



Employee and Worksite Perspectives of the Family and Medical Leave Act:

Executive Summary for Results from the 2018 Surveys

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Executive Summary

In 1993, the United States Congress passed the Family and Medical Leave Act (FMLA), updating it in the years since.¹ The FMLA guarantees **eligible employees** working for **covered employers** up to 12 workweeks of unpaid leave for certain **qualifying reasons**. It requires the employers to maintain group health insurance coverage for the employee (if coverage was in place before the leave); and at the end of the leave, employers must restore the employee to his or her original (or an equivalent) job. To understand how employees and employers understand and experience the FMLA, the U.S. Department of Labor surveyed employees and employers in 1995, 2000, 2012, and 2018. This document summarizes the conduct of the 2018 surveys and major findings.

Certain definitions, exclusions, and conditions apply, but in general:

- Employees are *eligible* for FMLA if they have worked for a covered employer (see below) for at least 12 months, have at least 1,250 hours of service for this employer in the past 12 months, and are at a physical work location (“worksites”) where at least 50 employees work within 75 miles of this location.
- A private-sector employer (“firm”) is *covered* by the FMLA (i.e., must follow its regulations) if it employs 50 or more employees (combined across all of its worksites) in 20 or more calendar weeks in the current or preceding calendar year. All public agencies, including local, state, and federal employers, and local education agencies (school systems), are covered regardless of their number of employees.²
- *Qualifying FMLA reasons* include the employee’s own serious health condition (including pregnancy); caring for an immediate family member (spouse, parent, child) with a serious health condition; caring for or bonding with a new child (birth, adoption, foster placement) in the first year; and leave related to a family member’s service in the military.³

Whether a specific employee of a covered employer is eligible and whether the employee’s reason for leave is qualifying are separate determinations. Some states have programs that provide at least some pay for some forms of family and medical leave; in other states, that decision belongs to the employer.

The next sections describe the conduct of the “2018 FMLA Surveys” and summarize their major findings, with limited comparisons to the earlier surveys.

¹ Amendments in 2008 added two special military leave provisions and updated and clarified the regulations. See Public Law 110-181 § 585 <https://www.congress.gov/110/plaws/publ181/PLAW-110publ181.pdf>.

² Note that it is possible for a covered worksite not to have any employees eligible for FMLA leave when the worksite has fewer than 50 employees within 75 miles of the location. Some FMLA regulations, such as notice requirements, apply to all worksites of covered employers, even if there are no eligible employees at a particular worksite. <https://www.dol.gov/agencies/whd/fact-sheets/28d-fmla-employer%20notification>

³ FMLA regulatory definitions of “parent” and “child” also include “in loco parentis” relationships—those who are or have previously had day-to-day responsibilities to care for or financially support a child. Military caregiver leave also includes “next of kin” of a servicemember or covered veteran, who is the nearest blood relative, other than the servicemember or veteran’s spouse, parent, son, or daughter. <https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/whdfs28mb.pdf>

About the 2018 FMLA Surveys

The fourth wave, conducted in 2018, consisted of two separate surveys, one for employees and one for worksites. Each survey was conducted with a combination of phone and web responses.

- The **2018 Employee Survey** targeted non-institutionalized adults aged 18 or older who lived in the United States and were employed for pay (private sector or public agency) in the 12 months prior to the interview, excluding self-employed persons. The survey asked respondents about their employment, leave taking and leave needing for family or medical reasons in those 12 months. The weighted survey response rates were 5.8 percent for cell phones, 5.5 percent for landlines, and 5.5 percent for the web.⁴ A total of 4,470 interviews were completed: 739 (17 percent) by phone and 3,731 (83 percent) via the web.
- The **2018 Worksite Survey** targeted U.S. worksites of covered and non-covered privately owned employers (“firms”), where “worksite” means the single physical location or address where business is conducted or where services or industrial operations are performed. Thus, a firm could have multiple worksites. The survey asked respondents to report on their experiences with FMLA and employee leave taking more generally for a 12-month reference period of their choosing (e.g., prior calendar year or prior fiscal year). The overall weighted survey response rate was 7.0 percent. A total of 2,206 interviews were completed: 315 (14 percent) by phone and 1,891 (86 percent) via the web.

The analysis incorporated several statistical methods to assure that the tabulations of the Employee and Worksite Survey results are nationally representative. Study analyses used sampling weights to adjust for stratified sampling design (by industry, worksite size, and paid leave state status for the Worksite Survey), multiple sampling frames (phone and web for the Employee Survey), and survey non-response (e.g., demographic differences in response rates). The composite weights accounting for these factors resulted in a sample for the 2018 Employee Survey that was representative of U.S. employees. The resulting 2018 Worksite Survey sample is representative of private U.S. employers.

All leave versus leave for qualifying FMLA reasons. To gain a broader perspective on use of and need for leave in the U.S., the 2018 Employee Survey asked about leave taken or needed for qualifying FMLA reasons (see definition above) and, additionally, for non-immediate family members’ serious health conditions (which usually do not qualify under FMLA). *Findings that apply only to leave taken or needed for qualifying FMLA reasons are always explicitly noted as such.* When “leave” is used without specifying “for a qualifying FMLA reason,” it refers to the broadest definition used in the survey that includes both qualifying FMLA reasons and non-immediate family member’s serious health conditions (but excludes other non-qualifying reasons for leave, such as taking a vacation or a doctor visit for the common cold).

Summary of Major Findings

Most of the estimates are similar to those from when the FMLA surveys were last fielded in 2012. Estimates that have changed substantially are explicitly noted.

⁴ Because phone response rates were very low in the first few months of data collection for the Employee Survey, the study added a web survey. The web survey was conducted by contacting eligible members of a nationally representative, probability-based online panel (Ipsos KnowledgePanel), who then completed the survey online. See <https://www.ipsos.com/en-us/solutions/public-affairs/knowledgepanel>. The 2012 Employee Survey was conducted by phone only, with an overall response rate of 15.1 percent. Typical of recent research generally, the drop in response is likely due to societal, demographic, and technology changes.

Understanding FMLA

- *Overall, 56 percent of U.S. employees are eligible for FMLA on the basis of employees' report of their employment tenure, hours worked, and worksite size.*
- *Only 10 percent of worksites in the private sector are part of firms large enough to be covered by FMLA (based on employer-reported size), but they employ 59 percent of private sector employees.*
- *More than three-quarters of U.S. employees have heard of FMLA, but many have gaps in their understanding of its policies.*

The portion of employees having heard of FMLA has risen since the 2012 survey, from 66 percent to 76 percent. Among employees who have heard of FMLA, about one-quarter (27 percent) believe they are eligible when their self-reported tenure, hours worked, or worksite size would not meet eligibility requirements. More than half (56 percent) believe that FMLA covers more situations than it does (e.g., care for a sibling or grandchild with a serious health condition generally does not qualify).

Access to Leave for Qualifying FMLA Reasons

- *Private-sector employees at worksites covered by FMLA and those at worksites not covered by FMLA have substantially different access to leave for qualifying FMLA reasons.*

Overall, most (82 percent) private-sector employees are at worksites that report providing access to some form of leave for at least one qualifying FMLA reason. Access to such leave varies by whether or not a worksite is covered by FMLA. At worksites covered by FMLA, almost all employees (97 percent) have access to leave for a qualifying FMLA reason (and leave taken for this reason could be designated as FMLA-protected if the employee is eligible).⁵ At worksites not covered by FMLA, only about half (53 percent) of employees have access for one or more of the qualifying FMLA reasons as specified by their employer. Rates in 2018 at both worksites covered and not covered by FMLA are lower than in 2012 (99 percent and 89 percent, respectively).

Needing vs. Taking Leave

- *Overall, 15 percent of U.S. employees report taking leave for a qualifying FMLA reason in the past 12 months.*

Among employees who took leave for a qualifying FMLA reason, about a third (31 percent) took multiple occasions of leave for the same reason, termed “intermittent leave”—a rate higher than in 2012 (24 percent). Having taken more than one leave for different qualifying FMLA reasons in the same 12 months is also fairly common (32 percent of employees who took leave for a qualifying FMLA reason). The average length of leave for a qualifying FMLA reason is 28 business days, which is shorter than in 2012 (35 business days).

Leave for the employee's own serious health condition (51 percent) and the arrival of a new child (25 percent) together account for more than three-quarters of leaves taken (including both leaves for qualifying FMLA reasons and those for non-immediate family members' serious health conditions).

⁵ For example, an employee with access to leave for the birth of a new child could take leave for that reason. However, if the employee is a new hire and needs to take leave for this reason one month after starting the job, they would not yet be eligible for FMLA leave because they have not meet the minimum tenure requirement.

- *Low-wage employees report needing but not taking leave for a qualifying FMLA reason more often than other employees.*

“Unmet need” is needing but not taking leave (which excludes employees who take leave but then end their leave despite perceiving a need for additional time on leave).

Overall, 7 percent of employees report unmet need for leave for a qualifying FMLA reason in the past 12 months, an increase from 5 percent in 2012. Reporting unmet need for leave for a qualifying FMLA reason is more common among “low-wage workers” (9 percent), defined as those making less than \$15 per hour, than among other workers (6 percent).

Findings on reasons for not taking needed leave and how unmet need was addressed additionally include employees who had unmet need for leave to care for a serious health condition of a non-immediate family member. The most common reason employees give for not taking needed leave is inability to afford unpaid leave (66 percent). The next most common is fear of losing their job (45 percent). Employees address unmet need for leave for their own or another person’s health condition most commonly by postponing (44 percent) or forgoing (39 percent) medical treatment.

- *Most employees return from leave to their same employer and job.*

After taking leave, most employees (87 percent) return to work at their same employer and position. More low-wage workers (18 percent) than other workers (5 percent) report losing a job as a result of taking leave.

Paid vs. Unpaid Leave

“Paid leave” can include employer-offered paid family leave (e.g., maternity or paternity leave), paid sick leave, paid vacation, temporary disability insurance pay, or other sources of employer or state-offered paid time off. The findings presented on paid leave use the broader definition of leave that includes qualifying FMLA reasons and non-immediate family member’s serious health conditions.

- *Almost three-quarters of employees (73 percent) report having access to paid leave for their own illness or medical care.*

Eligible employees (83 percent) more often report having access to paid leave for their own illness or medical care than do ineligible employees (62 percent). Low-wage workers (52 percent) less commonly report having access to paid leave for their own illness or medical care than do other workers (80 percent).

- *Among employees who reported taking leave in the past 12 months, 42 percent received full pay, 24 percent received partial pay, and 34 percent received no pay while on leave.*

Low-wage workers (61 percent) are more likely to receive no pay while on leave than are other workers (20 percent).

- *Two-thirds (67 percent) of employees who receive partial or no pay while on leave report experiencing financial difficulty in making ends meet.*

Employees use a variety of strategies to cover lost earnings. More than three-quarters (76 percent) report limiting their spending. About two-fifths (43 percent) report using money saved in anticipation of needing leave. They also report using savings intended for something else (34 percent), borrowing money (31 percent), putting off paying bills (27 percent), cutting leave short (27 percent), and going on public assistance (17 percent).

Worksite Perspectives of FMLA

- *More than 95 percent of worksites covered by FMLA report positive or neutral perceptions of the overall effect of FMLA on their productivity, profitability, and employees.*

Only 4 percent of worksites covered by FMLA report its effect overall as negative; 32 percent report its effect overall as positive.

- *More than 90 percent of worksites covered by FMLA report no difficulty in complying with FMLA requirements overall.*

Asked about specific compliance activities, few worksites covered by FMLA report that coordinating their leave and attendance policies with the FMLA (5 percent) or with local (6 percent) and state (8 percent) leave policies is “very difficult.”

- *Some worksites report difficulty covering work during employees’ leave.*

Difficulty varies by the type and length of leave taken. Some worksites report it is “very difficult” to deal with employees’ planned short-term (11 percent) or planned intermittent leaves (13 percent). More worksites report it is “very difficult” to deal with employees’ unplanned intermittent leaves (25 percent) and planned long-term leaves (29 percent), though these kinds of leave are less common.

More than half (58 percent) of worksites report they most commonly cover the work of an employee on leave for a week or longer (whether FMLA-designated leave or not) by temporarily assigning work to other employees.