

PAID FAMILY LEAVE:

SOCIAL INSURANCE FOR
THE NON-STANDARD
WORKFORCE

SOCIAL INSURANCE PROGRAMS

- Ideal way to cover workers left out of employee definition
- Need not be tied to traditional view of what an employee/employer relationship is
- Can be “portable” from job to job
- **IMPORTANT:** Think about how these programs will impact part-time and temporary workers who are employees as well as workers who are not traditional employees

PAID FAMILY AND MEDICAL LEAVE INSURANCE PROGRAMS

- Currently in 4 states (CA, NJ, RI, NY) and passed in WA state and DC
- All are social insurance programs – paid for by mandatory premiums
- A natural for covering the contingent workforce

WHO IS COVERED?

- Almost all private sector employees
- Full-time and part-time workers
- Not contingent on business size
- Most programs workers are covered regardless of citizenship or immigration status.

PURPOSES OF LEAVE

Wage replacement to workers to:

- Bond with a new child (including foster & adopted children)
- Care for a family member with a serious health condition
- Recover from a serious off-the-job illness or injury
- In NY and WA address certain military family needs

NUMBER OF WEEKS

Own medical: CA – up to 52 weeks; NJ and NY – up to 26 weeks; RI – up to 30 weeks; WA – up to 12 weeks; DC – up to 2 weeks

PFL:

CA – 6 weeks;

NJ – 6 weeks;

RI – 4 weeks;

NY -- 8 weeks(2018); 10 weeks (2019, 2020); 12 weeks (2021); WA – 12 weeks;

DC – 6 weeks family and 8 weeks parental

BENEFIT LEVEL

- Based on a percentage of the worker's own wages (wage replacement)
- Up to a cap generally based on a percentage of the state average weekly wage

COVERAGE OF THE “SELF EMPLOYED”

- Self-employed people are eligible to be covered in CA, NY, WA and DC
- NJ and RI do not provide coverage for the self employed

ISSUES -- DEFINITION

- Who are the “self employed”?
- Directed to small business owners considered “employers” rather than “employees” who may work various jobs as 1099 workers
- Can influence effectiveness of outreach and consideration of how to cover

ISSUES: “OPT IN” OR MANDATORY COVERAGE

- All state programs that cover self employed allow “opt in” to coverage rather than mandatory coverage
- FAMILY proposal for a national paid leave program would make coverage of the self employed mandatory as in social security

Opt in or Mandatory? cont

- Arguments for mandatory coverage:
 - “Opt in” has no place in a social insurance program
 - Inclusiveness of all workers makes the program solvent
 - No gender or other bias if everyone automatically covered
- Arguments for optional coverage
 - Workforce already lives very close to the edge
 - Marginally employed should not have to be covered
 - Where both employer and employee contribute to premiums, need to pay both by self employed may make cost prohibitive

ISSUES:PROTECTING THE PROGRAM

- Choosing when to pay into a social insurance program can lead to “gaming the system” and choosing to pay only when you know you’ll need the money.
- DC – opt in only possible once a year and must be in program for 3 years
- WA – must be in program for 3 years
- NY – 2 year waiting period

ISSUES:WHO PAYS THE PREMIUMS?

- Most pfl programs charge premiums to workers only so payment is no different for contingent workforce
- Programs with shared employer/employee payments
 - Could require both payments (Social Security)
 - Could only require payment of employee portion (WA)

PAYMENT OF PREMIUMS (cont)

- Employer payment for all 1099 workers
 - MA proposal – employers pay into program for all 1099 workers
 - Shifting responsibility to employer for use of 1099 work

WAITING PERIODS

- Very important for part-time workers and workers who change jobs frequently not to have a long waiting period for benefits
- FMLA – requires one year at same job
- NY –
 - F/T (20 hrs or more) 26 weeks for pfl (4 weeks for tdi)
 - P/T (under 20 hours) 175 days

ANNUAL HOURS REQUIREMENTS

- Can be bar to workers who change jobs frequently
- FMLA – 1250 hours in a year for same employer that disqualifies many workers
- Important to allow workers to aggregate hours for different employers if there is an hours requirement

ISSUES: OUTREACH AND EDUCATION

- Particularly difficult for self employed workforce
- Need discrete outreach plan for this population
- In all materials and information:
 - Need to emphasize self employed are covered
 - Need to provide details on opt in