

The (Working) Mother: An Analysis of the Social and Health Disparities that Arise from the United States' Family and Medical Leave Act (FMLA)

The Issue

“The United States is the only advanced industrialized country without a national law providing new mothers (and fathers) with entitlements to paid family leave (PFL)” (Rossin-Slater, Ruhm, and Waldfogel 2011). Furthermore, it wasn’t until 1993, with the passing of the Family and Medical Leave Act (FMLA), that U.S. citizens were afforded the right to *unpaid* family leave. Needless to say, the United States historically and currently lags behind the vast majority of industrialized nations when it comes to parental leave policies. There is a wealth of evidence that supports a positive correlation between time spent at home and infant health outcomes, especially during the first year after birth (Ruhm 2000; Baker and Milligan 2005; Fugii 2011). PFL policies facilitate increased time spent at home, and by extension may lead to better infant health outcomes. Although the FMLA can be viewed as a step in the right direction for an American PFL program, the social disparities and market inadequacies that have arisen from the FMLA however prompt the need for immediate political reform.

Family Leave & Infant Health

Paid family leave programs have substantial effects on infant health. Christopher J. Ruhm, Professor of Public Policy and Economics at University of Virginia, writes, “More generous [parental] leave rights are found to

reduce deaths of infants and young children... In particular, there is a much stronger negative relationship between leave durations and post-neonatal mortality or fatalities between the first and fifth birthday than for perinatal mortality, neonatal deaths, or the incidence of low birth weight” (Ruhm 2000). Parental leave during the first year of a newborn’s life is especially important, as “it has been shown that maternal employment in the first year has a negative impact on child’s cognitive and behavioral outcomes at ages 3 and 5, whereas work in the second and third year has either positive or no effects” (Fujii, 2011). There are several mechanisms through which parental leave exerts positive health outcomes on newborn and infant development. In particular, the leading literature suggests that parental leave programs foster increases in birth weight (Rossin 2011), decreases in premature birth (Rossin 2011), longer periods of breast-feeding (Baker et. al. 2005; Fugii 2011; Rossin-Slater et. al. 2011), increased parental bonding (Rossin-Slater et. al. 2005), lower accident rates (Rossin-Slater et. al. 2005), and better emotional and cognitive development (Baker et. al. 2005; Fugii 2011).

Family and Medical Leave Act

There is a clear relationship between increased parental time at home and improved child health

outcomes. Prior to the FMLA twelve states and the District of Columbia had already established unpaid parental leave for new parents. The Family and Medical Leave Act of 1993 under the Clinton administration however, was the first national policy guaranteeing the right to *unpaid* parental leave for qualified U.S. citizens. (The United States does not currently have a national paid family leave program). The program stipulates that public and private employers with at least 50 employees provide 12 weeks of unpaid, job-protected parental leave, given that mother has worked at least 1250 hours in the last 12 months. Under the FMLA, workers are also to receive the same insurance and health benefits that they would had they not taken parental leave. According to findings from a survey entitled *Family and Medical Leave Act in 2012* released by the Department of Labor, FMLA has had a “positive effect on the lives of millions of workers and their families...” (United States Department of Labor 2013). Indeed the FMLA has had a positive impact on workers who *qualify* for parental leave, however a substantial amount of workers are ineligible or unable to take advantage of the FMLA’s parental leave program. Because the FMLA excludes small businesses (less than 50 employees) and short-tenure workers (less than 1250 hours worked in the past 12 months), approximately 40 percent of U.S. workers are ineligible for unpaid, job-protected parental leave.

Consequences of FMLA

Social & Health Disparities

Furthermore, the enactment of the FMLA has introduced several

unforeseen social and economic consequences. In celebration of the 20-year anniversary of FMLA’s enactment, acting Secretary of Labor Seth D. Harris stated, “The Family and Medical Leave Act codified a simple and fundamental principle: Workers should not have to choose between the job they need and the family members they love and who need their care.” Ironically, this principle is not reflected by the U.S. working population. Because the FMLA provides *unpaid* job-protected parental leave, many low-income workers are unable to afford time off of work. Mayu Fugii Ph. D., Research Fellow at National Institute of Population and Social Security Research, writes: “Early maternal employment may be detrimental to child’s development if working leads to a shorter period of breast-feeding, less-well child visits, less interaction with a baby, and/or less quality time with a baby. Early maternal employment may, however, also enhance child’s development if it allows mothers top earn more stable and higher income” (Fugii 2011). Low-income workers are thus presented with an unfortunate moral dilemma. On one hand, spending time at home with a new born is important for emotional and cognitive development. On the other hand however, a parent needs to have sufficient income to support his/herself and his/her family. Furthermore, research reveals that the positive impacts of the FMLA are disproportionately concentrated among relatively socioeconomically advantaged women (Fugii 2011; Rossin-Slater et. al. 2011). FMLA therefore, has, albeit unintentionally, introduced social disparities that favor the economically advantaged. As parental leave is positively correlated

with infant emotional and cognitive development, and negatively correlated with infant mortality (Ruhm 2000; Baker et. al., 2011; Rossin 2011), social disparities that arise from the FMLA can potentially lead to health disparities as well. That is, children of relatively disadvantaged working parents have poorer health outcomes than children of relatively advantaged working parents due to the FMLA (Rossin 2011).

Economic Implications

In addition to social and health disparities, the FMLA also introduces another dilemma: cost-effectiveness. In 2004, the FMLA cost roughly 24 billion dollars (Rossin 2011). Out of 1,011,125 births, an estimated 607 babies were saved by the FMLA (Rossin 2011). This correlates to approximately 36 million dollars per life saved. Because the benefits are heavily concentrated in economically advantaged communities, the marginal benefits of FMLA are severely outweighed by the marginal costs. In 2011 Maya Rossin of Columbia University, published the following in the Journal of Health Economics:

“Given that the incidents of poor birth outcomes and infant mortality is higher among women from lower socio-economic backgrounds, maternity leave policies that cover mothers and children from all backgrounds may result in much greater benefits that could outweigh the extra costs from covering more working women... Thus, if policymakers are concerned with decreasing health disparities in child health and well-being between children of different backgrounds, they need to consider that an unpaid maternity leave policy may actually increase disparities because it

only benefits those mothers who can afford to take it.”

Furthermore, the health disparities that arise from FMLA can lead to increased health care costs and decreased productivity. From a cost-benefit perspective, the FMLA thus represents a market failure.

Future Policies & Conclusion

While it may seem counter-intuitive, establishing a *paid* job-protected parental leave program would be a more cost-effective policy. Paid parental leave would eliminate the financial barrier that prevents many low-income parents from taking advantage of the current FMLA program. Studies of Canada and European countries, all of which have paid parental leave programs, “consistently show that take-up of paid leave is very high, often close to universal” (Rossin-Slater et. al. 2011). A national paid parental leave policy would therefore significantly reduce the observed social disparities that arise from the unpaid FMLA policy. Moreover, a paid parental leave program would mitigate health disparities felt by low income families as a result of the FMLA. This would result in a corresponding decrease in health care costs and increase in productivity. One of the most prominent arguments against establishing a national paid, job-protected parental leave program is that it would introduce undue administrative and economic burdens on employers (Boushey and Glynn 2012; Huffington Post 2013; Society for Human Research management 2007). California and New Jersey have both successfully enacted paid parental leave

programs in their respective states. (California and New Jersey are the only states to have enacted a paid, job-protected paternal leave policy thus far). California and New Jersey are both employee-funded paid parental leave programs. In New Jersey, the paid leave program has been so successful, that maximum annual employee contribution has decreased from 35 dollars to 18 dollars, an approximate 50 percent decrease over the course of two years (Huffington Post 2011). In California, the State Disability Insurance Plan collects 1.1 percent of pay from approximately 13 million eligible workers (Huffington Post 2011). In a study conducted by Eileen Appelbaum of the Center for Economic Policy and Research and Ruth Milkman, professor of sociology at the Joseph F. Murphy Institute for Worker Education and Labor Studies, Appelbaum and

Milkman found the following: “In a random sample of 253 firms, stratified by size, employers reported that PFL had no noticeable effect or a positive effect on productivity (89%), on profitability (91%), on turnover (93%), or morale (99%)” (Appelbaum and Milkman 2011). California’s FLP program therefore largely refutes the main argument of FPL opponents. A national paid leave program would reduce social and health disparities, decrease health care costs, increase productivity, and, as demonstrated by Appelbaum and Milkman’s study, will not cause undue administrative or financial burden on employers. New Jersey, California, Canada, Europe, and virtually all other industrialized nations have successfully implemented paid family leave programs. Perhaps it’s time for the United States to follow suit.

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