



Employee and Worksite Perspectives of the FMLA Paid Leave

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FMLA and Paid Leave

The Family and Medical Leave Act (FMLA) guarantees eligible U.S. employees up to 12 workweeks of **unpaid leave** for qualifying reasons. While on FMLA-protected leave, employees can concurrently use (or be required by their employer to use) any conventional paid leave they have accrued (e.g., paid sick leave or vacation). A growing number of states also have paid family and medical leave laws that provide partial wage replacement.

This brief uses data from the **2018 FMLA Employee Survey** and **Worksite Survey**, the fourth and most recent wave of a national longitudinal survey. This brief summarizes findings on employee access to paid leave benefits, pay received while on leave for a *family or medical reason* (see text box), pay and unmet need for leave. It also describes variation in findings between states that do and do not offer paid family and medical leave. Unless otherwise noted, all findings come from the Employee Survey.

At the time the Employee Survey was fielded in 2018-19, California, New Jersey, New York, and Rhode Island had paid leave laws in effect that covered most or all qualifying FMLA reasons. They are termed “**paid leave states**” in this brief.¹ (Paid and non-paid leave states vary in many ways; differences reported are not necessarily due to whether a paid leave law is in place.) Provisions providing paid leave under FMLA for qualifying COVID-19 related reasons passed under the Families First Coronavirus Response Act were not yet in effect at the time of the surveys.

Access to Paid Leave Benefits

Almost three-quarters (73%) of employees have (at least some) paid leave available for their own serious illness, as shown in Exhibit 1. Fewer (58%) report having paid leave available for care of a family member’s serious illness (whether immediate or non-immediate). There is no difference in these rates between employees in paid and non-paid leave states.

Among private employers, more than two-fifths of their employees are at the type of worksite where (at least some) paid vacation (44%) or sick leave (42%) is offered to *all employees* (Exhibit 2, based on the Worksite Survey). At worksites offering these benefits to *some* employees, more than half of employees automatically receive vacation (66%) or sick leave (50%) after being employed for a minimum time (not shown). The majority of employees are at worksites that do not offer paid maternity leave (63%) or paternity leave (73%) to any employees.

Scope of Paid Leave in the 2018 FMLA Surveys

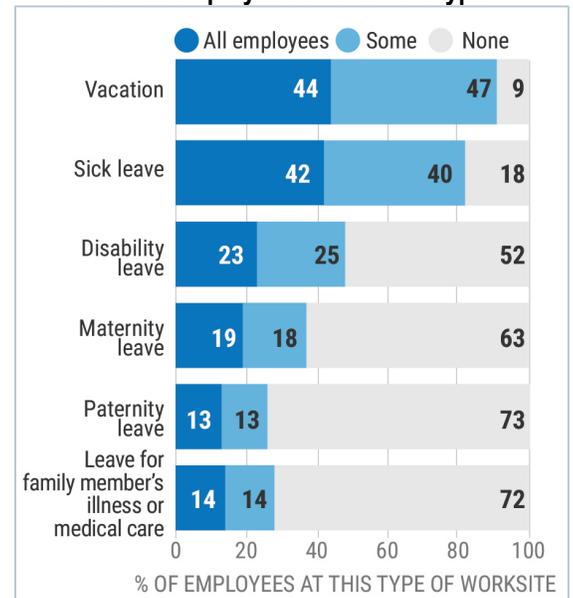
Since the passage of FMLA in 1993, and especially since the last FMLA surveys in 2012, the policy environment has changed with the enactment of many paid leave laws at the state, county, and city levels. New questions on paid leave were added to the 2018 FMLA Surveys to understand access to paid family and medical leave and sources of pay received while on leave.

Note that these surveys were only intended to cover access to paid leave for a **family or medical reason**. This included the following **qualifying FMLA reasons**: an employee’s or immediate family member’s serious health condition (“illness”); caring for or bonding with a new child in the first year; or leave related to a family member’s service in the military. (A summary of the regulatory definition of *serious health condition* was provided; see [29 C.F.R. § 825.113](#).) The surveys also asked about leave to care for a serious health condition of a non-immediate family member, which typically does not qualify under FMLA. However, other leave reasons, such as a sick day for a cold or recreational vacation, are not included in the results presented in this brief.

Exhibit 1. Employee access to paid leave



Exhibit 2. Employees offered paid leave benefit, by whether worksite offered benefit to all, some, or none of its employees and benefit type



Pay Received While on Family and Medical Leave

More than two-fifths of U.S. employees who took leave in the past 12 months received full pay for their entire leave (42%), as shown in Exhibit 3. About one-quarter received partial pay (24%), and a third received no pay (34%). Two-thirds of employees on leave for 10 or fewer work days received full pay, whereas only about one-fifth of employees on leave for more than 40 days received full pay (22%).

The majority of employees who received pay while on leave used sick leave (70%) or vacation (60%), as shown in Exhibit 4. Thirty (30) percent received pay from temporary disability insurance (TDI). Half of employees who took leave for more than 40 days reported receiving TDI pay (not shown).

Receiving (at least some) pay while on leave was more common in paid leave states. Fewer employees in paid leave states (21%) than those in non-paid leave states (36%) reported receiving zero pay while on leave. In paid leave states, 20 percent of employees who took leave reported receiving state-paid family leave.

About one in six employees who received partial or no pay while on leave (17%) received public assistance while on leave. Receipt of public assistance was less common among employees in paid leave states (8%) than among those in non-paid leave states (18%).

Pay and Unmet Need for Family and Medical Leave

About 7 percent of employees report needing but not taking leave for a qualifying FMLA reason in the past 12 months. This measure excludes those who took leave but then ended their leave despite perceiving a need for additional time off.

Two-thirds (66%) of employees who did not take needed family and medical leave in the past 12 months reported they did not do so because they could not afford unpaid leave. The next most common reason for not taking needed leave was fear of losing a job (45%). These shares consider any unmet need, whether it was for a qualifying FMLA reason or for a non-immediate family member's serious health condition.

Notes

1. New York's paid leave law went into effect on January 1, 2018. Because the survey asked about the prior 12 months, New York respondents were classified as "paid leave state" if at least six of those months fell after that date (see *Supplemental Results from the 2018 Surveys* report).
2. Though not common, employees may take leave for one qualifying reason and need but not take for leave for another qualifying reason.

Exhibit 3. Employees receiving full, partial, or no pay while on most recent leave in the past 12 months, by length of leave

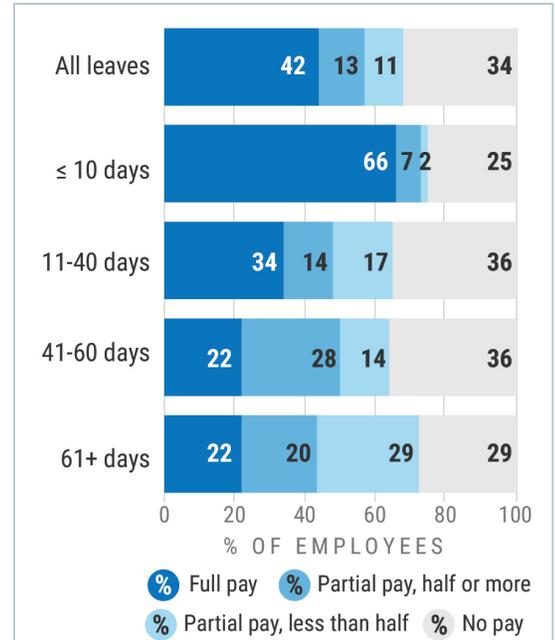
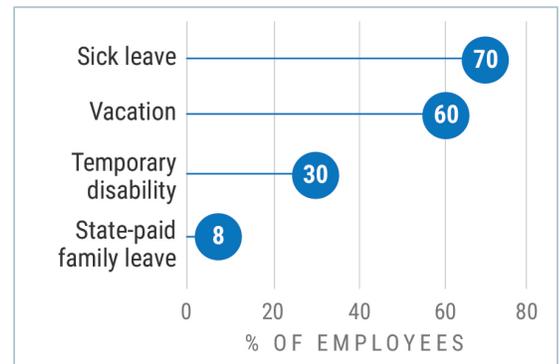


Exhibit 4. Source of pay received (among employees who received any pay while on leave in the past 12 months)



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Other reports in the **Employee and Worksite Perspectives of the FMLA** study series include *Executive Summary for Results from the 2018 Surveys*; *Results from the 2018 Surveys*; *Supplemental Results from the 2018 Surveys*; *Methodology Report for the 2018 Surveys*; *Methodology Report Appendices for the 2018 Surveys*. All briefs and final reports from this series are available online:

<https://www.dol.gov/agencies/oas/evaluation/currentstudies/Family-and-Medical-Leave-Act-Wave-4-Surveys>

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