

THE NEW ERA OF EXECUTIVE ACTION

MODERNIZING FAMILY LEAVE POLICY

May 5, 2015

Background

The United States is the only developed country in the world that does not offer paid maternity leave. Currently, for both married and single families, 60 percent of households with children have no stay-at-home parents. Additionally, more than 60 percent of women with children under the age of five are working. However, only 13 percent of workers have access to paid family leave through their employers.

Currently, the only federal policy in place that has a family leave contingent is the Family and Medical Leave Act, which ensures twelve weeks of unpaid leave. Giving up pay for such a long period of time, however, is financially infeasible for many employees, and furthermore, while dismissal of a covered employee for scheduling such leave is illegal, employees often feel at risk of losing their jobs when taking unpaid leave.

There are some states and localities that have recognized the need to implement a more progressive family leave policy. Currently, laws that guarantee workers the right to earn paid sick days are in place in Connecticut, the District of Columbia, Jersey City and Newark (New Jersey), New York City (New York), Portland (Oregon), San Francisco (California), and Seattle (Washington). New laws guaranteeing workers the right to earn paid sick days will go into effect in 2015 in California, Massachusetts, several cities in New Jersey, Eugene (Oregon), and Oakland (California). And statewide paid family leave insurance programs exist in California, New Jersey, and Rhode Island. But when comparing national maternity leave policy, the United States falls way behind.

Legislation establishing a national paid sick leave policy was recently introduced into Congress. The Healthy Families Act, sponsored by Representative Rosa DeLauro (D-CT) and Senator Patty

This brief is part of The Century Foundation initiative, The New Era of Executive Action, which is available online at <https://tcfdotorg.atavist.com/executive-action>.

Murray (D-WA), would require employers who employ fifteen or more employees each workday for twenty or more workweeks a year to provide their workers up to seven paid sick days each year. The bill has been referred to committee, however, and thus is quite far from becoming law.

Action

On January 15, 2015, President Barack Obama signed a presidential memorandum: Modernizing Federal Leave Policies for Childbirth, Adoption, and Foster Care to Recruit and Retain Talent and Improve Productivity.

What It Does

Previously, federal employees had been entitled twelve weeks of unpaid leave under the Family and Medical Leave Act as well as any already accrued annual or sick leave. Now, the presidential memorandum requires that departments and agencies must advance six weeks of paid sick leave if requested by employees for birth, adoption, or other eligible uses, such as caring for a family member with a serious health condition. This annual leave could also be used by employees for placement of a foster child in their home.

The memorandum will allow mothers the opportunity to recuperate after childbirth, even if they have not yet accrued enough sick leave. It will also allow spouses and partners to care for new mothers during their recuperation periods and will allow both parents to attend proceedings relating to the adoption of a child.

The reason the administration is addressing parental leave as sick leave is because it cannot unilaterally institute paid family and medical leave for federal employees without passing legislation, as the FMLA specifies that said leave is without pay.

Status

The Office of Personnel Management has released its updated leave policies, and agencies have sixty days to make any necessary changes to their policies.

Impact

This memorandum, which applies to executive agencies, extends the benefits to up to 2,668,000 federal employees.

Response

The concept of paid sick leave enjoys widespread support (as noted, a number of state and local legislatures have already passed laws addressing the issue).

- Debra L. Ness, president of National Partnership for Women and Families, stated that “The National Partnership applauds the administration for this historic move” and that “the

nation will be much better off if Congress follows his lead.” (Read more information about the memorandum in their summary.)

Some opponents, however, have argued that paid sick leave and paid family leave would negatively impact businesses. Such criticism does not hold regarding federal employees, and the evidence suggests that even concerns over the impact on business are overstated.

- The Center for Economic and Policy Research released a report two years after Connecticut passed its law requiring employers to allow workers to earn paid sick leave, showing that most employers reported modest to no impact of the law on their costs and more than three-quarters of surveyed employers expressed support for the law.