

SUBJECT: Comments on Universal Paid Leave Proposed Regulations as posted on the DC government's website at <https://does.dc.gov/node/1320406>

ABOUT US:

The National Center for Children in Poverty (NCCP) is a nonpartisan, public policy research center at Columbia University's Mailman School of Public Health. NCCP conducts research and translates the findings into actionable recommendations that advocates and policymakers can use to improve the lives and futures of low-income children and their families. We delve into issues that contribute to child poverty and make sure our ideas reach those in a position to make meaningful change that reduces the number of families experiencing hardship.

We have long conducted paid family leave research, identifying parameters of policies that work well for low-income families with children. Our publications on this topic include the following:

- Setty, S., Skinner, C., & Wilson-Simmons, R. (2016). Protecting Workers, Nurturing Families: Building an Inclusive Family Leave Insurance Program. Available at http://nccp.org/projects/paid_leave_publications.html.
- Skinner, C. and Ochshorn, S. (2012). [Building a competitive future right from the start: How paid leave strengthens 21st century families](http://stage.nccp.org/publications/pub_1071.html). Available at http://stage.nccp.org/publications/pub_1071.html.
- Skinner, C. and Ochshorn, S. (2012). [Paid family leave: Strengthening families and our future](http://stage.nccp.org/publications/pub_1071.html). Available at http://stage.nccp.org/publications/pub_1071.html.
- Fass, S. (2009). [Paid leave in the states: A critical support for low-wage workers and their families](http://nccp.org/publications/pub_864.html). Available at http://nccp.org/publications/pub_864.html.

FILING A CLAIM FOR PAID-LEAVE BENEFITS, Section 3301.2, PAGE 2:

- We strongly recommend the option of providing an Individual Taxpayer Identification Number (ITIN) number to the application for those who may not have social security numbers.

ONLINE PORTAL, Section 3305, Page 6:

- Research in New Jersey shows the need for creating an online portal as well as a paper option (Setty et al, 2016). Multiple options are important for making the application accessible to a range of applicants.
- Similarly, specifying that the application should be accessible through both desktop and mobile platforms (making the online portal formatted to

accommodate at least Microsoft Windows, Mac OS, Android, and iOS formats) would help ensure that it is accessible to a broad range of users, including many low-income users who use their smartphone as the primary way they access the web.ⁱ It is far more likely that individuals who are experiencing a medical or family emergency will have easier access to their mobile phone than to their home computer.

- Our research in New Jersey found that any measure to expedite the application process helps in alleviating stress for claimants and errors in paperwork, which would better enable administrators to process claims. We recommend allowing people to save their paperwork in the online portal prior to submission, so that all they have to do is press submit the earliest day they can to expedite the processes.

PROCESSING CLAIMS FOR PAID LEAVE, Section 3307, Page 7:

- In New Jersey, a claimant who files for medical leave for pregnancy or childbirth related conditions is automatically notified that they are eligible for family leave at the end of their allotted leave under the program. A similar process, if implemented in D.C., would streamline the application process for new birth mothers who may first apply for medical leave, then want to extend their leave time using parental or family leave, and reduce administrative burden.

COMPLAINTS, Section 3316, Page 12:

- We suggest that additional language be added to this section to prevent employers from taking retaliatory action against employees for filing complaints. Other nations that have employer-funded paid family leave programs have found that they sometimes have unintentional negative consequences. If these programs are incorrectly or unevenly implemented, they place a disproportionate burden on employers who hire more women of child-bearing age (e.g., day care centers, schools). In addition, in countries where the national government has imposed an employer mandate, many have reported employer compliance issues, lower female work force participation, and hiring discrimination, with employers being less willing to hire women of child-bearing age.ⁱⁱ As a result, it is advised that paid leave laws include antiretaliation mechanisms in order to prevent employer-based discrimination against the groups that are likely to use universal paid leave more than others (e.g., women of child-bearing age, people with disabilities).

General comments:

- A reporting requirement that results in a publicly available, annual report is a provision in New Jersey, California, and Rhode Island's paid leave programs. We strongly recommend including such a provision with relevant indicators,

including the income level of claimants, in the paid leave rules. These data are invaluable for policymakers who will likely seek to understand the patterns of paid leave taking, whether take up of these programs help low-income workers, and whether corrective action may be necessary in the face of any unintended consequences identifiable from such data.

- We strongly suggest using gender-neutral language (e.g., replacing 'hers' and 'his' with 'their) throughout this law and regulations to accommodate a wider range of family types, including LGBTQ families.

Other comments related to the law itself:

LIMIT ON NUMBER OF WEEKS OF PAID LEAVE BENEFITS; INTERMITTENT USE OF PAID LEAVE; REPORTING USE OF LEAVE, Section 3304.1-3304.2, Page 5:

- 2 weeks for medical leave is likely not enough for women who give birth to recover. Doctors recommend that women take 6-8 weeks to completely heal from childbirth (6 if it is a vaginal birth, 8 weeks if the woman has a c-section).ⁱⁱⁱ In other states, you can stack the amount of leave time if it is used for different purposes (e.g., medical leave versus bonding leave), but there is an 8 week limit imposed in these rules regardless of what you need the leave for, which is not enough time, especially for new birth-mothers who need 6-8 weeks after childbirth simply to physically recover, which would max out their leave time and not allow them to bond sufficiently with their newborns. In New Jersey, combined with temporary disability insurance, new birth mothers can typically take 12 weeks of paid leave following the birth of a child.

RELATIONSHIP TO OTHER BENEFITS, Section 3314, Page 11:

- Fewer workers are eligible for the DC FMLA and the federal FMLA than are eligible for D.C.'s paid leave program. Therefore, people who are eligible for D.C.'s paid leave, who are ineligible for FMLA, may not take paid leave because the paid leave program does not protect their job. We strongly recommend including job-protection in the D.C. universal paid leave program. In New Jersey, the lack of job protection in Family Leave Insurance prevented low-income workers, especially men, from accessing the program. The lack of job protection re-produces inequalities in access to paid leave.

DEFINITIONS Section 3399, PAGE 14:

- Prior research indicates that the definition of family should be more expansive. A definition that involves chosen family, for example, would be more inclusive of people with disabilities, caregivers of people with disabilities, and LGBTQ populations. A recent survey shows that 32 percent of people in the U.S.

reported taking time off work to care for a friend or chosen family member with a health-related need. ^{iv}

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ⁱ Available at <https://hbr.org/2013/05/the-rise-of-the-mobile-only-us>.

ⁱⁱ Addari, L., Cassirer, N., & Gilchrist, K. (2014). *Maternity and Paternity at Work: Law and Practice across the World*. Geneva: International Labour Organization. Available at http://www.ilo.org/wcmsp5/groups/public/---dgreports/--dcomm/--publ/documents/publication/wcms_242615.pdf.

ⁱⁱⁱ Available at <https://www.acog.org/-/media/Statements-of-Policy/Public/92ParentalLeaveJuly2016.pdf>.

^{iv} Available at <https://www.americanprogress.org/issues/poverty/reports/2017/10/30/441392/people-need-paid-leave-policies-that-cover-chosen-family/>.