

THE WHITE HOUSE
WASHINGTON

January 6, 1998

MEMORANDUM TO THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING

SUBJECT: FAMILY AND MEDICAL LEAVE EXPANSIONS

A number of your advisors believe that your child care initiative should include a proposal to help parents stay at home with their young children. In addition to giving parents greater opportunity to make real choices in raising their children, these policies could help inoculate your child care initiative against conservative attack. Two pieces of your child care proposal help parents who wish to stay at home: the Early Learning Fund pays for home visitation and other parent education programs (for both stay-at-home and working parents); and the Research and Evaluation Fund supports demonstration projects to test policies to help parents stay at home. This memorandum outlines proposals (without budgetary implications) to expand the Family and Medical Leave Act (FMLA) that will help parents stay at home with their newborns.

FMLA currently requires employers with 50 or more employees to provide up to 12 weeks of unpaid leave to eligible employees for certain family and medical reasons, including the care of a new child. Employees are eligible if they have worked for the employer for at least 12 months and for at least 1,250 hours over the previous 12 months, and if the employer has at least 50 employees working within 75 miles of the employee's worksite. Public agencies are covered by FMLA regardless of size, but employees must still meet the eligibility requirements, including working at a site where at least 50 employees are employed within 75 miles.

Options to expand FMLA include: (1) applying FMLA to businesses with 25 or more employees, either in one step or incrementally; or (2) extending the permissible leave period to 24 weeks for parents with newborns.

Expanding Coverage to Businesses with Fewer Employees. You could call for lowering FMLA's employer coverage threshold from 50 to 25, either in one step or incrementally (for example by lowering it to 40, then 35, and finally 25). Senators Kennedy and Dodd have proposed to lower the threshold to 10 employees, but your advisors believe that FMLA would be too great a burden on employers of that size.

According to the Department of Labor, 67 million employees are currently eligible for FMLA. Lowering the threshold to 40 would add 3.4 million people; lowering it to 35 would add 5.4 million people. Lowering the threshold all the way to 25 would add about 10 million people, increasing by 15 percent the number of employees covered by FMLA, and doubling the number of employers covered by the Act (from 330,000 to 690,000).

This proposal would give FMLA protection to more people at no cost to the federal government. It would receive strong support from labor, women's groups, and other core Democratic constituencies. The proposal, however, would provoke strong business opposition. Many Republican and some Democratic Members of Congress would likely criticize any attempt to lower the threshold as detrimental to small business. (According to a survey by the Family and Medical Leave Commission, however, the great majority of businesses that have implemented FMLA report little or no cost increases.) Introducing a FMLA proposal might also raise the flex-time debate in Congress again.

Extending FMLA Leave from Three to Six Months. This option would allow workers who are currently eligible for FMLA to take a longer leave. Approximately 12 million workers take FMLA leave. According to the FMLA Commission's survey, about 12.5 percent or 1.5 million workers take the full 12 week leave. Of these, 450,000 workers took 12 or more weeks leave for maternity, disability, or the care of a newborn, adopted or foster child.

This proposal would give parents additional time to spend with their new babies (again at no cost to the federal government). It might help respond to the charge that our child care proposal helps only working parents, not those who -- with a little help -- can and want to stay home with their children for a period of time. However, any family leave policy would not fully respond to that criticism because leave is by definition geared toward people who have been in the workforce and will return to it. In addition, this proposal would not help workers who currently cannot afford to take even the full 12 weeks of FMLA leave. According to the Commission's survey, 65 percent of those who would have liked to take leave to care for their newborn, foster, or adopted child could not do so for economic reasons. Because this proposal would not help such workers, FMLA advocates would likely give it only lukewarm support. Finally, businesses already covered by FMLA would oppose the extension because guaranteeing *six months* of leave would disrupt their operations.

Recommendations. Your advisors all agree that lowering the employee threshold will provoke too much opposition and will not therefore be seen as a viable proposal to help parents stay at home.

The views on the extension from three to six months are more complex. The Treasury Department does not have a view on the political merits on this proposal, but is concerned that by raising the cost of employing women, this proposal will result in reduced wages or reduced employment for *all* women, while likely disproportionately benefiting *affluent women*. The Commerce Department shares this concern, but recognizes that longer leave will allow some

parents to stay home to care for their young children throughout the critical first six months knowing that their job is protected, and therefore supports it. The Labor Department recognizes the limited benefit of the extension, but supports it nonetheless. The SBA opposes extending FMLA on the ground that it will engender widespread opposition from the small business community and may undermine gains we have already made.

DPC and NEC support extending FMLA from three to six months. (NEC feels that there are legitimate business and economic concerns with the extension, but in the final analysis is more for it than against it.) DPC and NEC do not believe, however, that you should announce this proposal tomorrow at the unveiling of your child care initiative. DPC believes that extending FMLA from three to six months may respond to conservative attacks because it allows at least some parents to stay at home to care for their young children in the critical first six months; DPC worries, however, this proposal may get lost if proposed tomorrow, given the size and significance of your child care announcement. NEC is also concerned that this proposal may taint the child care announcement with business criticism.

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JAN - 9 1998 5:35 pm

THE WHITE HOUSE
WASHINGTON

THE PRESIDENT WAS SEEN
1-12-98

January 9, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

copied
Reed
Kagan
COS -

SUBJECT: DPC Weekly Report

1. Child Care -- Response to Announcement: We are pleased with the response so far to your child care initiative. Children's advocates and child care experts are overjoyed at both the level of funding and the composition of the package (e.g., the ratio of subsidies to tax cuts). Hill Democrats and some moderate Republicans are enthusiastic about the package, as you heard at Thursday's congressional meeting. Governors -- including a few Republicans -- have praised the extent of state flexibility in the plan. Even conservative Republicans in Congress had a hard time attacking your proposal. Rep. Pryce, whom Speaker Gingrich asked to respond to the proposal for the House Republican leadership, admitted that you had "resisted the urge to have the federal government control child care." Some Republicans alternated between accusing you of spending too much money and trying to claim that they had spent even more for child care in the past.

The most serious criticism, which we knew we would face, is that the package does little to help parents who want to stay at home to care for their children. (A similar point was made in the opinion piece by David Blankenhorn appearing in the New York Times that you recently asked us about; as you recall, he criticizes tax cuts for child care and supports expanding the child tax credit to help parents of young children stay at home.) As you know, we can blunt this charge somewhat by coming out for an expansion of the FMLA in the State of the Union to allow more workers to stay at home for longer periods with their newborns. We are also open to discussing with members of Congress an expansion of the child tax credit, although we found such proposals too expensive to incorporate into our package. Most important, we cannot let anyone forget your consistent record of providing families with real opportunity and choices -- for example, through the child tax credit, FMLA, EITC, minimum wage, and CHIP.

2. Health -- Response to Medicare Buy-in Announcement: Your Medicare buy-in proposal provoked a great deal of comment. Some Republicans, including Senator Gramm and Rep. Bill Thomas, were extremely critical of the proposal, arguing that it would exacerbate Medicare's financial problems. (Gramm compared Medicare to the Titanic and warned about putting extra passengers on board.) The base Democrats were very pleased with the proposal -- particularly after Republicans strongly opposed it. Though liberal groups also were pleased that we are addressing this issue, they believe we must include some kind of subsidy for low-income Americans. Elite validators gave this policy mixed reviews: while uniformly recognizing the

need of this population for affordable insurance, some (including the New York Times) praised the self-financing feature of the program, while others expressed concern that the proposal would create the demand for further, less fiscally responsible subsidization.

✓ **3. Drugs -- Substance Abuse and Prisoners:** The National Center on Addiction and Substance Abuse released a study on Thursday finding that drug or alcohol use helped lead to the incarceration of 80 percent of all inmates in the nation's prisons and jails. According to the report, 1.4 million prisoners (out of a total 1.7 million) were high on drugs or alcohol when they committed their crimes, stole property to buy drugs, and/or had a history of drug and alcohol abuse.

As you know, the 1994 Crime Law mandates that 100 percent of all federal prisoners defined as eligible receive substance abuse treatment by 1997. According to the Bureau of Prisons, the federal prison system has met this requirement. Since 1994, we have made some form of substance abuse treatment available in every federal prison facility, tripled the total number of inmates treated in the federal system, and increased the number of residential treatment centers in federal prisons by 30 percent (from 32 to 42). In addition, legislation you offered requires states to submit comprehensive plans of testing, sanctions, and treatment by March 1998 as a condition of receiving prison construction funding.

But will treat the abused - all are results of substance

To build on these efforts, we are preparing a directive from you to the Attorney General to: (1) require states, as part of their testing and treatment plans, to estimate current drug use in prisons and measure progress yearly; (2) draft legislation to allow states to use prison construction funds to implement their testing and treatment plans; and 3) draft legislation to require states to enact increased penalties for smuggling drugs into prisons as a condition of receiving prison construction monies. An event focusing on this directive is tentatively scheduled for Monday.

4. Drugs -- Anti-Drug Media Campaign: The anti-drug media campaign began on Thursday in Washington, D.C. -- the first city in the 12-city pilot. Anti-drug advertisements have started to air in the District during prime-time network television shows, with radio and Internet ads to commence next week. ONDCP will roll out the media campaign in the remaining pilot cities throughout the month of January. The other 11 pilot cities and rollout dates are as follows: Atlanta (1/20), Baltimore (1/13), Boise (1/13), Denver (1/16), Hartford (1/23), Houston (1/15), Milwaukee (1/21), Portland (1/22), San Diego (1/9), Sioux City (1/20), and Tucson (1/15).

5. Crime -- Brady Checks: As you know, Arkansas remains the only state that is not conducting background checks prior to handgun sales. Although Attorney General Winston Bryant issued an opinion saying that state police have the legal authority to conduct checks, Governor Huckabee has ordered the police not to do so. In response, Bryant has asked the Treasury and Justice Departments to make him (rather than the state police) the designated chief law enforcement officer for the entire state; under this scheme, federally licensed dealers would refer the names of potential handgun purchasers to the AG's office, and employees of that office

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to do
insurance*

would check the names in the FBI's NCIC (rather than the state police's) database. Justice and Treasury are currently inclined to grant Bryant's request later this month. This action may provoke a strong response from Huckabee, who is currently not aware of Bryant's request.

6. Crime -- Slain Officers: The National Law Enforcement Officers Memorial Fund (NLEOMF) reported last week that the number of officers killed in the line of duty increased by nearly 40% in 1997, from 116 in 1996 (the lowest number since 1959) to 159 last year. The 1997 figure exceeds the 1990s average of 151 line-of-duty deaths per year. NLEOMF attributes the rise in deaths to: (1) an increase in firearms-related deaths (70 in 1997, as compared to 56 in 1996); (2) an unusually high number of traffic fatalities; and (3) 10 multiple-death incidents, in which a total of 22 officers were killed.

7. Welfare -- Child Support Computer Systems: We are working closely with a House-Senate group convened by Rep. Clay Shaw's staff on the child support computer systems issue you discussed with Senator Feinstein this fall. Our goal is to put in place a new system of penalties that are large enough to ensure that states develop effective computer systems, but not so large as to disrupt states' child support collection efforts. As you know, current law requires us to withhold all federal child support funds from a state without a statewide child support computer system -- a penalty we intend to retain in the legislation (at least as a threat) for egregious cases. Shaw's initial proposal, which we think makes sense, would impose an initial penalty of 4 percent of federal child support funds in the first year, with higher penalties in later years. Once a state's system is complete, it could earn back a portion of the penalty. Shaw wants to introduce legislation the first day of Congress and move it through the House by the second week of February. As always, the Senate is expected to move more slowly, but could pass the legislation by April. By then, HHS expects nine states to remain without statewide computer systems: California, Michigan, Illinois, Ohio, Pennsylvania, Indiana, Hawaii, Oregon, and New Mexico.

8. Welfare -- Welfare Recipients in College: You recently asked us about a report in the Washington Post that some college students on welfare are dropping out of school to meet new work requirements. As you know, the welfare law does not count education that is not directly related to a job toward the work participation rates. States, however, have significant flexibility to excuse college students from work, given that the required participation rate is now at 30 percent and peaks at 50 percent. In addition, welfare recipients can combine work with their studies (as most college students do), particularly if work-study jobs are available. To encourage this result, we asked Secretaries Riley and Shalala to write to the nation's college presidents in September to explain the law and stress the importance of providing work-study jobs to welfare recipients enrolled in their schools. (Most work-study jobs are only 10 hours per week, but the letter explained that this is not a legal requirement.)

9. Welfare -- Delaware Evaluation: Governor Carper released on Monday an evaluation of the state's welfare reform waiver program called A Better Chance (ABC). The program began in 1995 as one of the first comprehensive statewide waivers granted by the

Administration. Initial results are encouraging: by the fourth quarter after the program started, program participants had 24 percent higher employment, 16 percent higher earnings, and 18 percent lower average benefits than the participants in the control group. The evaluation found a fairly high rate of sanctioning: 49 percent of the participants were sanctioned at least once for failing to comply with the program's employment or family responsibility (immunization, school attendance) requirements. It is interesting to note in evaluating these results that Delaware's caseloads have not gone down as dramatically as those of many other states; the decline since January 1993 has been 21 percent. This relatively low decline may result from ABC's "make work pay" incentive that allows recipients to keep more earnings and still remain eligible for welfare.

10. Education -- California Math Standards: Proposed new math standards in California have provoked a heated debate in the last few months, pitting educators who emphasize problem solving against those who favor a more basic skills approach. The California State Board of Education last month adopted the more conservative view, over the objection of Superintendent Delaine Eastin. The head of the Education Directorate at the National Science Foundation subsequently sent a letter to the Chair of the California State Board strongly criticizing the decision and implying that it would jeopardize continued NSF funding for six Urban Systemic Improvement sites in California. The letter upset conservatives (and others), who viewed it -- in our view, correctly -- as an example of inappropriate federal intrusion in state curriculum matters. Diane Ravitch warned us immediately that it could give Bill Bennett a pretext for withdrawing his support of your national testing initiative. As a result, we worked with NSF this week to draft a letter from NSF Director Lane to the California State Board clarifying that NSF would not second-guess state standards and emphasizing the importance of basic skills. Based on recent conversations with Ravitch, we believe this step has been sufficient to prevent Bennett's reversal.

11. Education -- Urban Education Report: Education Week issued its annual report on education reform in the 50 states on Thursday, focusing on the plight of urban school districts. The study noted that approximately 40 percent of students in urban districts reached the basic level on the most recent NAEP 4th grade reading and 8th grade math and science exams in 1994 and 1996, compared to over 60 percent in each of these subjects in non-urban areas. The study also found discrepancies in resources, with urban districts spending about \$500 less per child annually than non-urban districts. The Education Week issue also detailed a dozen promising reform strategies to raise achievement in districts around the nation -- e.g., setting high standards; holding schools accountable for results and giving schools greater flexibility; creating small, more intimate schools or schools-within-schools; recruiting well-prepared teachers and providing them with continuing training and support; training principals to be effective school leaders; and promoting school choice. Your existing and planned initiatives -- including the new Education Opportunity Zones proposal that you previewed in December -- match up very well with these reform prescriptions.

1-12-98

12. Education -- Life-long Learning Card: You recently asked us about Bob Reich's idea of a life-long learning card -- essentially a bank card consolidating all federal education benefits (Pell, IRAs, education tax credits and deductions, and job-training funds), against which education expenses could be deducted. DPC and NEC staff have begun to look into this proposal, but we do not yet have a specific recommendation. The Education Department is currently intending to begin a pilot project by October 2000 to use bank cards to disburse federal aid to post-secondary students. Our instinct is that bank cards may be effective to deliver grants and loans, but less useful for tax credits and deductions. We will continue to explore this issue.

→ This is an exciting
possibility - we are
not happy to see
it get a little more

Increasing Maternity Leave Resources by Promoting Improved Withholding

The Problem: A major limitation on the ability of families to take full advantage of FMLA is that they do not have the financial resources to support an extended absence from the labor force by the female earner. This may be one reason why only 16% of women who take FMLA for care of a newborn use the entire 3 months of leave.

A Partial Solution: There is, in principle, a partial solution to the cash flow problem facing families taking leave: promote the use of prompt withholding adjustment among families who have newborn children. In this way, the families can avail themselves immediately of the tax benefit that results from this new child.

- When a child is added to the family, the tax burden falls for two reasons: the family is entitled to an additional personal exemption, and a new, additional child tax credit (ultimately \$500 per child).
- But, if the family does not adjust their withholding for the arrival of this new child, they will not benefit from these features until their taxes are filed the next year. This may be too late for cash-strapped families who are reluctant to take leave because they can't make ends meet.
- Over-withholding is a significant phenomenon, with the average refund exceeding \$1,200 in 1996 (although, given the persistence of overwithholding, this proposal is unlikely to induce more than a small percentage increase in the total amount actually withheld).
- For the typical family with no other children, where the wife takes three months of leave upon the birth of their first child, they could receive roughly \$100 in reduced tax payments over the three months of leave by promptly adjusting withholding. For the second and subsequent children, the impact would be larger; for example, withholding adjustments could result in roughly \$350 upon birth of a second child.

The Policy: We could promote increased withholding by those taking leave in at least three ways:

- The President could use the "bully pulpit" to urge parents to change their withholding to increase take home pay after the birth of a child.
- As part of the requirements of FMLA, employers could be required to notify employees about the advantages of adjusting withholding at the birth of a child, through the same mechanisms now used to notify employees of their FMLA rights.
- Employers could also be required to provide employees taking maternity leave with a W-4 form to update their withholding (or, more relevantly, their husband's withholding). This would impose some small costs on employers, but would make it more likely that families actually take the step of adjusting withholding.

THE WHITE HOUSE
WASHINGTON

January 6, 1998

MR. PRESIDENT:

The attached Sperling/Reed memo asks you to decide whether to include in tomorrow's child care announcements a proposal to expand the FMLA to help parents stay at home with their young children. *NEC/DPC recommend against an announcement tomorrow feeling that it will get lost in the child care package, but thought you should make the decision.*

Two options are presented. *But a policy decision is not required unless you decide to make an announcement tomorrow.* Option 1: lower the FMLA's coverage threshold from businesses with 50 employees to those with 25, either in one step or incrementally; or Option 2: extend the period of FMLA leave from 3 to 6 months. There is no support for Option 1 as it will provoke too much opposition, particularly from small business. NEC/DPC favor Option 2 but it enjoys only lukewarm support from Treasury, Commerce and Labor, and is opposed by SBA.

Copied
Reed
Sperling
COS
Jen Klein

Rahm and Podesta agree that the announcement should be deferred. If you decide to make an announcement, Podesta favors Option 2. Erskine hasn't had a chance to weigh in on the policy options.

Defer FMLA announcement:

 Agree (recommended) Disagree Discuss

If you decide to make announcement:

___ Option 1 ___ Option 2 ___ Discuss

Phil Caplan *Phil*

THE WHITE HOUSE
WASHINGTON

January 13, 1998

MEMORANDUM FOR DISTRIBUTION LIST

FROM: Gay Joshlyn, National Economic Council

SUBJECT: FMLA Meeting

There will be a meeting to discuss FMLA on Thursday, January 15, at 3:30 pm in OEOD Room 324. Anne Lewis and Jennifer Klein will co-chair the meeting. Please give me a call at 456-2801 if you need to be cleared into the building or if you are not able to attend.

Distribution

Jennifer Klein, DPC
Nicole Rabner, DPC
Neera Tanden, DPC
Emil Parker, NEC
Anne Lewis, NEC
Chuck Marr, NEC
Geri Palast, DOL
John Fraser, DOL
Mary Ann Wyrsh, DOL
David Lane, DOC
Jon Gruber, TRS
Augustine Faucher, TRS
Larry Matlack, OMB
Amy Finkelstein, CEA

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January 6, 1998

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FROM: BRUCE REED
GENE SPERLING

SUBJECT: FAMILY AND MEDICAL LEAVE EXPANSIONS

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CHIEF OF STAFF TO THE PRESIDENT

Copy this to Gene Sperling and
Bruce Reed

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-BR

Bruce & Gene -
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to assume this kind of
cost. This is a
big deal.
Gene

fax message from Carol M. Beach

fax number: 301-951-0340 phone number: 301-951-9643

~~office fax: 202-885-1216 office phone: 202-885-1228~~

to: JEN KLEIN

date: 1/6/98

re: Column -

Will You Pls. Call Me As

Soon As You Read This So

It Can Go To CREATORS.

total number of pages: 5

- 1 -

Draft #3

**FIRST LADY HILLARY RODHAM CLINTON
"TALKING IT OVER"/CREATORS SYNDICATE
COLUMN FOR PUBLICATION JANUARY 8, 1998**

Many of you are rushing to read this as you drink one more cup of coffee before setting off for work. If you're lucky, you won't worry about the safety of your children while you're gone. If you're lucky, you trust that they're in a safe, nurturing, and stimulating environment -- one that they're excited about going to each day -- if you're lucky.

Unfortunately, many working parents aren't so lucky. With the help of relatives, in-home providers, professional day care centers, and before- and after- school programs, working moms and dads manage to cobble together affordable care for their children. Some of this care is excellent. Tragically, though, recent national studies find that most is "poor to mediocre."

This week, my husband took a major step toward improving child care for America's working families. In the largest investment in child care in our nation's history, he proposed increasing child care tax credits for three million working families; doubling the number of children receiving child care subsidies; providing after-school care for 200,000 children; funding ^{up to} 50,000 ^{each year} scholarships to promote the training of child care providers; providing financial incentives for states to toughen enforcement of quality standards; and providing home visits, parent education, and consumer education about child care.

In the over 25 years I have worked on children's issues, I have seen firsthand the results of our failures to invest in our children at the most critical stages in their lives. I

- 2 -

have learned why good child care is so critical to our children, our families and our future. Although studies show that children are not adversely affected by having parents work outside the home, there is evidence that poor care either inside or outside the home has damaging consequences, especially in the first three years of life.

In October, the President and I hosted a White House Conference on Child Care. That conference was meant to start a conversation – to renew our efforts to improve child care in America. This week, the President took action.

At the White House Conference, lots of questions were raised: How to ensure the safety of every child in child care? How to do a better job of training and paying caregivers? How to encourage more employers to provide child care benefits to employees? How to make successful after-school programs more widely available? How to learn from the good models that we have in every community? The President's proposal offers answers to these questions.

Each of us who has frantically scrambled to find alternative arrangements for a sick child, who has murmured instructions into the phone after school, who has sent a child off to school with "just a little cold" – each of us understands the urgency of the situation.

But, new scientific information makes the case even more compelling. We now know from the White House Conference on Early Childhood Development in April that what happens to a child in the earliest years of life affects how well that child will learn for a lifetime. With 45 percent of our children under age one in day care regularly, the issue of quality child care has tremendous bearing, not just on individual lives, but on the future of our nation.

- 3 -

It is no surprise that demand for quality child care is growing with the dramatic changes in the American work force and way of life over the past 40 years.

During World War II, the federal government stepped in to provide federally funded day care for the mothers who went to work to support the war effort. But, today, it is the ordinary, not the extraordinary that drives our efforts. Now more than 80 percent of married mothers with a child under age six work outside the home and 13 million children, under the age of six, are in child care.

In addition, because the school day ends before the workday does, families also need care, supervision, and stimulating activities for school-age children after school. This is also important in our continuing fight against crime for it is between 2 and 8 p.m. that adolescents are most likely to find themselves in trouble with the police.

6 p.m.

Sadly, though, as a society, we have never sufficiently valued the work of caring for our children -- whether by mothers or other relatives who stay at home or by paid child care providers. On average, child care teachers earn just over \$12,000 per year, in-home providers about \$9,500 and unregulated providers just \$5,000. It's a sad state of affairs when we pay the garage attendant who parks our car more than the person who cares for our children.

The President's initiative this week is a major step toward turning the situation around by helping working families pay for child care, improving the safety and quality of care, promoting early learning, and building the supply of good after-school programs.

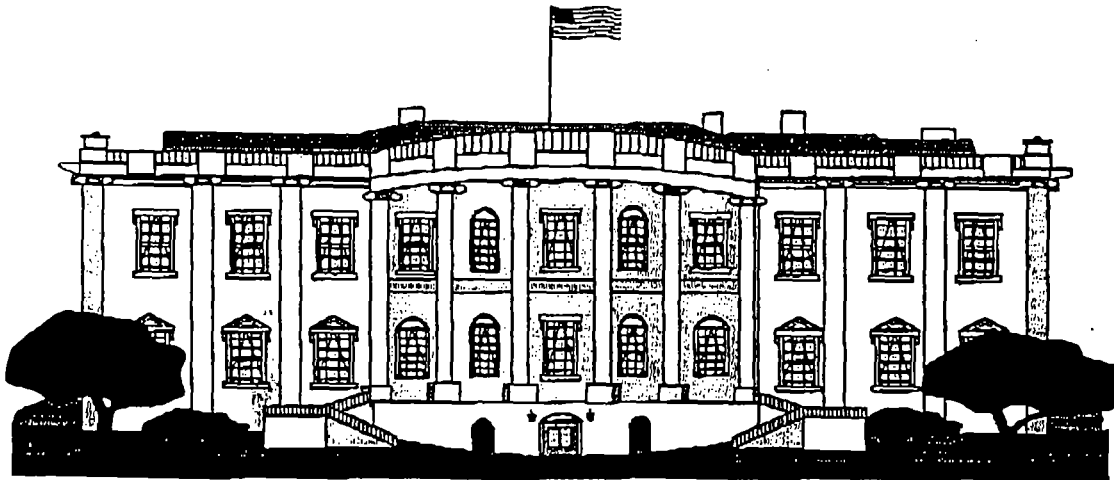
No program can stop any of us from worrying about our children. After all, that's what parents do. What it offers is a helping hand to parents, educators, community, state,

- 4 -

and federal authorities working together to provide safe, nurturing and stimulating care

for our children in the most important learning years of their lives.

(861 words)



The White House

National Economic Council

To: Deera

Phone: _____

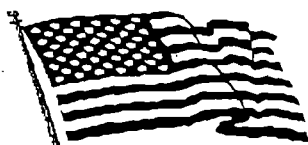
Fax: 628.78

From: Chuck

Phone: (202) 456-6630 Fax: (202) 456-2223

Pages including cover sheet: _____

Comments: _____



F12/2/97

December 2, 1997

DRAFT**COST ESTIMATE FOR FMLA OPTIONS****1. PAID LEAVE FOR 6 WEEKS OF NEWBORN/ADOPTION/FOSTER CARE**

Objective: Cost for a maximum of 6 weeks maternity or child care benefit (i.e., federal income replacement) at \$200 a week for mothers or fathers with workforce attachment. (See first column of attached table.)

- a. Number of women¹ with newborns in a given year: 3,378,000 [from 1996 CPS]
Excludes some adoptions/foster care.
Maximum program cost for all newborn providers: $3,378,000 \times \$1200 = \$4,053,600,000$.
 - b. Assume that 1,834,000 mothers will return to work. [Based on 54.3% LFPR of all women with youngest child less than 1 year old.]
This is a proxy for working women who give birth and would be eligible for this benefit. Note that this number does not include those that worked prior to giving birth but (without this new incentive) did not return to work within a year.
 - c. Assume maximum 33% will be ineligible for benefit because they did not work full-time previous year. [Per February 1996 tenure data for 16-44 year old women.] Lots of potential bias problems here. Younger women more likely to give birth and less likely to be attached. However, the tenure data is not just for those employed, but for those employed with their current employer for a year. (Work experience data does not have this problem. It could be examined at a later date.) The 1.8 million women who returned to work are more likely than most to have been previously attached to the workforce (because returned early, likely to have health benefits attached to job and wouldn't want to quit during a pregnancy, etc). Therefore, it may also be useful to assume a lower percent being ineligible -- 20% has been arbitrarily chosen for this purpose.
- Using these bounds implies there would be between **1,228,780 and 1,467,200** potential leave takers who would pass the workforce attachment requirement.
- d. Without means testing, this implies a cost of between **\$1,474,536,000 and \$1,760,640,000** (at $\$200 \times 6 \text{ weeks} = \1200 for each mother). These costs are for benefits only, i.e., without program/administrative costs.
 - e. How many of these women would meet an income eligibility cut? (The test would be on family income, not the income of the leave taker.)

¹ The number of women/mothers is used to estimate costs because only one parent of a newborn would be eligible for paid leave and women/mothers are more likely to take leave than men/fathers.

Median income for primary families with children under 3 is \$36,626. If the population was $\frac{1}{2}$ below and $\frac{1}{2}$ above, then the cost would be half – between \$737,268,000 and \$880,320,000. However, the actual cost is likely higher since most of the women who would be in the workforce full-time for at least a year would be over this mean (i.e., the lower part of the distribution would be cut off by the workforce attachment criterion).

See the table for costs at family income thresholds of \$50,000 and \$60,000.

- f. To the extent that families would choose to use their firms' paid leave over the \$200 a week benefit provided by the government (they need to use the federal benefit first or forfeit it), this would reduce the number of users and, therefore, costs. However, this reduction may not be significant (and cannot be reliably estimated).

Only a very small number of employees receive paid family leave (2 to 3%), although most receive paid vacation (88 to 97%) and paid sick leave (50 to 65%) that could be used during the first six weeks after having a child. (Mothers would likely be the only ones who could use paid sick leave.) The number who choose paid company leave over federal wage replacement would be reduced by the percent that would be allowed to take off enough leave (i.e. those covered and eligible for FMLA) to use the reduced federal benefit first and then use company provided paid leave. (Note that since many low income women are disqualified by the workforce attachment test, those that are least likely to be eligible for extended leave are also eliminated.)

However, data from the 1995 survey by the Commission on Family and Medical Leave would indicate that a good portion of mothers and fathers do not receive sufficient paid leave from their companies and thus would likely take advantage of the federal leave program. About 65% of all child care "leave needers" (as defined and surveyed by the Commission) say the reason for not taking leave is that they can not afford to do so. Yet, for those covered by the FMLA, the Commission reports 46% get fully paid child care leave (23% get partially paid leave); for those not working at covered worksites, the percent getting paid leave drops to 37% (16% get partially paid leave).²

- g. Related to the discussion above is the possibility that some eligible mothers/fathers will not take time off to care for newborn/adopted/foster child. Based on data from the Commission (the percent "leave takers" who took leave to care for a child as a percent of "leave takers" plus "leave needers"), it was estimated

² Of interest is the Commission finding that of all low-income leave takers, 21% are receiving public assistance.

11% would not use the leave (or 89% of eligible workers would). This assumes the provision of a partial wage replacement will have no effect on the behavior of the 11%. See columns 3 and 4 of attached table.

- h. Based on data from the Commission (T. 5E), weighted averages were constructed for the number of weeks "leave takers" at non-covered worksites take off to care for newborn/adopted/foster children. The upper bound is 6.1 weeks (same as maximum allowable) and the lower bound is 4.2 weeks. See columns 2 and 4 of attached table for cost estimates which assume an average leave of 4 weeks.
- i. For all of these variations, ETA estimates administrative costs would be about \$162. to \$193 million per year. In addition, there would be startup costs of approximately \$113 million (to change the UI base period and to create a benefit payment system).

Bottom line: Under these assumptions, total costs (administrative and benefit) would range from around \$600 million if the higher ineligibility rate is assumed and the benefits were used for four weeks by parents who met the 1 year work-force attachment and \$36,626 family income tests -- to almost \$2 billion if there was no income test, all eligible parents took the full 6 weeks, and the lower 20% ineligibility rate is used. These costs do not include the estimated \$113 million for start-up.

Note: This estimate is very suspect. Mixed and matched data sources of various years which do not neatly correspond to the proposed groupings have been used. In total, it is unclear to the direction or size of these biases.

2. EXPAND FMLA LEAVE PERIOD FROM THREE TO SIX MONTHS

No benefit cost involved.

This proposal extends the maximum benefit received under FMLA. All covered and eligible individuals could potentially benefit from such an expansion. The size of the group that is likely to benefit can be estimated from looking at the FMLA employee survey leave takers who took more than 12 weeks of leave. Most likely to benefit would be the 10% - 20% of leave takers who took more than 12 weeks of leave (according to data from the 1995 survey by the Commission on Family and Medical Leave). The Commission estimated that between 1 and 2 million took FMLA during their survey period -- thus the number of "long leave" takers is estimated at 100,000 to 400,000 a year.

3. LOWER FMLA'S 50-EMPLOYEE COVERAGE THRESHOLD

No benefit cost involved.

If one assumes a 83% eligibility rate and decreases the threshold to firms 25 and larger (see note below), than this would increase the number of employees covered and eligible by about 10 million. BLS has provided information to NEC on the impact of thresholds between 25 and 50.

Note the source is ES 202 data, whose estimates would not include employees covered by FMLA who work in establishments with less than 25 employees but within 75 miles of other establishments owned by the same firm that in total employ more than 25 workers.

4. USE THE UI PROGRAM TO PROVIDE PARTIAL WAGE REPLACEMENT

It is not known how many states would amend their laws under either of these two UI options. Therefore, the number of potential recipients is unknown. In any event, the maximum pool of recipients will range from 1.2 to 1.5 million. (See discussion 1a. to 1d. above.)

FMLA PAID LEAVE OPTION: COST ESTIMATES		(1)	(2)	(3)	(4)
		all take 6 wks	all take 4 wks*	89% ** take 6 wks	89% take 4 wks
Assumptions					
Number of women w/newborns		3,378,000	3,378,000	3,378,000	3,378,000
Est. of women in workforce giving birth		1,834,000	1,834,000	1,834,000	1,834,000
(54.3% LFPR of all women w/youngest child less 1 year old)					
Less those not meeting workforce attachment requirement					
a. 33% ineligible		1,228,780	1,228,780	1,228,780	1,228,780
b. 20% ineligible		1,467,200	1,467,200	1,467,200	1,467,200
Less those not taking leave (columns (3) and (4))					
a. 33% ineligible		1,228,780	1,228,780	1,093,614	1,093,614
b. 20% ineligible		1,467,200	1,467,200	1,305,808	1,305,808
Eligibility thresholds for family income and workforce attachment					
a. 33% ineligible					
1. \$36,626 (median income of primary families w/child < age 3)		\$737,268,000	\$491,512,000	\$656,168,520	\$437,445,680
2. \$50,000 (62.6% of families with children < age 6 earn less)		\$923,059,536	\$615,373,024	\$821,522,987	\$547,681,991
3. \$60,000 (71.8% of families with children < age 6 earn less)		\$1,058,716,848	\$705,811,232	\$942,257,995	\$628,171,996
4. no income threshold		\$1,474,536,000	\$983,024,000	\$1,312,337,040	\$874,891,360
b. 20% ineligible					
1. \$36,626 (median income of primary families w/child < age 3)		\$880,320,000	\$586,880,000	\$783,484,800	\$522,323,200
2. \$50,000 (62.6% of families with children < age 6 earn less)		\$1,102,160,640	\$734,773,760	\$980,922,970	\$653,948,646
3. \$60,000 (71.8% of families with children < age 6 earn less)		\$1,264,139,520	\$842,759,680	\$1,125,084,173	\$750,056,115
4. no income threshold		\$1,760,640,000	\$1,173,760,000	\$1,566,969,600	\$1,044,646,400
ADD'L ADMINISTRATIVE COSTS					
1st year (start-up + change in base yr)		\$113 million	\$113 million	\$113 million	\$113 million
annual operating costs		\$162-193 million	\$162-193 million	\$162-193 million	\$162-193 million
* data from FMLA Commission T. 5E leave takers at non-covered worksites: care for newborn, etc.					
upper bound: (.371*1 wk) + (.092 * 2 wk) + (.109 * 4 wk) + (.429 * 12 wk) = 6.139 weeks					
lower bound: (.371*1 wk) + (.092 * 2 wk) + (.109 * 3 wk) + (.229* 4 wk) + (.2 * 12 wk) = 4.198 weeks					
** data from FMLA Commission: total leave takers for care of newborn/adopted/foster as percent of leave takers + leave needers					

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**PROPOSALS TO ASSIST PARENTS OF
NEWLY BORN OR ADOPTED INFANTS**

1. Expand FMLA Leave Period From Three to Six Months

Under current law, private employers of 50 or more employees must provide up to 12 workweeks of unpaid, job-protected leave a year to "eligible" employees for qualifying family and medical reasons, including care of a newborn, newly adopted child, or newly placed foster child. Employees are "eligible" if they have worked for the employer for at least 12 months and for at least 1,250 hours over the previous 12 months, and if the employer has at least 50 employees working within 75 miles of the employee's worksite.

Expanding the law in this way would allow the approximately 12 million workers who take leave in a given year to take a longer period of FMLA protected leave if they need it. About 100,000 to 400,000 leave takers who use the maximum amount of time (85 plus days in the survey by the Family and Medical Leave Commission) would be most likely need to take extra time off.

Pros: - Guaranteeing FMLA covered and eligible working parents up to six month of job-protected leave would give them additional time to bond with their newborns and to make adequate child care arrangements for when they return to work.

- Such an expansion of FMLA would benefit all covered and eligible workers, not just new parents.

Cons: - This will not help workers who currently cannot afford to take even the full 12 weeks of job-protected leave. According to the Commission's survey, about 65 percent of those who wanted to take leave to care for their newborn, foster or adopted child said they did not take leave because they could not afford to do so.

- This would do nothing to help parents who are not now FMLA covered and eligible. According to the Commission, about one-half of workers are not covered and eligible for FMLA leave. (The number of covered and eligible parents is likely lower because younger workers have shorter average job tenure.)

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2. Lower FMLA's 50-employee Coverage Threshold

Under current law, *private sector* employers are not covered by the FMLA unless they employ 50 or more employees during 20 or more calendar workweeks in either the current or preceding calendar year. (Public agencies are covered by FMLA regardless of size -- but employees must still meet the eligibility requirements, including working at a worksite where 50 employees are employed within 75 miles.)

The employee coverage threshold could be dropped from 50 to 25, or to some point between those numbers, and could be accomplished in one step or several. Another approach would be to drop it to some point between 50 and 25, and establish a commission to study the impact and recommend whether a further lowering of the threshold would be warranted.

The best approach would be to drop the threshold immediately to 25, in conjunction with a paid-leave plan (see separate paper).

Pros: - Accomplishes two goals: giving more people FMLA protections, and providing partial-wage replacement for new parents, including those still not protected by FMLA.

Cons: - Likely to meet with strong opposition.

- To the extent we might be able to win support for one but not both proposals, combining expansion and a paid-leave proposals could unite in opposition those who might agree with one of the options but oppose the other.

3. Use the Unemployment Insurance (UI) Program to Provide Partial Wage Replacement for New Parents

Option 1: Encourage States to amend their UI laws to permit payment of benefits to individuals who leave their jobs for compelling personal reasons, such as adoption of an infant, after the individual rejoins the labor force and is able and available for work. The laws of 14 States (AK, CA, HI, NB, NV, NY, OR, PA, PR, RI, SC, UT, VA, VI) currently recognize some compelling personal reasons for leaving work. However, none of these laws specifically reference leaving work for reasons connected to family or medical leave.

Pros: -States should recognize compelling personal reasons for leaving work in order to modernize the UI program to reflect current work realities.

- Expands participation rates in the UI program, thus increasing its ability to provide wage replacement to workers while they are unemployed as

Lowering FMLA Threshold:

To 40: Adds about 3.4 million people to covered and eligible

To 35: Adds about 5.4 million

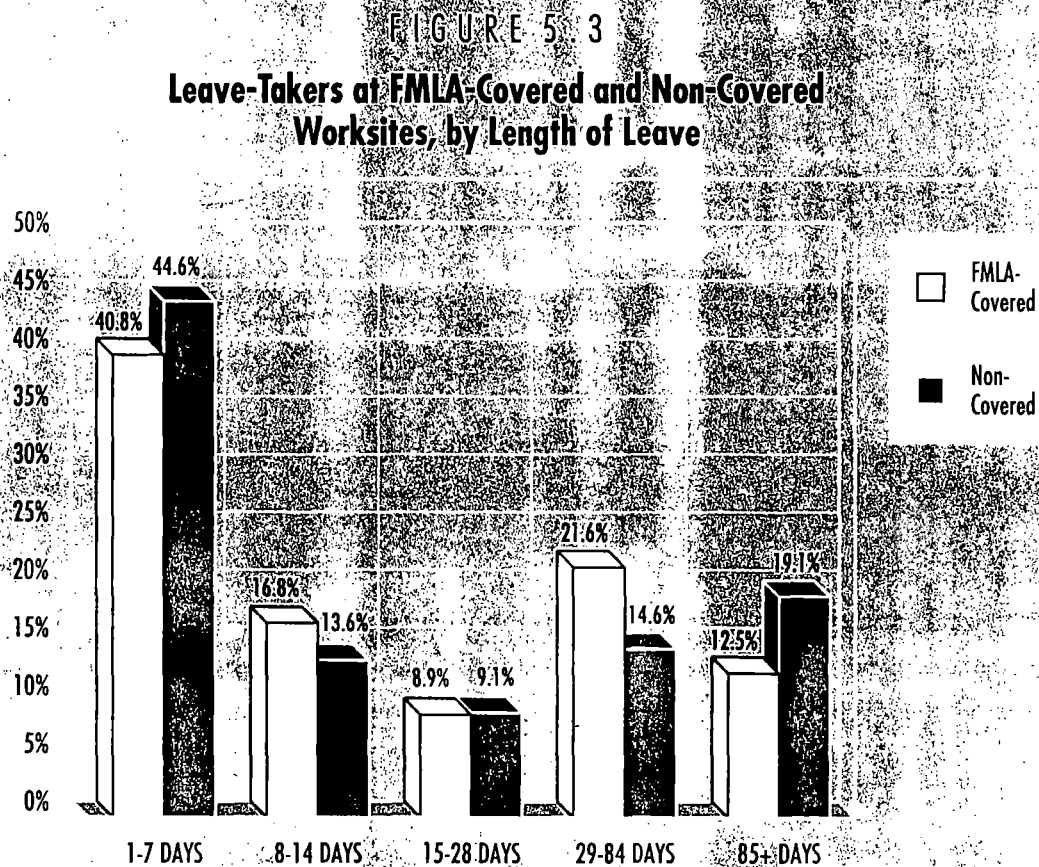
To 25: Adds about 10 million

Currently - 67 million are covered and eligible

women are more likely than men to take most kinds of family leave. On the other hand, when men and women take leave, they take comparable amounts of parental leave, and men take more leave to care for a seriously ill spouse - some of which may be care of their wife before or after childbirth.

D. Length of Leave

The Family and Medical Leave Act allows for unpaid leave of up to 12 weeks. The great majority of all leave falls within the 12-week period established by the Act.⁷



SOURCE: AGUIRRE INTERNATIONAL TABULATION OF DATA FROM INSTITUTE FOR SOCIAL RESEARCH, SURVEY RESEARCH CENTER, UNIVERSITY OF MICHIGAN, SURVEY OF EMPLOYEES, 1995.

⁷ It should be noted that it is impossible to interpret precisely what employees mean when they report a certain number of days of leave-taking. Some employees may think of a weeks leave in terms of seven days, while others may think of five days (the work week) as a weeks leave. For the purposes of this report, 84 days (12 times seven days) means 12 weeks of leave.

The median length of leave for all leave-takers was ten days, with a mean of 37 days. Ten percent of leave-takers were on leave for one to three days; 75 percent were off the job for fewer than 35 days.⁸

As shown in Figure 5.3, leave taken by workers in non-covered worksites has a different distribution than that taken by workers at covered worksites. For example, 30.5 percent of leave-takers at covered worksites were off the job for somewhere between two weeks (15 days) and 12 weeks (84 days), compared with 23.7 percent of leave-takers at non-covered worksites. In addition, periods of leave that lasted more than 12 weeks were taken by 12.5 percent of employees at covered worksites and 19.1 percent of employees at non-covered worksites.

There are some noteworthy differences in length of leave associated with different reasons for leave (see Appendix E, Tables 5.D and 5.E). Of those taking leave for their own serious health problem (excluding maternity-disability), about 51.6 percent of covered employees were on leave for 14 days or fewer, while 53.8 percent of non-covered employees were on leave for 14 days or fewer. Only 13.6 percent of covered employees and 20.4 percent of non-covered employees took leave for their own serious health condition that lasted longer than 12 weeks.

Maternity-disability leave, which represents only four to seven percent of all leave taken, tends to be longer. For employees in covered worksites, over 40 percent of such leaves last more than 12 weeks (85 days or more), and for employees at non-covered worksites about 45 percent of leave lasts more than 12 weeks (85 days or more). This type of leave may cover some time before the birth of a child, as well as post-partum recovery. Most leave to care for newborns is less than 12 weeks, with a significant proportion less than one week. Approximately half of both covered and non-covered employees who took leave to care for a newborn were off the job for less than a month (28 days), and more than one-third of non-covered employees took seven days or fewer (37.1 percent).

Most family leave to care for a seriously ill child, spouse, or parent lasts 14 days or fewer. For example, 90 percent of covered and non-covered employees take 14 days or fewer to care for seriously ill children, as did 80 percent of leave-takers who are caring for seriously ill parents. Of employees who take leave to care for a seriously ill spouse, around 80 percent of covered employees take leave that lasts

⁸ McGonagle et al., p. 12.

14 days or fewer, and almost 90 percent of non-covered employees take leave that lasts fewer than 14 days.

The data also reveal some distinctive variations in length of leave among leave-takers (see Appendix E, Table 5.F). Women, as noted above, take longer periods of leave (with a median length of 15 days, and a mean of 41, as opposed to 10 days and 33 days, respectively, for men). This is not surprising, given that only women bear children, and that women are still more likely than men to be responsible for most kinds of family care. Men, however, take longer periods of leave for their own serious health conditions. Hourly (as opposed to salaried) workers, and by those with relatively lower levels of education are more likely to take leave lasting over 28 days.

Length of leave does not appear to vary significantly by income level. However, salaried employees are more likely to take shorter leave - up to seven days - (47.2 percent) compared with employees who are paid by the hour (39.5 percent).

In sum, most periods of leave are short. The majority of leave to care for a seriously ill child, parent or spouse) lasts fewer than 14 days, as does roughly half of leave taken to recover from one's own serious health condition. Parental leave and maternity-disability leave lasts longer.

E. Employees Who Needed but Did Not Take Leave

According to the Employee Survey, 3.4 percent of employees said that they needed leave for a reason covered by the FMLA, but did not take it. As noted above (see Appendix E, Table 5.A), these leave-needers who did not take leave are especially likely to be African American, to be hourly workers, to have one or more children, to have low levels of family income and to have some college education, but less than a four-year degree.

The leave-needers surveyed are most likely to need leave for their own serious health condition or to care for a sick child, parent or spouse - over 40 percent in both categories (see Figure 5.4). Almost none of the workers in this sub-sample needed, but did not take, maternity-disability leave. In addition, almost ten percent of leave-needers report they wanted to take parental leave but did not. Despite demographic variations among leave-needers, it is not possible to link demographic variables on the particular patterns of need, given the small sub-sample

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Paid-Leave Plan for the Birth or Adoption of a Newborn

Thanks to the Family Medical Leave Act, signed into law by President Clinton on February 5, 1993, millions of Americans can take unpaid leave from their jobs (up to 12 weeks per year) to care for an infant after birth or adoption -- and know that a job will be waiting for them when they return. But many of those workers are unable to take the full amount of FMLA-protected time they need, because they simply can't afford to go that long without a paycheck. And other workers who, although not protected by FMLA, have access to unpaid leave can face the same dilemma.

To address this obstacle, the Administration could propose the creation of a New Parent Paid Leave Plan, to provide eligible parents with partial wage replacement for up to six weeks. While careful consideration needs to be given to the effect of such a program on employer benefit plans, design elements of a workable program would include:

- Income eligibility: Eligibility to receive funds would be tied to income. The simplest approach would be to set a family income cap -- only parents with family earnings below a set amount would be eligible to receive new-parent paid leave. An alternative but more complicated approach would be to vary the benefit amount by family income.

Pros: - Assists the families that are most likely to face a financial barrier to taking family leave for a newborn/adopted infant.

- Limiting eligibility to workers protected by the FMLA would exclude those most likely to benefit from such a program.

- Workforce attachment:

1. Prior to receiving benefit: New parent paid leave would be available to those qualifying parents who are authorized to work in the U.S. and have been in the workforce -- part time or full time -- for each of the fifty-two weeks prior to giving birth/adopting.

Pros: - Funds available to all working parents, regardless of FMLA coverage
- Links eligibility to connection to the workplace and to the concept of wage replacement.
- One year requirement demonstrates pre-pregnancy workforce participation.
- Minimum standard for amount of time in the workforce reflects FMLA concept and excludes from eligibility those whose workforce

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participation was minimal.

- If UI administers the program, they will have access to employment information for all UI-covered workers

- Cons:
- If UI administers the program, an alternative method of confirming eligibility would be necessary for non-UI covered workers (e.g., self-employed, independent contractors, etc.) -- for example, proof of receipt of wages during the time period. This would add cost to the proposal.
 - If UI administers the program, it may be simpler if the eligibility requirement is the same as for UI - work in roughly 20 of the preceding 52 weeks. (Note, however, that states have discretion to have additional UI qualifying requirements.)

Note: If data indicates that workers most likely to need paid leave have generally worked for less than one year, we should change the one-year requirement as appropriate.

2. After receiving benefit: Workers could receive benefits regardless of whether they intend to return to their job, or whether they in fact return.

- Pros:
- Eligibility based on return to employment or the workforce would require a penalty/recovery scheme for those who -- for whatever reason -- fail to return to work in a timely manner.
 - Commission data indicates that lower income workers, the ones most likely to need wage-replacement, are the least likely to return to work following the birth or adoption of an infant.

Cons:

- Parents who voluntarily leave their jobs to care for newborn/adopted infants have presumably decided they are not financially dependent upon their wage, and therefore do not need a wage replacement benefit. (The lower any income requirement is set, the less this problem exists -- fewer eligible parents will be financially able to quit their job.)

- Benefit duration and timing: Benefits would be available **only** for the **first** six weeks following birth/adoption. A worker with access to employer-paid leave who also wanted to participate in federal paid leave would have to use the federal benefit before using employer-paid leave.

- Pros:
- Simpler to administer
 - Minimizes disincentives on employers who might otherwise provide benefits or more generous benefits.

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- Cons: - To the extent that an employer benefit plan limits post-pregnancy use of sick leave to a period immediately following birth, female workers with accumulated paid sick leave who give birth may not be able to use paid sick leave after six weeks.
 - May not cover time at home for newborn babies/mothers who have extended hospital stays.
- Administration/Implementation: The program would be administered, and the benefits paid, through the state UI system. State participation would not be mandatory.
 - Pros: - State employment security agencies (SESAs) have experience in making payments as agents of the Federal government in the case of other programs, such as Trade Readjustment Allowances. In FY 98 there are about 40,000 TRA recipients collecting about \$230M in benefits at an administrative cost of about \$5 M per year, which would provide an order of magnitude in evaluating this proposal.
 - States are able to perform these functions under agreement with a Federal agency assuming suitable arrangements can be made to meet the cost of administering this separate payment system.
 - Cons: - To the extent that SESAs are asked to make eligibility determinations that differ from those under the UI system, staff training and administrative costs would rise substantially.
 - Since the costs of the benefits would be coming from a fund other than the State trust fund (unless Federal law is amended), it may be expensive for the States to establish the alternative procedures necessary to make the payments.
 - States are currently underfunded for UI administration costs and would not be able to embark on a new program without some funding guarantees.
- Benefit amount: Simplest approach would be to set one benefit amount available to all eligible workers: \$200 per week (based on UI average benefit of \$190.19, which represents 35% of the average weekly wage). Alternatives could include having one or two benefit levels, keyed to income ranges.

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DRAFT**POTENTIAL CHANGES FOR FMLA****ADD PAID LEAVE COVERAGE FOR 6 WEEKS OF NEWBORN CARE**

Maximum number of women 3,378,000 with newborns in a given year (CPS)

Assume that 1,834,000 will return to work (LFPR of those with <1 year olds)

Assume between 20-33% will be ineligible (tenure data) [will be checking lower bound with work experience data]

Using bounds implies between 1,467,200 and 1,228,780 would make tenure cut and may want leave to take care of infant

Without means testing implies cost of (at \$200x6weeks=1200 each mother) = \$1,760,640,000 and \$1,474,536,000 (w/o administrative costs)

How many of these women would meet an income eligibility cut?

Median income for families with children under 3 -- \$36,626. If this was the cut off than 1/2 of potential above would not qualify so cost would be half -- so between \$880,320,000 and \$737,268,000.

Add administrative costs of approximately \$200,000 (\$60m to change UI base period and \$140m to add payment system to UI [no basis for this number]) and proposal costs out at \$1B.

↑ \$800,000,000
\$60,000,000

EXTEND COVERAGE FROM 50 TO 25 PERSON ESTABLISHMENTS**EXTEND BENEFITS FROM 12 WEEKS TO 26 WEEKS**

assumes all cut
eligible make
find 6 weeks?
not looking at

Unemp. Ins. system

6 weeks