

**Testimony  
of  
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before the

**Subcommittee on Worker and Family Support  
U.S. House Committee on Ways and Means**

**“Legislative Subcommittee Hearing on Universal Paid Leave  
and Guaranteed Access to Child Care”**

**May 27, 2021**

Chairman Davis, Ranking Member Walorski, and members of the subcommittee, thank you for the invitation to be here today to participate in this timely and very important hearing.

My name is Jocelyn Frye and I am a Senior Fellow with the Women’s Initiative at the Center for American Progress (CAP or the Center). The Center is a non-partisan think tank committed to improving the lives of all Americans through bold and progressive ideas, strong leadership, and intentional action. CAP’s Women’s Initiative is focused on the development of comprehensive public policy solutions to expand and advance women’s opportunities to be full participants in our society by bolstering their ability to participate in our economy and creating fair and equitable workplace settings where they have the best chance at success.

To accomplish this work, we are deeply committed to pursuing strong policy solutions to strengthen women’s economic security, advance women’s employment opportunities, combat workplace discrimination, and improve women’s ability to live healthy lives and chart their own course. We believe that it is essential to create work environments where women workers—across sex, race, ethnicity, gender identity, sexual orientation, economic status, disability, and age—are treated fairly, paid equally, and can access meaningful opportunities to progress as far as they want up the career ladder. Integral to this progress is making an unyielding commitment to building a network of supports to help women balance their work and family obligations. Women are often expected to take on the bulk of the caregiving responsibilities for their families and just make everything work, even though they may have few if any supports or policies to enable them to take off the time that they need while maintaining their attachment to the workforce. These dual demands of work and family force women to make impossible choices – such as leaving a job or letting an aging parent recovering from an illness fend for themselves – with either option resulting in negative consequences. We believe that there are public policy solutions to address these challenges and minimize disruptions to work and family. Over the course of the last decade, CAP has released more than 100 reports, briefs, and columns to build the economic case for investing in the full range of policies that enable workers to fulfill their work and family responsibilities without putting their job or their family at risk or jeopardizing their overall health and well-being

and economic stability.<sup>1</sup> That work, along with the work of our partners, other researchers, and even employers themselves, has made abundantly clear that access to paid family and medical leave is essential to building a productive workplace, sustaining healthy families and securing their economic stability, and ensuring our nation's overall economic growth. Enacting a comprehensive, national paid family and medical leave program is long overdue and must be a top priority as policymakers consider the next steps needed to bolster and invest in our nation's essential infrastructure and propel a robust economic recovery.

## **I. Understanding the Work-Family Challenges Facing Women and Their Families: The Context, the Gaps, and the Urgent Need for Action**

The nation stands at a critical juncture in the fight to recover from the economic harms resulting from the COVID-19 pandemic – harms that decimated the economy, disrupted workplaces, and caused enormous damage to the economic stability of families. Amid a recovery that is actively underway but far from complete, the actions taken to undo the pandemic's damage must demonstrate a clear-eyed understanding of where we currently stand and why specific interventions are urgently needed. Front and center in this examination must be a focus on the challenges faced by women workers, who have experienced some of the pandemic's harshest effects, and the lessons learned from the pandemic that should inform the actions taken going forward. Prioritizing these challenges is especially important because women increasingly are vital economic engines for their families and integral to the nation's overall economic growth.

### **A. The Current Moment and How We Arrived Here**

Determining the correct course of action to rebuild our economy requires us to take a broad look at the full impact of the pandemic from the earliest days<sup>2</sup> when the COVID-19 virus was just emerging in the United States to the present time. Over the course of 2020, continuing into 2021, the pandemic wreaked havoc on the economy – with women, especially women of color, bearing the brunt of the pandemic, often experiencing more job loss than their male counterparts and also taking on the bulk of caregiving responsibilities at home. These devastating effects are reflected in the stories of women across the country:

- A woman worker without paid family and medical leave was forced to leave her job to recover from COVID-19 without receiving any income and even though she was able to go back to work later, she still has not fully recovered but cannot afford a loss in pay.<sup>3</sup>
- A mother could not return to work because she had to assist her children at home with virtual schooling<sup>4</sup> and another mother with children in virtual school was given the choice of returning to work, or resigning, or being fired.<sup>5</sup>
- A health care worker needed access to paid leave during the pandemic, but because she was deemed an essential worker, she had no choice but to go to work or risk losing her job.<sup>6</sup>

These are but a few of the millions of stories of women during the pandemic – the women who continued to work while sick, the women who left the workforce to care for their families, the women whose livelihoods and economic stability have been disrupted. Each woman's story is a

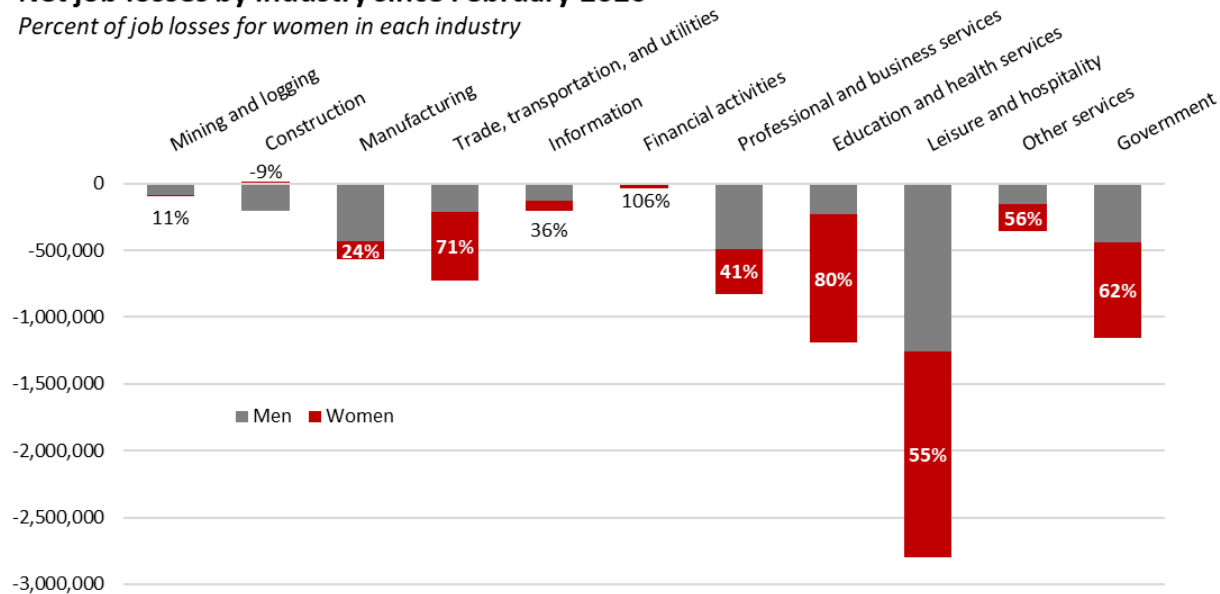
compelling reminder of the pandemic’s toll – and, it is essential to ground any conversation about the needs of workers, workplaces, and the economy in women’s real world experiences, by centering their stories and struggles as they have tried to weather the devastating effects of COVID-19 and make ends meet. Collectively, these women need concrete policy solutions that respond to their current challenges and can help them turn the corner.

*The pandemic – understanding what happened.* The onset of the pandemic had a devastating, immediate impact on the economy, with thousands of businesses shutting down across the country, affecting millions of workers. In the vast majority of communities, only those businesses deemed essential were allowed to continue operations. Although no part of the economy was left unscathed, many of the hardest hit areas are industries in the services sector that involve constant in-person interactions with the public, such as leisure and hospitality, where women disproportionately work. (See Figure 1) The resulting job losses were extensive and disproportionately experienced by women and 2 million women left the workforce entirely.<sup>7</sup> At the same time, massive school and child care closures across the country meant that most children were at home, attempting to navigate the challenges of virtual classes and on-line learning. Many parents took on the added role of ensuring that children were connected to their classes and the different technology platforms or otherwise providing care. Although all parents struggled to respond to these disruptions, women often were expected to play a major role in managing these challenges. All of these outsized impacts on women prompted leading researcher Dr. C. Nicole Mason to dub the recession a “she-cession.”<sup>8</sup>

Figure 1

**Net job losses by industry since February 2020**

Percent of job losses for women in each industry



**Source:** U.S. Bureau of Labor Statistics, "Economic News Release, Table B-1. Employees on nonfarm payrolls by industry sector and selected industry detail," available at <https://www.bls.gov/news.release/empsit.t17.htm> (last accessed May 7, 2021); U.S. Bureau of Labor Statistics, "Economic News Release, Table B-5. Employment of women on nonfarm payrolls by industry sector, seasonally adjusted," available at <https://www.bls.gov/news.release/empsit.t21.htm> (last accessed May 7, 2021).

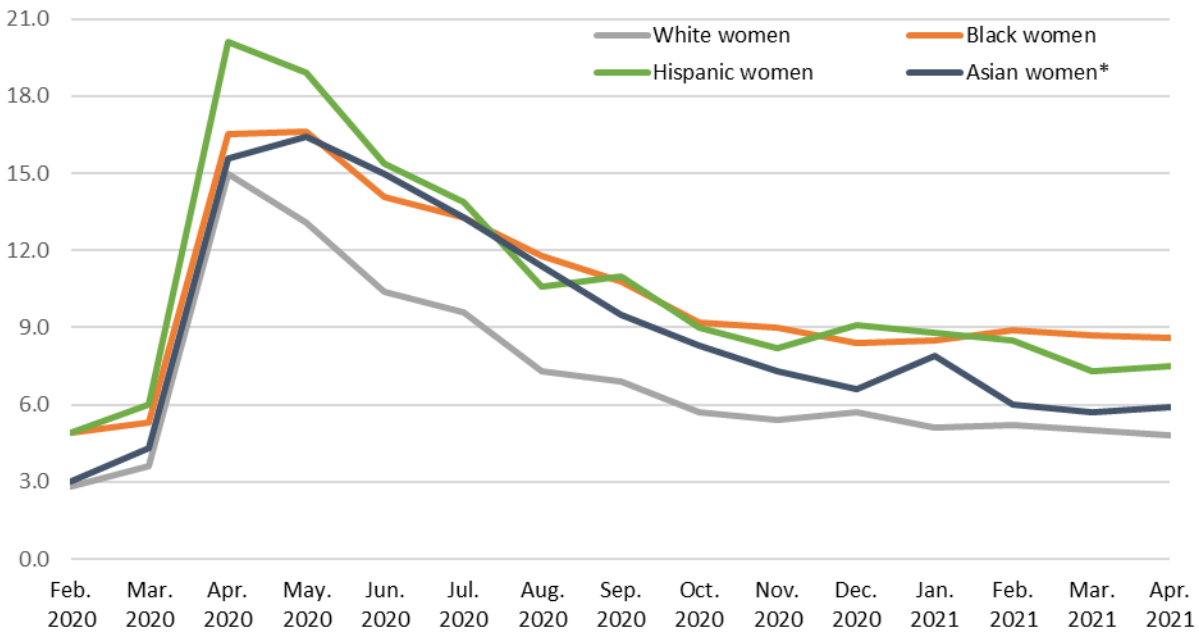
These pandemic dynamics fueled two parallel narratives for women that both reflected common challenges – one narrative for those experiencing job losses and another narrative for those who

continued to work. Among those who lost jobs, between February 2020-April 2021, women lost an estimated 4.5 million jobs, almost 900,000 more than men.<sup>9</sup> Women’s unemployment rates jumped astronomically, with the highest rates experienced by women of color. (See Figure 2) At the same time, women’s participation in the labor force saw significant declines, confirming the sizable number of women who have left the workforce entirely. (See Figure 3)

Figure 2

### Women of color have had the highest unemployment rates

Women's unemployment rate, by race, age 20 and over

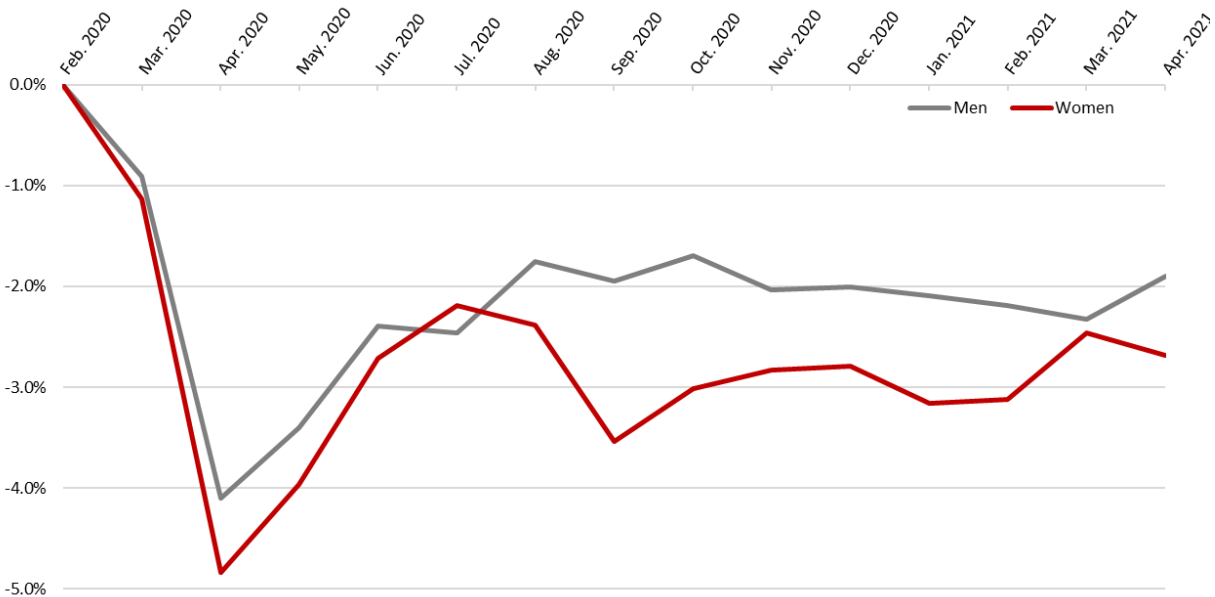


**\*Note:** Data for White, Black, and Hispanic women are seasonally adjusted, while data for Asian women are *not* seasonally adjusted.  
**Source:** U.S. Bureau of Labor Statistics, "Economic News Release, Table A-2. Employment status of the civilian population by race, sex, and age," available at <https://www.bls.gov/news.release/empsit.t02.htm> (last accessed May 2, 2021); U.S. Bureau of Labor Statistics, "Economic News Release, Table A-3. Employment status of the Hispanic or Latino population by sex and age," available at <https://www.bls.gov/news.release/empsit.t03.htm> (last accessed May 2, 2021); U.S. Bureau of Labor Statistics, "Labor Force Statistics from the Current Population Survey, A-15. Employment status of the civilian noninstitutional population by race, Hispanic or Latino ethnicity, sex, and age," available at <https://www.bls.gov/web/empsit/cpseea15.htm> (last accessed May 2, 2021).

Figure 3

## More women have left the labor force than men during the pandemic

Percent change in the civilian labor force since February 2020, by sex, age 20 and over



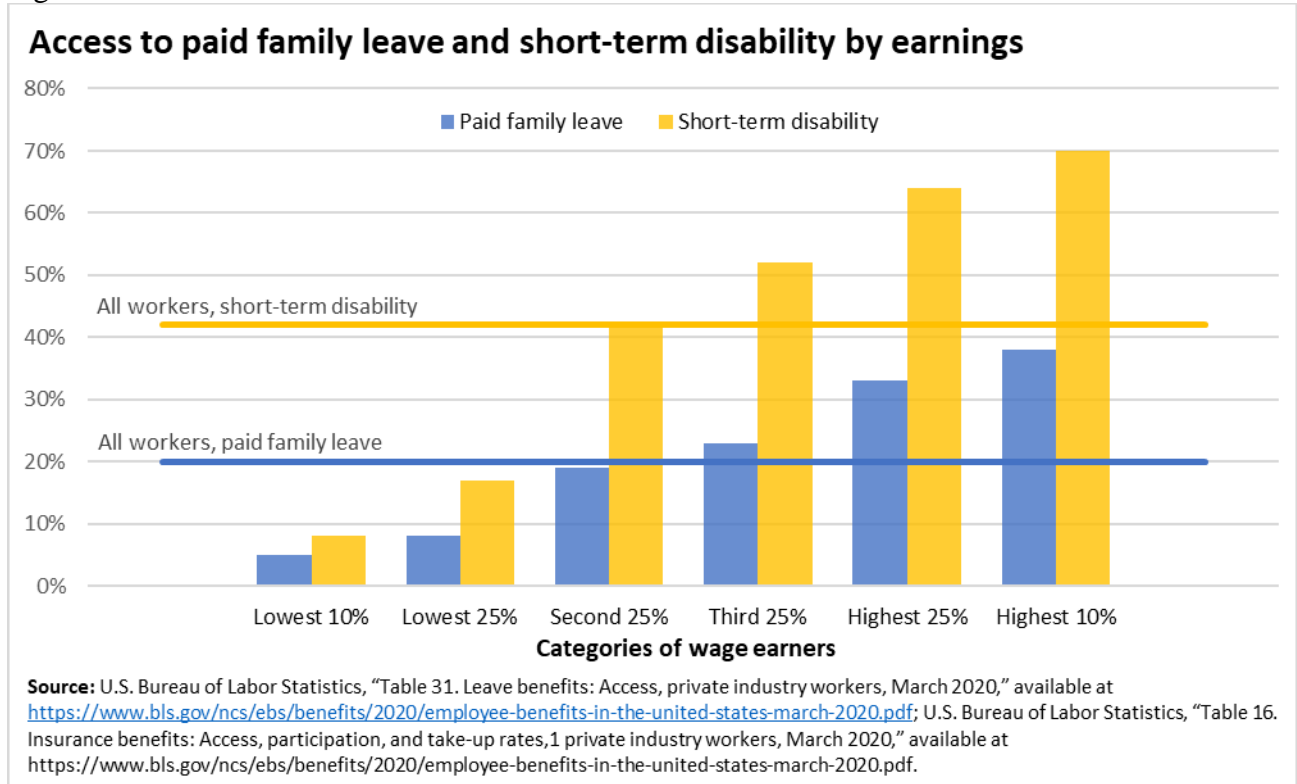
Source: U.S. Bureau of Labor Statistics, "Economic News Release, Table A-1. Employment status of the civilian population by sex and age," available at <https://www.bls.gov/news.release/empsit.t02.htm> (last accessed May 7, 2021).

The result of these changes not only led to dramatic changes in women's employment status, it also affected the economic security of their families. Women's full participation in the economy has been critical for families, especially in communities of color. Nearly two-thirds (66 percent) of mothers were breadwinners for their families in 2019, with mothers of color having the highest percentages of sole or primary breadwinners among mothers.<sup>10</sup> CAP analysis of 2015-2019 data from the Current Population Survey found that 68 percent of Black mothers, 55 percent of Native American mothers, 53 percent of multiracial mothers, and 41 percent of Latina mothers were breadwinners for their families compared to 37 percent of white mothers.<sup>11</sup> These data mirror the experiences of families more broadly. An analysis of data from the Current Population Survey's Annual Social and Economic Supplement shows that many women of color, in particular, play an outsized economic role in their families – in 2018, households headed by Black women constituted 41.2 percent of Black family households and households headed by Hispanic women constituted 24.4 percent of Hispanic family households compared to white women heading 12.7 percent of white family households and Asian American women heading 11.7 percent of Asian American family households.<sup>12</sup>

The story of the pandemic's effects on women also requires a clear understanding of the experiences of women who continued to work during the pandemic. Essential workers – those workers performing functions deemed essential such as health care workers, grocery store and drug store workers, and first-responders – were disproportionately women, frequently women of color.<sup>13</sup> An estimated one in three jobs held by women are considered essential and many of these women work in low-paying jobs – such as grocery store cashiers, nursing assistants, and home health aides – and have no choice but to continue working despite potential threats to their health and well-being.<sup>14</sup> Workers with lower pay are far less likely to have access to benefits such as

paid sick leave or paid family leave that could enable them to take time off when an emergency arises.<sup>15</sup> (See Figure 4)

Figure 4



*Why did the pandemic have this effect?* While the pandemic was an unexpected, unprecedented global health crisis triggered by the COVID-19 virus, and its effects continue to reverberate across the nation and the world, the resulting impacts of the crisis should not have come as a surprise. Long before the pandemic, the failure to acknowledge the importance of caregiving and access to caregiving supports to help workers address their work-family needs had led to an inadequate patchwork of state policies and no comprehensive national policy that would provide income support to workers needing leave for a family or medical emergency. Notwithstanding the relatively low unemployment rates prior to the pandemic, women’s wages had been stagnating and women’s labor force participation overall had been declining since 2000 – women’s overall labor force participation rate in 2018, in fact, was lower than women’s overall labor force participation rate in 2000.<sup>16</sup> Although some groups of women, such as Black women, continued to have the highest labor force participation rates, they also faced significant pay gaps and were less likely to have the highest paying jobs. Women’s earnings are persistently lower than the wages of their male counterparts, with the wages of women of color exhibiting the largest wage gaps.<sup>17</sup> These gaps occur, in part, because women spend more time providing care for their families, which results in fewer paid work hours.<sup>18</sup>

These problems also occurred because of longstanding views about women’s roles and women’s work. Cultural narratives – embedded in the different facets of our lives, whether at work, or at

home, in the classroom, in legislatures, in the media, or across society – have always assumed that women will take on the majority, if not all, of the caregiving responsibilities. Caregiving too often is treated as women’s obligation or duty rather than real work deserving of respect and compensation commensurate with its importance and necessity. It is precisely because of these attitudes that the workers who provide care for pay, who are overwhelming female and disproportionately women of color, have frequently been devalued and disrespected, with little regard given to what supports they may need to address the work-family challenges that they experience in their own lives.<sup>19</sup> This legacy of disregard and dismissiveness perpetuates a culture that relegates caregiving to a familial, personal realm that is viewed differently and taken less seriously than other workplace settings outside of the home or care setting. All of these assumptions and attitudes also fuel a culture that relies primarily on women to take on caregiving responsibilities in emergency situations, such as caring for an elderly parent recovering from surgery, a sick child with a serious illness, or serious health condition. It is in this environment that the pandemic hit – with too many families without a caregiving safety net and too few workplaces with strong policies enabling workers to navigate their work and family obligations.

*What do we need to do to recover and help women rebound, and what are the ramifications of failing to act or ignoring what just happened?* We cannot move forward and ensure that women regain lost economic ground without confronting the reality of what women, and the nation, experienced throughout the pandemic. Learning the lessons of the pandemic – and, in particular, confronting head-on the inadequacy and absence of policies that acknowledge the care needs of families – must be a top priority going forward if we are to meet the current needs of families and be better prepared for future crises. This work must include a deeper understanding of the economic reality of families and recognition that women are integral to the economic success of our nation. Women, and more precisely women’s progress, must be at the center of any discussion about what policies are needed to jumpstart a much-needed economic recovery, propel our economy, and sustain it into the future.

Having a meaningful opportunity to participate fully in the nation’s economy, specifically by joining the paid workforce and seeking to build a career, has been vital to women’s progress and the nation’s economic growth as a whole. The past 50 years have seen women move rapidly into more and more occupations, move up the career ladder in growing numbers, and gain a firmer foothold in the marketplace. The rise in women’s labor force participation has bolstered the economy – the increase in women’s work hours from 1979 to 2012 resulted in an 11 percent increase in the nation’s gross domestic product (GDP), a key indicator of the nation’s economic health.<sup>20</sup> Despite the important economic role that women play, achieving progress in the workplace has not been easy, nor has it happened randomly or without intentional action. Women have faced obstacles at every corner, navigating longstanding biases and discriminatory practices, entrenched workplace cultures that confine women to limited roles, and the absence of adequate policies to address conflicting work and family responsibilities. These challenges have confronted all women but have been further complicated for women of color by the intersection of multiple factors such as race and ethnicity. Many women of color have experienced the added burden of overcoming demeaning narratives rooted in racial and ethnic bias – confronting caricatures used to marginalize and stereotype, for example, Black women as angry or Latinas as hypersexualized – that have devalued their work and worth, suggesting the need for a diverse range of workplace interventions to ensure progress for everyone.<sup>21</sup>

The policy solutions needed to recover fully from the pandemic must be informed by all of these experiences. They must be responsive to the care needs of families, but they also must help combat the biases and stereotypes that women face, especially when grappling with competing work-family obligations. Now is the moment where we have an opportunity to re-set the policy conversation with bold solutions that correct the mistakes of the past and fill the policy gaps exposed by the pandemic.

## **II. A Much-Needed Solution That Responds to the Problem – Comprehensive Paid Family and Medical Leave**

It is essential to develop solutions that focus on the concrete needs of workers that enable them to care for their families, fulfill their work obligations, and become economically stable. The concept of paid family and medical leave is rooted in this objective – it would allow workers to take paid time off to address their caregiving obligations without putting their job at risk. The benefits of access to paid family and medical leave are well-documented. Workers and families experience improved financial security, with one study of California’s paid leave program showing a 10.2 decrease in the risk of families with new children dropping below the poverty line.<sup>22</sup> Paid family and medical leave contributes to better health outcomes for individuals requiring medical treatment,<sup>23</sup> babies,<sup>24</sup> young children,<sup>25</sup> and mothers.<sup>26</sup> Businesses also benefit from paid family and medical leave, with 89 percent of employers surveyed in a study of California’s paid leave program reporting a positive or neutral effect on employee productivity and 91 percent reporting a positive or neutral effect on profitability and performance.<sup>27</sup>

The utility of paid family and medical leave is evidenced, in part, by who has access to such leave. High-paid workers, who often have the greatest ability to secure vital benefits, overwhelmingly have access to paid family and medical leave. An estimated 20 percent of private-sector workers have access to paid family leave while 5 percent of private-sector workers in the lowest decile have access to paid family leave.<sup>28</sup> This holds true for short-term disability insurance as well, where an estimated 42 percent of private-sector workers have access but only 8 percent of private-sector workers in the lowest decile have access to short-term disability.

### **A. Essential Components of a Paid Family and Medical Leave Program – What it Must Do**

To be effective and responsive to the needs of women and all workers, a paid family and medical leave program must have several key elements: it must be inclusive to cover the maximum number of workers, extend leave of sufficient duration and with sufficient flexibility to provide support during a serious illness or caregiving, ensure that care can be provided by those in close relationship with individuals needing care, provide sufficient wage replacement so that workers can afford to take leave, ensure that there are no adverse consequences when a worker takes leave, and protect against discrimination.<sup>29</sup> Partial solutions or half measures that cherry-pick which problems to address will do little to meet the needs of workers. Comprehensive measures that provide benefits to everyone can help minimize the targeting of specific categories of workers for potentially negative treatment.



- *Comprehensive purposes:* At some point in their lives, most workers – indeed, most individuals—will confront a caregiving challenge, either for themselves or for their family. It is important to ensure that in these situations that workers have access to the leave that they need. Too often, assumptions about who needs leave focuses exclusively on the needs of new parents. But, the need for leave extends across the life spectrum. It is essential to ensure that workers have access to leave for the full range of family or medical care purposes – not only for the birth or adoption of a child, but also to care for parents as they get older, care for a loved one recovering from a serious health condition, or to recover from one’s own serious health condition.
- *Eligibility rules to include all workers:* It is critical to ensure that all workers have access to paid family and medical leave and not just a preferred few. This means ensuring that as many workers as possible are eligible to access the paid leave benefit provided. To accomplish this goal, the requirements determining eligibility should be broad enough to include workers working in a wide variety of work arrangements – part-time, full-time, and non-standard arrangements – and not overly cumbersome to avoid unfairly excluding workers. Currently, access to paid family and medical leave varies significantly by factors such as how much a worker is paid, how many hours an individual works, the type of industry and occupation where an individual works, even region of the country. For example, the Bureau of Labor Statistics data on access to leave benefits among private industry workers from March 2020 found that almost one-quarter – 24 percent – of full-time workers have access to paid family leave while only 8 percent of part-time workers have access to paid family leave.<sup>30</sup> Among these same workers, looking at average wages, 38 percent of those workers in the highest decile of earners have access to paid family leave, while only 5 percent of workers in the lowest decile of earners have access to paid family leave.<sup>31</sup> Large employers with 500 or more employees are more likely to provide paid family leave than smaller employers with fewer than 100 employees – 31 percent of private industry workers working for large employers have access to paid family leave compared to only 15 percent of workers working for smaller employers.<sup>32</sup> These types of disparities effectively marginalize different categories of workers and perpetuate inequality. Any paid family and medical leave program must include as many workers as possible who are engaged regularly in work.
- *Chosen Family:* It is essential to ensure that workers have the ability to provide care to individuals with whom they consider to be part of their family, even if they are not blood relatives or do not conform to narrow definitions of family. Fewer than one in five American households follow the traditional family structure<sup>33</sup> and individuals often rely on extended family or chosen family—individuals who form close bonds akin to those traditionally thought to occur in relationships with blood or legal ties—for care. This is especially important for people with disabilities and LGBTQ individuals.<sup>34</sup> To support all caregiving relationships, a national paid family and medical leave program must include an expansive definition of family that includes extended family and chosen family.
- *Appropriate and sufficient wage replacement:* Workers must be able to take leave without putting their economic stability at risk. Research examining utilization of the unpaid leave provided under the Family and Medical Leave Act (FMLA) found that an estimated

66 percent workers, even if they were eligible, could not make use of the leave because they could not afford to forego pay.<sup>35</sup> Research examining leave utilization under state-level paid family and medical leave programs connected low utilization to low wage replacement levels. Thus, it is critical to ensure that workers can actually afford to take the leave that is provided under the law.

- *Sufficient duration*: Workers must have access to leave for a sufficient period of time to ensure that they can provide the care that is needed. The FMLA enables eligible workers to take up to 12 weeks of unpaid leave for family or medical care purposes. Many of the state paid family and/or medical leave laws provide access to leave for anywhere from 4 to 52 weeks each year. All of these laws are premised on the idea that the duration of leave must extend for a reasonable length of time for family caregiving or to recover from a serious illness.
- *Flexibility in increments of usage*: It is important to ensure that workers have the flexibility that they need to address the care needs that they have. Some workers may need access to leave for a continuous period of time, others may need leave for shorter, intermittent periods of time. For example, a worker may need leave on an ongoing basis for chemotherapy or other medical treatments on a weekly or intermittent basis.
- *Advance equity*: A national paid family and medical leave law must include protections to ensure that workers can utilize leave and not experience adverse consequences for using leave. It is important to remember that the impetus for enacting the FMLA was to address longstanding, persistent discrimination that risked undermining women's ability to participate in the workforce. As then-Chief Justice William Rehnquist noted in his majority opinion in *Nevada Dept. of Human Resources v. Hibbs* addressing the FMLA's family care provision, "Congress sought to ensure that family-care leave would no longer be stigmatized as an inordinate drain on the workplace caused by female employees, and that employers could not evade leave obligations simply by hiring men....[Accordingly, the] FMLA is narrowly targeted at the fault line between work and family – precisely where sex-based overgeneralization has been and remains strongest – and affects only one aspect of the employment relationship."<sup>36</sup> The ruling recognized how women's roles as caregivers could be used as an excuse to deny women job opportunities or treat them unfavorably because of perceptions about their work ethic or commitment. The FMLA countered this problem by utilizing a gender neutral framework that allowed all eligible workers access to unpaid leave, and by including employment and anti-retaliation protections to ensure that workers were not penalized for using their available leave. Importantly, these protections included a provision to ensure that workers could return to their job after taking leave. Together, these provisions were intended to help erode longstanding gender biases often fueling the exclusion of women from jobs or advancement opportunities and, instead, foster a more equitable workplace culture. A similar principle must guide the development of a paid family and medical leave program – to provide income support when taking time off and further normalize addressing care needs as a core workplace benefit, while also combatting longstanding discriminatory attitudes aimed at women. Paid family and medical leave has been shown to promote women's labor force participation, which is particularly critical as women continue to play important economic roles in their families.

- *Vigorous enforcement*: The goal of advancing equity and expanding work opportunities, in particular, for women requires robust, concrete enforcement mechanisms to ensure compliance with the law. This means allocating resources to ensure that enforcement officials have the tools and infrastructure necessary to monitor compliance, investigate and resolve complaints, identify disparities or discrimination in leave usage, and collect and evaluate data to ensure access. Workers must have the ability to resolve problems quickly to ensure that they can take leave when they need it. As part of this structure, there must be comprehensive provisions that make clear employer obligations and enforcement parameters. Further, language is needed to make clear that employers cannot interfere with the ability of workers to take the leave provided.
- *Voluntary v. mandatory*: Creating a mandatory program is essential to ensuring that as many workers as possible have access to paid family and medical leave. Relying on voluntary action by employers has proven to be an inadequate strategy to extend paid leave to workers in broad numbers. Currently, an estimated 20 percent of private sector workers have access to paid family leave and an estimate 42 percent of private sector workers have access to short-term disability leave. Voluntary efforts, while important examples of leadership and progress among individual employers, have not been able to provide the broad-based shifts across the entire workforce to substantially increase who has access to paid leave. Indeed, the legislative history of the FMLA is instructive. The organized business opposition to the FMLA advanced many arguments against the FMLA's passage, including the argument that a better approach was to rely on voluntary business efforts to expand access to leave rather than creating a mandatory program that would interfere with business autonomy.

Incorporating these elements into a paid family and medical leave program is vital to ensure that workers have full access to the protections that they need. A comprehensive program also ensures that all workers can access leave, not just a narrow subset of workers. This is important to promote equity within the workplace. It also helps ensure that certain groups of workers, such as women, are not unfairly targeted for adverse action by employers who would prefer to have workers less likely to take leave.

#### B. Constructing a Paid Family and Medical Leave Program – Making it Work

Even with a basic understanding of the key essential elements of a comprehensive paid family and medical leave program, there are several other considerations that are key to making a program perform in an effective manner. The structure of the program, the size of the investments, and the scope of the enforcement mechanisms are among the questions that must inform the shape and design of the program.

- Building the Infrastructure: The creation of a comprehensive paid family and medical leave program will require important new investments to build the infrastructure necessary to provide the paid leave benefit to workers. There are different options that could be utilized to structure the program, including which agency is designate to administer the

program,<sup>37</sup> but any paid leave program structure must be able to perform several essential functions – receive a paid leave request; make a determination as to the worker’s eligibility, whether the purpose for the leave is covered, and whether to grant the amount of leave requested; calculate the benefit amount and distribute the benefit to the eligible worker; and respond to questions, complaints, and disputes to ensure compliance with the law. Although some federal agencies perform functions that mirror these tasks, such as the Social Security Administration’s distribution of monthly benefits and the Internal Revenue Service’s processing of tax refunds and, more recently, distribution of stimulus checks, a new paid leave program will require a serious investment to create the necessary infrastructure. These structural investments should include sufficient dollars to establish a new paid leave office with the technological, staffing, training, and educational capacity to administer a nationwide program.<sup>38</sup> Without such an investment, the program may end up being a benefit in name only.

- Understanding Cost Implications: Although program cost is a consideration in the development of any new program, the costs associated with the creation of a new paid family and medical leave program must be understood in a broader context – to balance the cost of doing nothing versus making investments now that will create benefits in the long run. Previous CAP research has found that the lack of paid family and medical leave led to a loss of wages in the amount \$22.5 billion per year, because of workers’ reduced work hours or exit from the workforce entirely for caregiving reasons.<sup>39</sup> These losses in worker wages have reverberating effects – they reduce the financial resources available to families in moments of crisis when resources are most needed, they lead to a reduction in revenue received by the government through taxes, and they can depress consumer spending because workers have fewer resources available. Over a ten-year period, these losses alone could exceed \$225 billion. The reduced economic activity of women workers also can slow GDP growth, a key measure of the nation’s economic health. Investing in a comprehensive paid leave program would help counter some of these costs while creating a new protection that could help strengthen women’s labor force attachment and spur economic growth over the long-term.
- Strong Enforcement Mechanisms: As already noted, there must be enforcement mechanisms in place to ensure that the program operates consistent with the law. Investment in a robust enforcement scheme sends an important signal – to workers, to employers, and to agency officials – about lawmakers’ intent to create a meaningful benefit for workers that must be administered effectively. This type of enforcement scheme must have the resources necessary to receive, investigate, and resolve complaints, monitor compliance, and identify specific problems quickly that need to be remedied. It is important to be intentional about taking steps to promote equity. This means creating a mechanism to monitor how the law is actually working, utilizing tools such as data collection, research, outreach and education, and training.
  - Data collection – to ensure comprehensive, regular collection of data to track the provision of benefits by factors such as race, ethnicity, and gender identity, with sufficient detail to evaluate differences by occupation, industry, wage levels, hours worked, employer size, geography, and family composition and living

arrangements to better understand who has access and who does not, to identify differences in how benefits are utilized, to track complaints for non-compliance, as well as other comparative measures.

- Research – to better understand the caregiving and leave-related needs and challenges of a diverse community of workers, especially among workers of color, LGBTQ workers, and low-income workers.
  - Outreach and education – to require comprehensive, regular outreach and public education to ensure that workers receive accurate information about available benefits, the process for accessing benefits, and where to go when problems occur.
  - Training – to ensure inclusive practices in the administration of benefits to protect against discrimination and other forms of unfair treatment.
- Establish a baseline of protections that can be enhanced: To be effective, a comprehensive paid leave program must provide a reliable baseline of protections upon which every worker can rely. A universal national program will help to eliminate the patchwork of protections that currently exists and create a uniform set of expectations about the scope of the protections available. This type of uniformity is particularly important for workers who often experience disparities in their access to certain benefits such as workers of color, women workers, and low income workers. Similar to other anti-discrimination protections, creating a baseline floor does not limit the ability of states to create additional protections. Indeed, in the years following the enactment of the FMLA, several states adopted state-level protections to build on the baseline protection afforded by the FMLA. Ensuring this flexibility at the state level is important so that states can determine how best to provide a robust set of protections to residents in their state.
  - State coordination: Several states have adopted laws to provide paid family and/or medical leave to workers in their state. These programs, the earliest of which dates back to 2004, have already provided workers with a core set of protections and the states that administer these programs may want to continue providing benefits to build on the baseline protections established in a federal bill. It is important to facilitate states' ability to continue operating their programs, but also ensure that these programs are consistent with both the intent and the letter of the national paid leave program.
  - Employers: Employers have a critical role to play to help ensure that a paid family and medical leave program works in an effective manner. Employers have control over their workplaces and thus are uniquely situated to set the tone for their workplace environment. Workers' perceptions about whether they will be treated unfairly or denied opportunities if they take leave will depend, in part, on the employer's commitment to creating an equitable environment, respectful of all workers regardless of their work-family needs. Providing this type of environment requires leadership from the top and throughout the entire organization, setting expectations with managers and supervisors and devising accountability measures to ensure that all workers are treated fairly. It is important for employers to take on the challenge of tackling systemic practices that can become entrenched in workplace culture – practices, for example, that relegate women of color to certain departments, microaggressions used to marginalize and disempower women, inadequate oversight of team interactions that can isolate workers and discourage them

from taking leave. Employers are uniquely situated to look within and surface the attitudes and practices that not only may contribute to workers reluctance to take leave, but also may reinforce stereotypes that harm women's opportunities overall. Employers have the ability to set a high bar, creating stronger protections that may address unique needs within their workforce and going beyond what the law requires. Further, any paid leave program must include sufficient resources to provide technical assistance so that employers know what is expected of them. Resources must be targeted specifically for small employers who want to ensure that their workers can access the paid leave benefit. These types of investments are essential to making a paid leave program work.

### C. Pending Proposals

It is with the critical elements of a comprehensive paid family and medical leave program and the design elements to make a program work effectively in mind that it is useful to evaluate proposals that the subcommittee may consider. Importantly, Chairman Neal has put forward a Discussion Draft that achieves many important parameters of what is needed to build a robust, comprehensive program that addresses many of the pressing needs of families. Although the subcommittee undoubtedly will focus on these issues in the future, there are several key features of the Discussion Draft that are particularly noteworthy and worth drawing attention to in particular.

- The Draft creates a national paid family and medical leave program that would provide up to 12 weeks of leave for a comprehensive set of caregiving and medical purposes. This duration is consistent with the FMLA and would allow workers to take the extended time they need to care for their families.
- The Draft provides for progressive wage replacement so that lower wage workers receive a higher portion of their current wages when taking leave. Because the wage replacement available under most paid leave programs is usually only a portion of a worker's regular pay, it is important to consider ways to maximize the income available to the workers least likely to be able to absorb any loss of income. Lower paid workers, many of whom live paycheck to paycheck, are likely to experience greater financial difficulty when receiving only a portion of their income when taking leave. On the other hand, many higher paid workers frequently have more resources to weather financial disruptions in emergency situations. Constructing a paid leave program to enable lower paid workers to receive a higher percentage of their income when taking leave than higher paid workers would help ensure that all workers can take the leave they need when they need it.
- The Draft includes an expanded family definition to include chosen family to ensure that the diverse caregiving needs of families are included.
- The Draft anticipates states with pre-existing programs to continue operating those programs, with some modifications. Enabling legacy states to continue administering paid leave benefits to their constituents is an important feature that can allow for greater efficiency and continuity of programs.

- The Draft recognizes the critical importance of make the necessary investments to address the infrastructure needs associated with building a comprehensive paid leave program.

These are critical improvements to a national paid family and medical leave proposal and a vital step forward to support the needs of workers. The Draft also provides an important opportunity to discuss ways to build out robust enforcement and equity mechanisms to protect against discrimination and interference with workers taking leave, maximize the ability of workers to access utilize leave benefits in a flexible manner, and incentivize employers to build upon these protections.

#### D. Complementary Policy Interventions

Enacting paid family and medical leave cannot fix every workplace problem experienced by women. Such a program must be part of a suite of interventions undertaken to ensure that women can participate in the workplace fully. Among the complementary interventions that must also be front and center for lawmakers are new investments in child care to ensure that working parents have the ability to access safe, affordable, high quality care that can give children a healthy start during their earliest years.

## CONCLUSION

Comprehensive paid family and medical leave is essential to enabling women – and, indeed all workers – fulfill their work and family obligations, essential to the economic well-being of families, and essential to our nation’s economic recovery. Investing in a robust paid family and medical leave program is long overdue and a much-needed step forward.

Thank you for the invitation to join this important discussion and for your consideration of these comments.

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