

Written testimony for the United States Senate Committee on Health, Education, Labor, and Pensions
Roundtable on the Family and Medical Leave Act: A Dozen Years of Experience

Submitted by Jody Heymann, M.D., Ph.D.

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Good morning Chairman Enzi, Senator Kennedy, and Members of the Committee. My name is Jody Heymann. I am on the faculty of the Harvard School of Public Health and Harvard Medical School. Thank you for inviting me to testify today. For the past twelve years, I have led a research team at Harvard University that examines how conditions in the United States are affecting the health, development, and well-being of children and families. Trained as a pediatrician and a policy analyst, I began this work when it became clear from individual families that the conditions parents faced in the workplace and in their communities were having a dramatic effect on the health of their children. In the past dozen years, I have conducted systematic studies involving over 10,000 Americans—from every state and across all income and demographic groups—to examine how widespread these problems are and what are the viable solutions.

You have asked each of us at this Roundtable to speak about our experience with the FMLA, ways family and medical leave might be improved in the United States, and what could be done to improve the lives of working families in America. I will address these in turn beginning with the FMLA.

As a physician and medical researcher, I want to first state that the FMLA is one of the most important pieces of legislation passed in the United States in the past 25 years when it comes to family health. Its current weaknesses consist primarily of the fact that it does not cover an estimated 40 percent of Americans and the fact that the leave is currently unpaid and thus practically unaffordable to too many of the 60 percent who are theoretically covered.

Current Strengths of the FMLA

The tremendous importance of family and medical leave grow out of its impact both on health and on the economic well-being of those who receive it. The health benefits are many. Just to cite a few of these: Women who are able to take maternity leave are more likely to be able to breastfeed for an extended period of time, and breastfeeding cuts infant mortality to a third of what it would otherwise be. The benefits persist throughout childhood and adolescence. Many studies conducted over the course of decades have demonstrated the importance of parents' involvement when their children are sick. When their parents are present, sick children have better vital signs and fewer symptoms; they recover more rapidly from illnesses and injuries. Furthermore, the presence of parents can shorten children's hospital stays by a third.

Similarly, elderly Americans who receive support from family members when sick have far better outcomes. Adults who receive support from family members when sick have substantially better health outcomes from such major conditions as heart attacks and strokes.

When working adults receive leave to stay home when they are sick, they are more likely to be able to care for themselves, to recover more rapidly and less likely to spread diseases to those they work with.

Addressing the interface between work and health is also essential to meeting the basic economic needs of Americans. In a national study of low-income mothers, we found that those who had health problems were 53 percent more likely to suffer job loss and those who cared for children with health problems were 36 percent more likely to suffer job loss. The FMLA with its guarantee of job-protected leave to care for one's own and family illness is an essential part of addressing this problem.

There are a number of important features of the FMLA in its current implementation, but it is worth mentioning at least two. First, the definition of serious condition has importantly been defined as including more than hospitalizations. Health care providers now provide less and less care in hospitals in order to save money. Many serious conditions are cared for at home. Moreover, it has been important that the regulations ensure that the FMLA covers serious conditions of relatively short duration. Today, when Americans are hospitalized it is generally for a short period of time. The average hospital stay has decreased from 8 days in 1970 to 5 days in 2001. The average hospital stay for adults with heart disease, clearly a serious condition, is only 4.6 days. Finally, it has been essential to the effectiveness of the FMLA that the definition of serious condition includes chronic conditions. The importance of chronic conditions is increasing as Americans survive more diseases that were once fatal.

A second essential part of the effective implementation of the FMLA has been the ability of Americans to take short-term intermittent leave as well as longer-term continuous leave. Many medical tests, treatments, and doctor's appointments require only short visits. By allowing leave to be taken in small increments, the current regulations enable employees to meet their own health needs and that of their family while minimizing the time lost to the employer and minimizing the pay loss to the employee.

How Can the FMLA Be Improved?

Two things could be done to improve the FMLA. First, the actual and effective coverage needs to be increased. The majority of working Americans -- across race, ethnicity, gender, education, and income -- are caring for children, elderly parents, or disabled family members. The fact that approximately 40 percent of Americans are not covered by the FMLA has been recognized and is an enormously serious problem. Less well recognized is the fact that many Americans are not aware of the leave they could receive under the FMLA. Two mothers I interviewed illustrate this point. Both had children with asthma but neither realized the Family and Medical Leave Act covered their children's serious chronic condition. As a result, one child was unnecessarily hospitalized when her mother went to work fearing she would otherwise lose her job and her family would be left destitute. And the other mother did lose her job when she sought to care for her child during a hospitalization. They represent only two of the millions of Americans who don't realize they are covered by the FMLA or what kinds of serious conditions are covered. Both educating Americans who are already covered by the FMLA about their rights under the law and extending the act to as many as possible of the approximately 40 percent of Americans who are not covered are critically important.

The second major recommendation I have for improving implementation of the FMLA is to develop ways to ensure that the leave is paid. Currently, the leading reason Americans do not take family

medical leave is that they are not able to afford it. A national study found 78 percent of Americans could not afford to take the family and medical leave they needed. Not only is paid leave crucial to enabling a majority of Americans to receive the health benefits derived from full access to leave, but it is essential to the short- and long-term economic security of American families. The entire family benefits from parents' increased job security and consistent income. Implementing paid parental leave policies also provides economic returns to employers. Research has shown that having access to paid leave improves workers' performance on the job. Workplaces with paid parental leave policies experience lower job turnover rates, leading to lower recruitment and training costs and a higher level of productivity. Workers in more supportive workplaces are likely to have higher levels of job satisfaction that, in turn, increase their commitment to their company's success.

The overwhelming majority of countries from around the world already have paid parental leave of some form. Our study, *The Work, Family, and Equity Index: Where Does the United States Stand Globally?*, examines U.S. labor and family policy in a global context. In the case of maternity leave, we studied policies in 168 countries. 164 of these offer paid leave to new mothers. This includes countries in every region of the world, countries with low unemployment and countries with high productivity. Ninety countries offer 14 or more weeks of paid leave to new mothers. Ninety-nine of the countries which guarantee paid maternity or parental leave for women provide 100 percent wage replacement for at least some portion of this leave. The United States is the only industrialized country not to guarantee paid leave to new mothers. Of the 168 nations studied, the only other countries we found not to have paid leave for mothers were Papua New Guinea, Swaziland, and Lesotho. While not universal, paid leave for new fathers is also widespread. Forty-five countries offer some form of paid leave to fathers (parental and/or paternity); 27 of these countries offer at least 14 weeks of paid leave to men. Clearly the US can afford to join so many other nations around the world in providing these essential benefits.

The Healthy Families Act: An Essential Addition to the FMLA

While the FMLA provides important coverage for major illnesses, there are crucial health needs which are not covered by the FMLA such as when a two year old needs a parent to stay home with her because she has a 104 degree fever or a restaurant worker should stay home because he has infectious diarrhea. Because providing for seven days a year of paid sick leave when needed for personal and family illness would make an enormous difference to the health of American families and their ability to keep their jobs, I hope this committee will hold hearings on the Healthy Families Act which was first introduced last year.

This bill fills a desperate need for Americans. Recent studies have revealed that 59 million American workers do not have a single day of paid sick leave and 86 million do not have any paid sick days that can be used to care for a child. Short-term paid sick leave is critical to the health of American working adults, their children, and elderly parents for several reasons. First, as noted previously, one of the largest factors affecting children's health is whether their parents can be involved in their care. When parents are involved in children's care, they have better health outcomes from both acute and chronic diseases, and their health care costs are lower because they spend less time in the hospital. Moreover, the single biggest determinant of whether working parents can care for their sick children is having paid leave. Parents with paid leave are five times as likely to be able to stay home with a sick child. Second, having leave to care for family members is equally important to those caring for elderly

parents or sick or disabled adult family members. Third, having paid leave to address one's own health needs makes a difference to the health and welfare of all Americans. Those adults who have paid leave are significantly more likely to be able to keep their jobs and return to work after major illnesses. This is particularly important given that personal and family health problems are a leading cause of job loss. Our research has shown that workers with paid leave are 2.6 times more likely to return to work after a heart attack or angina. Moreover, short-term paid sick leave matters to employers because of the important ways in which short-term paid leave can limit the spread of infectious diseases in the workplace, improve productivity and decrease unnecessary absenteeism. To provide just one example, the spread of infectious disease at the workplace is the reason that the US Centers for Disease Control and Prevention recommended Americans who have influenza – a disease that leads to 95,000 hospitalizations and over 35,000 deaths in an average year —stay home when they are sick.

The Healthy Families Act is superbly constructed to meet the essential health needs of working Americans and their families, at the same time as being readily achievable. As we report in our global study, *The Work, Family, and Equity Index: Where Does the United States Stand Globally?*, 139 countries around the world provide paid sick leave to employees. 116 countries provide paid leave for ten or more days. Can the US afford to provide sick leave benefits and still compete in the global economy? The answer is clearly yes. Most of the world already has legislation guaranteeing sick leave. Will it make a difference to the health of American children and adults alike in need of care? An enormous one.

Conclusion

In conclusion, the United States currently lags dramatically behind all high-income countries, as well as many middle- and low-income countries when it comes to public policies designed to guarantee that working families can care for their families' health and development. One hundred-sixty-four countries around the world guarantee paid leave to women after childbirth; the United States does not. Forty-five countries ensure that fathers either receive paid paternity leave or paid parental leave; the United States does not. One-hundred thirty-nine countries provide paid leave for short- or long-term illnesses; the United States has no national policy regarding sick leave.

While it is essential to the well-being of middle-income families that solutions – including ensuring adequate working conditions for Americans and their families– be universal, developing policy responses is even more critical to the health and well-being of those in greatest need -- low-income families and families with a child or adult with a serious health condition.

Thank you again for holding these hearings and for taking the time to move forward on these critically important issues facing working American families.