

Providing Paid Family or Temporary Disability Leave



What is it?

Millions of Americans are faced every year with the delicate balance of work responsibilities and their need to take short leaves due to pregnancy, illness or disability of themselves or a family member. Millions take unpaid leave every year because of temporary illness or injury or because they need to care for sick family members. States can enact temporary disability insurance programs (TDI) that provide benefits to workers who are temporarily unable to work because of their own disability, and can, like California, include paid family leave in these TDI programs. While TDI programs are not UI, the programs serve a similar purpose of supporting temporarily unemployed workers and can be administered through the unemployment insurance system.



Key arguments in favor

Balancing work and family. With both partners in most families working, American families are increasingly called upon to balance their family's need for periodic time off against their need to work. Increasingly, they find that they are coming up short because no income support system can assist in replacing lost wages. While the federal Family and Medical Leave Act protects many workers from losing their jobs when they must take leaves due to illness or injury of themselves or family members, the FMLA does not require that employers provide paid leave. Twenty-seven million Americans took or needed to take family leave during an 18 month period from 1999-2000, most of it unpaid.

Temporary disability programs can spread the huge cost of family caregiving. The national economic cost of family caregiving is estimated at \$257 billion a year, much of which working caregivers and their families must shoulder during unpaid family leave. Temporary disability programs, like basic UI, are social insurance programs that reflect society's commitment to supporting families when they are unable to work because of disability or family caregiving.

Many workers, especially low-wage workers, do not have other temporary disability insurance to replace lost wages. In today's workforce, most workers do not receive a benefit package from their employers that includes temporary disability insurance. While disabled workers can qualify for Social Security Disability Insurance if they face a long-term inability to work, there generally is not a system that provides temporary income support to replace lost wages.



Key arguments against and responses to them

Opponents say: Employers can't afford paid disability or family leave.

Response: Employers do not have to shoulder the full cost of TDI programs. State-administered TDI benefits are generally funded through some combination of an employee/employer shared payroll tax. The worker's share is generally one-half of a percent of wages up to a particular maximum dollar amount. The costs of California's new paid family leave provisions are borne entirely by employees.

Opponents say: Even if they don't pay for it, employers need to have workers at work and cannot manage if workers take time off.

Response: A new study in California finds that employers have little difficulty managing employee leaves of absence since relatively few employees go on leave at any one time. The vast majority return to their jobs after the leave. In most cases employers are able to cover the work by assigning it to other employees.

Opponents say: Paid family leave causes unnecessary turnover.

Response: On the contrary, the California study finds that employees are more likely to return to their jobs following a leave when their employers provide family and medical leave benefits that are more extensive than required by (the previous) law. Thus, family leave accommodations can contribute to lower turnover rates.



Which states do it?

Five states and Puerto Rico have Temporary Disability Insurance (TDI) programs. These programs are generally administered through unemployment insurance or workers' compensation systems. They provide up to 26 weeks of partial wage replacement to persons with recent and significant work history, but who, because of mental or physical illness or injury, are currently unable to work.

In 2002, California added a paid family leave provision to its TDI program. Through this provision, most employees can receive 55-60 percent of wages for up to 6 weeks of leave per year to care for a seriously ill family member or a new baby. This new provision costs workers an average of an additional \$27 per year in payroll deductions.

The states of Washington and Massachusetts are among those with ongoing family leave campaigns unrelated to TDI programs.

As noted elsewhere in this chapter, states can also offer more limited relief through their UI systems for caregivers who must leave a job due to family obligations, but who are still "able and available" to work. Fifteen states have "undue family hardship" provisions, and eleven states have provisions covering illness, disability or care of a

State Choices

5 states have TDI programs

California
Hawaii
New York
New Jersey
Rhode Island

family member. While family hardship provisions can allow a worker to receive UI while they are seeking new work, these provisions do not provide any income support during the period that the worker is temporarily unable to work. In contrast, TDI and paid family leave programs offer income support to workers at the time when they are unable to work due to disability or illness. Persons receiving TDI or family leave benefits are not obligated to be able to work or to search for work during this period.



Model legislation on temporary disability insurance

Existing state temporary disability insurance provisions differ in the monetary eligibility, amount of benefits, maximum length of benefits, and employer and employee contributions. For a comparison of the state laws provisions, see U.S. Department of Labor, *Comparison of State Unemployment Insurance Laws 2004*, Chapter 8 (2004). No state has enacted a temporary disability insurance program since 1969.



Model legislation on paid family leave

California's new law amended many different provisions of state law. The most efficient way to read it is by reading the chaptered version of Senate Bill 1661 from the 2002 legislative session, available at <http://www.leginfo.ca.gov>.

References

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Eileen Applebaum & Ruth Milkman, *Paid Family Leave in California: New Research Findings*, UCLA INSTITUTE OF INDUSTRIAL RELATIONS (2004), available at <http://www.familyleave.ucla.edu>.