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# SUPPORT FOR WORKING FAMILY CAREGIVERS:

*Paid Leave Policies in California and Beyond*

## ISSUE BRIEF

*From the National Center on Caregiving*



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## **ABOUT FAMILY CAREGIVER ALLIANCE**

Founded in 1977, Family Caregiver Alliance serves as a public voice for caregivers, illuminating the daily challenges they face, offering them the assistance they so desperately need and deserve, and championing their cause through education, services, research and advocacy.

Long recognized as a pioneer among caregiver organizations, FCA operates programs at local, state and national levels. FCA is the lead agency and model for California's statewide system of Caregiver Resource Centers. In 2001, FCA established the National Center on Caregiving to advance the development of high-quality, cost-effective policies and programs for caregivers in every state in the country.

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## ISSUE BRIEF

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### INTRODUCTION

The American workforce is changing. With the dramatic aging of the population and the increasing number of women in the labor force, fewer people are at home to provide care for family members and many workers and employers are struggling with how best to balance competing interests of work and family.

Millions of Americans each year face a serious illness and rely heavily on family caregivers to help them recover from or manage their illness.<sup>1</sup> An estimated 44.4 million Americans provide unpaid care to an adult family member or friend in the U.S.<sup>2</sup> Nearly six in 10 of these “informal” caregivers (59%) juggle work with caregiving responsibilities in order to meet both their own financial obligations and the costs of caring for a seriously ill relative or friend.<sup>3</sup> Furthermore, an estimated 40 percent of workers provide help to their elderly parents during periods of serious illness or disability.<sup>4</sup>

In this brief we discuss current family and medical *unpaid* leave policy in the U.S., and provide an overview of why *paid* family leave is an important policy issue taking hold in the states. We then describe California’s landmark paid family leave law, highlighting its development and initial implementation. Lastly, other federal and state paid leave initiatives are

presented to offer examples of how the issue of paid leave benefits is emerging as an important policy area to support American working families.

### FAMILY AND MEDICAL LEAVE AT THE FEDERAL LEVEL

The federal government has taken an important first step to support working caregivers through the Family and Medical Leave Act (FMLA) of 1993. The FMLA provides employees up to 12 weeks of *unpaid* leave per year for the birth or adoption of a child, or to care for themselves or a sick family member (spouse, child, or parent)

without losing their jobs or health care insurance.

The law applies to companies with 50 or more employees at or within seventy-five miles of the worksite.

To qualify, an employee must have worked at

least 1,250 hours during the 12-month period preceding the employee’s FMLA leave.

An estimated 50 million workers have taken advantage of the FMLA since its inception in 1993.<sup>5</sup> However, the program’s coverage is limited to about one half of all workers because many employees work for exempt organizations that employ fewer than 50 people. Additionally, since the FMLA offers unpaid leave only, working caregivers must make the important and often difficult decision of whether they can still pay household bills while taking time off of work to care for a seriously ill family member.<sup>6</sup>

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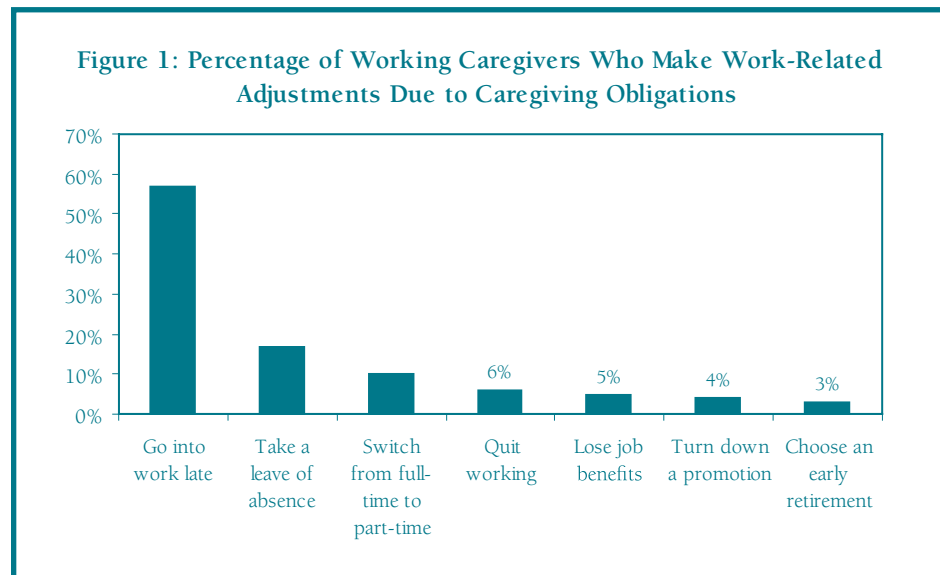
***For many working families, leaving the workforce to address their caregiving responsibilities is simply not financially feasible.***

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## THE NEED FOR *PAID* FAMILY LEAVE

For many working families, leaving the workforce to address their caregiving responsibilities is simply not financially feasible. Many workers cannot afford to take unpaid time off when serious illness strikes a family member. More than three in four employees (78%) who have needed, but have not taken, family or medical leave report that this is because they could not afford to do so.<sup>7</sup> Furthermore, almost one in ten of those who took unpaid family leave were forced to go on public assistance while on leave.<sup>8</sup>

Working caregivers often must divert attention away from their jobs to tend to caregiving responsibilities, such as making or returning personal calls, arranging care services, transporting loved ones to appointments, or responding to care-related emergencies. Current family leave policies often do not provide enough flexibility and support for these day-to-day activities. Furthermore, working caregivers have varying leave needs, with some caregivers best supported by a block of time off to care for a terminally ill family member while others may only need sporadic time off to tend to day-to-day caregiving responsibilities.



Source: National Alliance for Caregiving and AARP, *Caregiving in the U.S.*, 2005. Available at: [http://assets.aarp.org/rgcenter/il/us\\_caregiving.pdf](http://assets.aarp.org/rgcenter/il/us_caregiving.pdf).

Juggling work with caregiving can be difficult for both employees and employers. Often, employees must make work-related adjustments to accommodate the needs of the person who is ill and needs care. In 2004, 57 percent of working caregivers reported going into work late and 17 percent took a leave of absence from work. Another six percent quit work entirely to care for a loved one (See Figure 1). Not surprisingly, family caregivers of older adults with greater levels of disability are less likely to work, as are caregivers who provide care for more than two years.<sup>9</sup>

A flexible paid leave policy can allow a caregiver to decide and schedule the appropriate length of time to take off based on his or her caregiving situation.

The major effects of caregiving on employee productivity fall into six major categories: replacement costs for employees who quit due to their caregiving responsibilities; absenteeism costs;

costs due to workday interruptions; costs due to eldercare crises; and costs associated with supervisors dealing with work disruptions or offering emotional support to employed caregivers.<sup>10</sup> A company faces decreased productivity if its employees are distracted at work with the daily tasks and pressures of caring for a loved one.

Each of these effects on productivity results in enormous costs to employers. For instance, if an employee quits her position to focus on caregiving full-time, her employer typically faces recruiting and training costs for hiring a

replacement, as well as the forgone revenues from a vacant position or the temporary inefficiency of a new hire. Costs are also incurred from partial absenteeism (e.g., arriving late for work or leaving early, taking extended lunches) or other diversions that working caregivers frequently face. Based on labor and caregiver population data from 1997, the total cost to employers for decreased productivity of working caregivers was approximately \$11.5 billion<sup>11</sup> (See Table 1).

**Table 1: Reasons for Decreased Productivity of Working Caregivers in the Workplace and the Costs to Employers, 1997**

Reason for Decreased Productivity in the Workplace	Costs to Employers (billions)
Replacement of Employees Who Quit	\$4.9
Workday Interruptions	3.8
Eldercare Crises	1.1
Time Spent Supervising Caregivers	0.8
Partial Absenteeism	0.5
Absenteeism	0.4
<b>TOTAL</b>	<b>\$11.5 billion</b>

Source: MetLife Mature Market Institute. *The MetLife Study of Employer Costs for Working Caregivers*. Available at <http://www.metlife.com>

However, surveys show that 94 percent of workers who take leave and receive full pay during that leave return to the same employers, while 76 percent of those receiving unpaid

**At least 96 countries mandate paid annual leave, and 163 countries offer guaranteed paid leave to women for childbirth. Furthermore, 139 countries provide paid leave for short- or long-term illnesses.**

leave do not return.<sup>12</sup> These findings suggest that offering paid family leave benefits may help reduce employee turnover and save employers the cost of hiring and training new workers.

When comparing the country's paid family leave policies to other parts of the world, the U.S. lags behind nearly every other industrialized nation. At least 96 countries mandate paid annual leave, and 163 countries offer guaranteed paid leave to women for childbirth. Furthermore, 139 countries provide paid leave for short- or long-term illnesses, with 117 countries providing a week or more annually.<sup>13</sup> The FMLA is a first step in supporting working caregivers, but is still a long way from the more extensive paid leave policies that are offered in most other industrialized nations.

### Case Study

The reality is that working families who provide care to seriously ill family members need more than just time off with job security and health insurance—they need paid leave to meet both their caregiving and financial obligations. Janelle Smith is one such employee. As a 35-year-old mother of two young children, she works full-time in an accounting firm and manages many of the family's household responsibilities. Janelle's husband is employed as a mechanic at a small automotive repair store that has strict leave policies.

Recently, Janelle's widowed father was diagnosed with terminal lung cancer and moved in with Janelle and her family. Her father needs help with several activities of daily living and Janelle has become his primary caregiver, with some help from her family and close friends. She feeds and bathes him and performs many of the medical-related tasks necessary to keep him comfortable.

Janelle would like to take extended time off from her job to care for her father full time, but she has already used up all of her allotted vacation and sick time. Janelle and her husband are now struggling to decide whether they can afford to take advantage of the FMLA's 12 weeks of unpaid leave. If Janelle takes unpaid leave, they may not be able to afford child care for their two children and will likely have difficulty paying their monthly bills. This is a serious dilemma facing many working caregivers—Janelle is just one of many who could benefit from a paid family leave program.

## CALIFORNIA: A PIONEER IN PAID LEAVE

For many years, California has provided paid leave for pregnant women through its State Disability Insurance (SDI) program. Through the program, the majority of all pregnant women employed in the private sector, as well as some in the public sector, are provided with partial pay for four weeks prior to delivery of a child and an additional six to eight weeks after delivery. However, in the 1990s, the political momentum for a more extensive paid family leave law in California accelerated and in 2001 a newly established Coalition for Paid Family Leave launched a state-wide campaign to promote paid leave among more working Californians. This coalition was comprised of labor unions, women's rights advocates, and groups representing the interests of children, older adults, people with disabilities, and others.

Paid family leave legislation (Senate Bill 1661) was introduced in 2002, but by this time, the economic climate had deteriorated and California legislators were sympathetic to employers' concerns over the proposed bill. The initial bill provided for 12 weeks of paid family leave, with costs evenly split between a tax on employers and one on employees. However, members of organized business lobbied successfully to eliminate the employer tax. In turn, the California Labor Federation advocated for cutting the benefit from 12 to six weeks if employees alone would be paying the full costs of the program.<sup>14</sup> In August 2002, a bill with these compromises was passed, and eligible workers were allowed to take up to six weeks of partially paid leave beginning in 2004.

This piece of legislation, which is part of California's SDI program and administered by the California Employment Development Department, builds on the existing federal FMLA, the SDI program, and The California Family Rights Act<sup>a</sup> (CFRA) by providing eligible employees with up to six weeks of partial pay equal to 55 percent of their weekly earnings. The maximum pay that a worker could receive under the paid leave program was \$840 per week in 2005. Eligible employees include those who need time off of work to bond with a new biological, adopted, or foster child or to care for a seriously ill family member, including a parent, child, spouse, or domestic partner.

Workers can apply for the paid family leave program after a one-week waiting period and are eligible if they are covered by SDI and have earned \$300 or more during any quarter in the base period or five to 17 months before filing a claim. The paid leave program is funded entirely by a payroll tax on employees, capped at \$55.06 per year in 2004 and \$63.53 in 2005, but does not provide job protection or guarantee a continuation of fringe benefits. However, in many cases, those who take leave will have their fringe benefits covered by FMLA or the CFRA. Individuals cannot receive benefits under the Paid Family Leave Law while receiving SDI, Unemployment Insurance, or Worker's Compensation benefits. The paid leave law covers approximately 13 million California workers, including most private sector employees and some public sector employees.<sup>b</sup> It is particularly helpful in meeting the unmet needs of workers who previously had little or no access to wage replacement.<sup>15</sup>

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<sup>a</sup> The California Family Rights Act was passed in 1991 to provide private sector employees, both male and female, whose employers have fifty or more workers the right to four months of family leave, with job protection, to care for a newborn or adopted child or a seriously ill family member. It was amended in 1993 to conform to the FMLA.

<sup>b</sup> Public sector employees are generally not eligible unless they participate in SDI. Self-employed workers are covered only if they participate in the SDI Elective Coverage Program. Additional information available at: <http://www.edd.ca.gov/direp/pfjfaq.asp>.

## SUPPORT FOR CALIFORNIA PAID FAMILY LEAVE

The University of California at Berkeley's Survey Research Center conducted the Golden Bear Omnibus Survey (GBO) in the Fall of 2003 to gauge the public's feelings about paid family leave. The survey examined attitudes among Californians about paid leave, public awareness of California's Paid Family Leave Law, workers' previous experience with family and medical leave, and their expectations regarding future needs for time off of work. The GBO Survey showed that about 85 percent of respondents were in favor of paid leave. Of the survey respondents that did not report limited incomes, about 44 percent had taken family and medical leave in the past and approximately 65 percent expected to need such leave in the future.<sup>16</sup>

However, when the survey was initially conducted, relatively few Californians (22%) were aware that the state's new paid family leave legislation went into effect in 2004. Californians were more aware of the FMLA—about 59 percent of respondents indicated that they knew about this federal legislation. Public awareness of the Paid Family Leave Law remains limited and relatively few workers are aware that the benefit is now available to most private sector employees in California.<sup>17</sup> Increased efforts to inform workers of this benefit are necessary for the law to reach its full potential.

A second survey, also conducted in 2003 by the University of California at Berkeley, was the Survey of California Establishments (SCE), which surveyed employers in the state. Over a third (36%) of California employer respondents already provided family and medical leave

benefits beyond those required by law and before establishment of California's Paid Family Leave Law in 2002.<sup>18</sup> The larger employers, those that were unionized, those with the fewest low-wage workers, and those with a large proportion of professional, managerial, and technical employees, were more likely to provide extensive leave benefits.

Based on survey participants' responses, family and medical leave is a common feature of the benefits afforded to employees. Furthermore,

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*Offering paid family and medical leave benefits, such as those covered under the California Paid Family Leave Law, may help reduce turnover and could result in cost savings for employers.*

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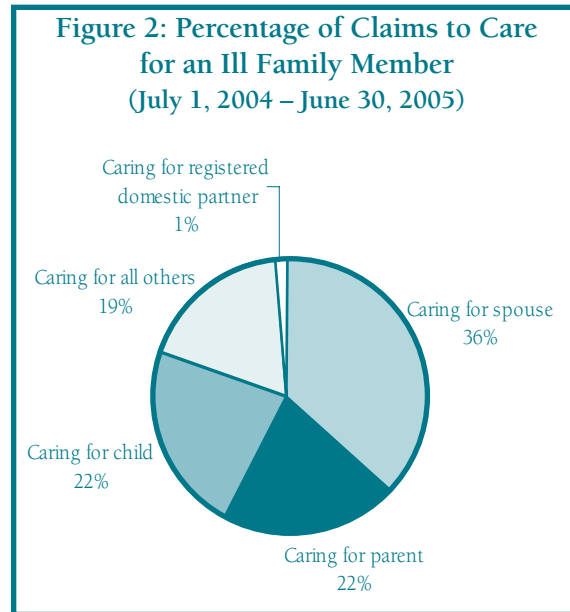
a greater proportion of workers employed by companies offering leave beyond legal requirements went on leave compared to other companies less generous in leave. The return rate was also higher for workers employed by companies with

more extensive leave benefits. These findings suggest that offering paid family and medical leave benefits, such as those covered under the California Paid Family Leave Law, may help reduce turnover and could result in cost savings for employers.

## CALIFORNIA PAID FAMILY LEAVE LAW: ONE YEAR AFTER IMPLEMENTATION

In July 2005, California's Employment Development Department released statistics for the first year of the new law's implementation. Of the 13 million employees covered under the new law, 176,085 workers took paid leave from work.<sup>19</sup> The majority of these workers (155,483 or 88.3%) were parents who took time off of work to bond with a newborn biological, adopted, or foster child, and 83 percent of the total claims were filed by females.<sup>20</sup> Women receiving SDI benefits for pregnancy are informed with their last paycheck that they are eligible for the Paid Family Leave program. In the first year of implementation, a little

more than 49 percent of these women took advantage of the new paid leave program.<sup>21</sup>



Source: California Employment Development Department. (2005). Data available at: <http://www.edd.ca.gov/flclaimpfll.htm>.

The remaining 20,602 Californians (11.7%) took time off to care for a seriously ill family member. Among these claims, about 36 percent were caring for a spouse, 22 percent were caring for a parent, and another 22 percent were caring for an ill child other than a newly born or adopted child (See Figure 2). As of July 2005, 137,085 claims were paid, amounting to nearly \$300 million in benefits paid to working caregivers. About 13,000 claims were disqualified for not meeting basic program requirements and another 17,000 were disqualified because they were duplicates or incomplete. The remaining 4,000 claims are being processed. The average weekly benefit amount was about \$409 (ranging from \$50 to the maximum of \$840) and the average duration of leave was just under five weeks.<sup>22</sup>

A survey conducted in 2005 indicates an increase in public awareness of the Paid Family Leave Law, up to roughly 30 percent from 22

percent in 2003.<sup>23</sup> California employers are required to provide information about the law to all workers, and of the survey participants in 2005 who knew about the paid leave policy, 33 percent had learned of the benefit from their employer. Approximately 62 percent of this group had received an informational brochure about the law from their employer.<sup>24</sup> As more workers become aware of paid family leave benefits, it is expected that the number of claims will increase. In an effort to heighten awareness about the new program, the Coalition for Paid Family Leave conducts educational workshops and outreach across the state to ensure that working caregivers can take advantage of the paid leave benefits.

## OTHER PAID LEAVE LAWS AND INITIATIVES

The California Paid Family Leave Law, the country's most comprehensive paid family leave and medical insurance program, is a model for other states and the federal government. In June 2005, federal legislation (House Bill 3192<sup>c</sup>) was introduced to provide paid leave to workers who take time off under the FMLA for the birth or adoption of a child, to care for a sick relative, or because the employee has a serious medical condition. Workers would receive their benefit through a new "Family and Medical Leave Trust Fund" financed from a 0.4 percent payroll contribution from employers. This federal benefit would cost the average employer about \$11 per worker per month. In return, a worker would be able to receive up to 55 percent of his or her weekly salary for up to 12 weeks. This bill would also maintain the FMLA job protection for workers of companies with 50 or more employees.

At the state level, several laws have been enacted to allow some employees to take certain kinds of leave with partial pay.<sup>25</sup>

<sup>c</sup> H.B. 3192, "The Paid Family and Medical Leave Act of 2005" was introduced by U.S. Rep. Fortney H. "Pete" Stark (D-CA, 13th) with Reps. George Miller (D-CA, 7th), Major R. Owens (D-NY, 11th), Lynn Woolsey (D-CA, 6th), and Tom Lantos (D-CA, 12th) on June 30, 2005.



- ◆ Five states (**CA, HI, NJ, NY, RI**) and Puerto Rico have state-administered Temporary Disability Insurance (TDI) systems or require employers to offer TDI. This program provides workers who are temporarily disabled for medical reasons, including pregnancy and childbirth, with temporary leave with partial wage replacement. State-administered TDI programs are usually funded through some combination of an employee/ employer shared payroll tax.
- ◆ Three states (**MN, MT, NM**) have laws or pilot initiatives for At-Home Infant Care. These programs provide eligible, lower income working parents with some wage replacement to provide care for their newborns or newly adopted children.
- ◆ At least six states (**CA, CT, HI, MN, WA, WI**) have laws requiring private sector employers to allow workers to use their sick leave to care for certain ill family members, such as a child, spouse, parent, parent-in-law, grandparent, or domestic partner, depending on the state.
- ◆ At least **40 states** have laws or regulations allowing public employees to use sick leave to care for certain ill family members, such as a child, spouse, parent, parent-in-law, grandparent, or domestic partner, depending on the state.
- ◆ Employees in **Wisconsin** who are covered by and eligible for the state's family and medical leave law may choose to substitute any type of accrued paid leave for the job-protected leave specified under the state's law.

In addition, several bills currently remain active in state legislatures around the country. In the 2005-2006 legislative session, bills that include some form of paid family leave that have been introduced and remain active include:<sup>26</sup>

- ◆ **Hawaii:** S.B. 533 and H.B. 1130 would amend the definition of "sick leave". S.R. 160-06 would create a work-family task

force to examine family laws and policies so that family caregivers are better supported.

- ◆ **Illinois:** H.B. 3470 would create a family leave insurance program and provide paid family leave to care for a new child, a family member with a serious health condition, or to care for an employee's own serious health condition.
- ◆ **Massachusetts:** S.B. 2535 would establish 12 weeks of paid family and medical leave (up to \$750 per week) to all employees that have been employed for at least nine months and have worked 900 hours. H.B. 3944 would establish six weeks of paid family and medical leave. S.B. 1130 and H.B. 3788 would require a minimum of seven paid sick days per year to all employees in the state.
- ◆ **Minnesota:** H.F. 1249 would direct the Commissioner of Health to prepare a study on the use of sick leave to care for an employee's parent.
- ◆ **New Jersey:** S. 239 and A. 1892 would amend current law to provide benefits for family temporary disability leave. S. 1047 and A. 2826 would extend the definition of sick leave to include birth or the placement for adoption of a child.
- ◆ **New York:** S. 2836 and A. 6150 would permit all employees to defer part of their compensation tax-free for the purpose of providing funds for leave taken under FMLA.
- ◆ **Pennsylvania:** H.B. 685 would offer tax credits to employers who provide paid leave under FMLA. H.B. 1459 would provide 12 weeks of wage replacement benefits per year while an employee cares for a newly born or adopted child, or a sick family member.
- ◆ **Washington:** S.B. 5069 and H.B. 1173 would establish a family leave insurance program which provides five weeks of partial wage replacement to care for a seriously ill family member or a new baby.

Also in the 2005-2006 session, several states introduced legislation to create new or amend existing paid family leave policies. While these bills were not successful in becoming law and are now inactive, it is important to note these legislative attempts.<sup>27</sup>

- ◆ **Connecticut:** S.B. 5398 would have guaranteed full-time, private sector employees seven paid sick days a year.
- ◆ **Minnesota:** S.F. 378 and H.F. 61 would have expanded the use of caregiver sick leave benefits beyond children to spouses, siblings, parents, stepparents and grandparents.
- ◆ **Nebraska:** L.B. 413 would have allowed workers to set aside funds to be used when taking leave under FMLA.
- ◆ **New Jersey:** A. 173 would have amended the temporary disability law to provide family leave insurance for covered employees to care for a family member with a serious health condition.
- ◆ **New Mexico:** S.B. 449 would have allowed all employees in the state to use sick or other paid leave for FMLA purposes. S.B. 448 would have established a tax credit for employers who provide paid family medical leave to their employees.
- ◆ **Oklahoma:** H.B. 1803 would have created a tax credit benefiting employers who provide paid leave under FMLA for the birth or adoption of a child.

## CONCLUSION

The demands on working caregivers are likely to increase as familial and work patterns continue to shift and as people live longer and

require long-term supportive services. Paid family leave can be instrumental in supporting working caregivers with their caregiving responsibilities while still providing an income to better maintain or achieve financial security.

As this issue brief describes, the idea of better supporting working caregivers through the expansion of family leave policies, including policies that would offer partial paid leave, is already taking hold at both state and federal levels. California has taken the critical first step in establishing the nation's first partial paid leave law. Prior to the passage of this law,

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***Paid family leave can be instrumental in supporting working caregivers with their caregiving responsibilities while still providing an income to better maintain or achieve financial security.***

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most low wage workers in the state, many of whom were female, had limited access to employer-sponsored fringe benefits providing for paid time off, including sick leave and paid vacation. Now, through the Paid Family Leave Law, more low

wage workers have the ability to take paid time off to care for a newborn or sick family member.

As states push forward in passing and implementing their own paid leave policies and as similar policies take shape at the federal level, it is important that policymakers understand the California experience, its successes, and its limitations, keeping in mind that each state must address the needs of its own specific population of working caregivers.

Paid family leave better enables working caregivers to care for their loved ones while still receiving income to meet financial obligations, and reduces costs to employers. Public policy to support workers with *paid* leave for caregiving responsibilities is a sound investment for America's working families and employers.

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## RESOURCES

### **Family Caregiver Alliance**

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### **MetLife Mature Market Institute**

57 Greens Farms Road

Westport, CT 06880

(203) 221-6580

<http://www.metlife.com>

### **National Alliance for Caregiving**

4720 Montgomery Lane, 5<sup>th</sup> floor

Bethesda, MD 20814

<http://www.caregiving.org>

### **National Partnership for Women and Families**

1875 Connecticut Avenue, NW #650

Washington, D.C. 20009

(202) 986-2600

<http://www.nationalpartnership.org>