complaints from some employers, it should be noted that a serious complicated case of the flu, perhaps affecting an older worker or a very young child, may meet all of the tests in the regulations for a qualifying serious health condition – a period of incapacity of more than three consecutive calendar days that also involves “continuing treatment.”
- In a recent decision, the Court of Appeals for the Eighth Circuit found that an employee who suffered from an upset stomach and a minor ulcer – which may not ordinarily be considered serious—met the objective regulatory standard for a qualifying serious health condition because of the regimen of continuing medical treatment.

Changes to Regulations

Question: Other studies indicate that the FMLA is confusing to employees. Given the relatively high percentage of employees who do not know if they are covered by FMLA, do you agree that the rules and regulations are confusing?

Answer:

I believe what is more troubling is that 40.7 percent of covered employees have not heard of the FMLA. They are not confused by the rules. They are not even aware they are protected by the Act.

Note: Under the rules, it is a covered employer's responsibility to inform employees of their rights and responsibilities under the Act.

Source: p. 3-11

Family and Medical Leave Act Enforcement Experience

Question: What is the Department's experience in enforcing the Family and Medical Leave Act? How many complaints have been received? How many have been resolved?

Answer:

- In the last six years since FMLA became effective (on August 5, 1993, through the end of FY 1999), the Department has completed action on nearly 16,500 complaints alleging failure to comply with the FMLA.
- Nearly 60 percent of the complaints received were valid, i.e., there were apparent FMLA violations.
 - The Department has successfully resolved nearly 90 percent of the valid cases. The majority were resolved with a phone call to the employer explaining FMLA's provisions and the steps needed to remedy the situation.
- An important component of the Department's compliance efforts – and something that has contributed to the acceptance of and compliance with the statute – is our focus on educational outreach.
 - The Department has maintained an aggressive outreach program which includes: 1) distributing public service announcements; 2) delivering over 3,600 speeches, seminars, and media events; and 3) responding to over 797,000 telephone inquiries to our offices and establishing a special toll-free number (1-800-959-FMLA).
 - Coupled with these outreach activities, the Department has established an interactive system on the Internet, which allows individuals to ask FMLA questions and have them answered through an expert system. A part of *elaws*, the FMLA advisor provides another form of compliance assistance for employers and employees. Over 250,000 individuals have accessed and over 383,000 have accessed the Department's FMLA internet web site.