

The Inclusiveness of Current Paid Family and Medical Leave Policies and the Proposed FAMILY Act

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Executive Summary

In his April 2021 address to Congress, President Biden announced plans to provide a national paid medical and family leave program. The United States is currently the only Organization for Economic Cooperation and Development (OECD) country without a national paid leave policy. However, momentum for paid leave has surged in recent years. There are currently eight states (and Washington, DC) with paid family and medical leave (PFML) programs, and there is growing bipartisan support for a national paid leave program.

To ensure that paid leave programs are equitable across population groups, policymakers need research that examines potential disparate impacts of proposed PFML policies. Our research addresses three questions: (1) What percentage of US workers would be eligible for paid leave under potential leave policies? (2) How would eligibility rates under these policies vary for different population groups (i.e., by gender, race, age, education, total family income, urban/rural status, industry, occupation, and parental status)? And (3) What would workers' average weekly benefits be under these policies and how would they vary for different groups? We compared the average benefit amount for the FAMILY Act, a proposed national program sponsored by Representative Rosa DeLauro and Senator Kirsten Gillibrand, and the three longest-running state PFML policies. We found that the FAMILY Act would cover the most workers of any PFML policy. We attribute this to its low earnings requirement (\$1 in the last year) and its inclusion of workers from all sectors and industries. We found that among state paid leave programs, New Jersey has the most generous average weekly benefits, which we attribute to its high reimbursement rate. We end our report with recommendations for developing eligibility and wage replacement structures for future PFML programs that would ensure greater equity of paid leave programs as well as suggestions for further research.

Findings and recommendations from this report are even more salient given recently released proposals on PFML within the Biden-Harris administration's American Families Plan and the U.S. House Ways and Means Committee's Building an Economy for Families Act.^{1,2} While this analysis was conducted prior to the release of these proposals, the findings provide important lessons for structuring paid leave programs to maximize access and equity.

Introduction

Over the last three years in the U.S., five states and Washington, DC have passed paid family and medical leave (PFML) policies into law following the lead of early adopters: California, New Jersey, and Rhode Island.^{3,4} Additionally, in 2019, the federal government passed the Federal Employee Paid Leave Act (FEPLA), which offers 12 weeks of paid parental leave at 100 percent pay for federal employees.¹⁵ The increase in paid leave policies has generated momentum at the national level; both Republican and Democrat lawmakers have proposed national paid leave programs in recent years. However, current proposals vary greatly in their eligibility criteria and benefit structures.^{6,7,8,9}

The COVID-19 pandemic and recession have increased the salience of paid leave as a national priority, as demonstrated by federal action. Congress passed the Families First Coronavirus Response Act (FFCRA), which offered paid leave to eligible private and public sector workers through December 2020.^{10,11} The American Rescue Plan Act passed on March 11, 2021, provides tax incentives for some employers to allow employees to take unused FFCRA paid sick and family leave through March 31, 2021.¹² This provision was not extended despite widespread public support for a national paid leave program across the political spectrum.¹³ In Spring 2021, the Biden-Harris administration put forth a proposal in the American Families Plan to institute 12 weeks of comprehensive, inclusive paid leave over the course of 10 years.¹⁴ The House Ways and Means Committee recently released a similarly ambitious plan, “Building an Economy for Families,” to expand paid leave nationally.¹⁵ Given the momentum around paid leave and the variation in paid leave proposals and programs, there is a need for research that compares the number and characteristics of workers who stand to benefit from current and potential leave policies.

Of the numerous federal paid leave proposals introduced in recent years, this report focuses on the 2019 version of the FAMILY Act, a bill sponsored by Representative Rosa DeLauro and Senator Kirsten Gillibrand, as well as nationwide expansions of the state programs in California, New Jersey, and Rhode Island.¹⁶ We focus on the FAMILY Act because it was the most comprehensive paid leave proposal at the time of our analysis in December 2020.¹⁷ We compare this to eight state PFML programs with a specific focus on California, New Jersey, and Rhode Island’s programs because they are the longest running, and their impacts have been widely studied.¹⁸ Their varying eligibility criteria also provide several possible models for policymakers, an approach that can be used to evaluate the most current proposals. The DC PFML program was not included in the analyses due to its complex eligibility criteria.

This research uses static microsimulation modelling to estimate how many workers would be eligible for paid family and medical leave should proposed federal leave legislation be enacted or current state paid leave policies be expanded nationally.

Our research addresses the following questions:

1. What percentage of U.S. workers¹⁸ would be eligible for paid leave under the proposed FAMILY Act and eight state PFML programs if each were expanded nationally?
2. How would eligibility rates vary for different groups (i.e. by gender, race, age, education, total family income, urban/rural status, industry, occupation, and parental status) under the FAMILY Act and three longest running PFML state programs if expanded nationally?
3. What would workers’ average weekly benefits be and how would they vary for different groups under the FAMILY Act and three longest running PFML state programs if expanded nationally?

Overview of United States Paid Leave Policies

HISTORY OF MEDICAL AND FAMILY LEAVE IN THE UNITED STATES

It took almost 10 years for a federal Family and Medical Leave Act (FMLA) to be signed into law in the United States. The earliest version of such a law, the Family Employment Security Act (FESA) of 1984, called for up to 26 weeks per year of unpaid, job-protected leave to care for a new child, an ill child, a spouse's disability, or the employee's own disability. At the time this bill was introduced, most activists supported paid leave; however, it was not considered politically feasible. FESA's successor, the 1986 Parent and Medical Leave Act, increased the length of benefits to 36 weeks over two years. After years of debate, FMLA, providing unpaid, job-protected leave, was signed into law by President Clinton in 1993.^{19,20} In 2008, Congress expanded leave coverage under the FMLA to include workers caring for a family member who is in the military. In 2015, the US Department of Labor revised the definition of "spouse" to include eligible workers in same-sex marriages, regardless of their state of residence.²¹

Prior to the passage of the 1993 FMLA, states, municipalities, and counties had implemented their own family and medical leave programs. Some of today's state and local paid leave programs were built on FMLA and unemployment insurance to provide partial paid leave, while others (including Rhode Island, California, and New Jersey) built their programs on temporary disability insurance programs that preceded FMLA. Paid family leave entered the national political landscape when President Obama expressed support for a national paid leave program in his 2015 State of the Union address. Since then, both Democrats and Republicans have voiced interest in aspects of a federal program. The version of this program with the most sponsors and cosponsors is the FAMILY Act, which was first introduced in 2017 in the 115th Congress.²²

Prior Research on the Impacts of Paid Leave

Current literature on the benefits of paid leave falls into five categories: *economic security, child development, gender equality, equity and inclusion, and accessibility.*

ECONOMIC SECURITY

A study with low-income parents in New Jersey found that paid leave helped parents cover basic expenses, such as rent, utilities, food, and gas, which increased low-income families' economic security and created the opportunity for future economic well-being.²³ For individuals taking leave to care for a family member with serious health conditions or for their own disability, a study in various states concluded that access to paid leave eased employees' mental distress.²⁴

CHILD DEVELOPMENT

The first years of children's brain development is essential to their future physical growth and mental well-being. Research has demonstrated that parents' ability to take paid leave to spend time with their newborns supports children's brain development. Paid leave has been shown to improve children's well-being due to improved maternal mental health, prolonged breastfeeding, increased engagement of fathers, and improved mental and physical health in childhood.^{25,26,27} Further, research demonstrated a correlation between implementation of California's 2004 paid leave policy and a significant decrease in hospital admissions for abusive head trauma, a leading cause of death for children under age one.

GENDER EQUALITY

Researchers have examined the impact of paid leave on women's employment and earnings. A California study found that the introduction of paid leave increased take-up of maternity leave, especially among less advantaged groups, and increased employment and wages for mothers with young children.²⁸

Paid leave has also been shown to affect the division of household and caretaking labor by gender. A national study found that only 9 percent of private-sector employees work for companies that offer paid paternal leave to all male employees. Only one in 20 employed fathers took more than two weeks off after their most recent child was born, and three out of four took one week or less. Low-income fathers face even higher barriers to accessing paid leave. Nearly 60 percent of low-income fathers reported taking zero weeks of paid time away from work after the birth or adoption of a child. Meanwhile, a study in California found that access to paid leave led to an increase in fathers taking parental leave.²⁹ All of these findings suggest that limited access to paid leave likely contributes to the traditional gendered division of household labor.

EQUITY AND INCLUSION

Because of the definition of family in the FMLA, LGBTQ+ workers and workers in non-nuclear families have reduced access to paid leave.³⁰ The current legal definition of “family” excludes families with LGBTQ+ parents, families with cross-generation and same-generation guardians, and families by choice.^{31,32} These populations may also not be eligible for most state-level paid family leave programs. To reduce these disparities many advocates, argue for including “chosen family” and other close contacts into the rules of eligibility.^{33,34} Among the states included in this report, the recently passed PFML programs in Oregon have the most inclusive definition of family.³⁵

ANALYSIS OF ACCESSIBILITY AND IMPACT

As lawmakers consider implementing a federal paid leave program, they will need to be aware of how the eligibility criteria they adopt include and exclude various groups. Research on workers’ use of the FMLA has found disparities in leave-taking by race, income, and gender.^{36,37} Recent research on PFML claims in California, Rhode Island, and New Jersey shows some improvement over FMLA leave-taking. Men’s use of family bonding time has increased, although it still lags behind women’s use. While access to PFML has increased leave-taking among disadvantaged groups, in New Jersey and California, low-income workers have not taken advantage of paid leave at rates proportional to their numbers. Paid leave use by low-income workers in Rhode Island has been proportional.^{38,39}

Lower-income families have less access to paid leave. A study on access and use of paid sick leave among lower income families⁴⁰ shows that due to barriers in knowledge of paid leave, the fear of job loss, and the lack of employer support, access to paid leave programs was lower among low-income families than higher income families. In lower-income families, when parents had access to paid sick leave, they are able to spend more time with children when needed, which contributes to children’s physical health and emotional well-being.

Along with other limitations to access for people of color, LGBTQ+ communities, fathers, and non-nuclear families, the percentage of employees who are currently eligible for PFML is limited.

Research Methods

We use data from two Current Population Surveys (CPS) from the Census Bureau to construct our sample: the 2018 Job Tenure Supplement and Outgoing Rotation Group (ORG)/Earner Studies from January through April 2018.^{ii, iii, iv} Both of these questionnaires only survey civilians age 15 and older who are employed for wages (contract workers and the self-employed are not included). Note that the percentage estimates we provide throughout this study represent the population of workers within our sampling universe (a population of nearly 138 million Americans at this time), not all American workers.

Using these data, we estimate survey participants' earnings, hours, and weeks worked at their current job in the last 12 months—key factors in determining eligibility for paid leave programs.^v We then use these estimates to determine whether each survey participant would be eligible for each of the PFML policies if it were implemented nationwide and to calculate their estimated weekly benefits. Details about how each PFML policy determines eligibility and calculates weekly benefits can be found in Appendix A and Appendix B, respectively.

In this study, we evaluate the PFML policies of eight states—California, Connecticut, Massachusetts, New Jersey, New York, Oregon, Rhode Island, and Washington—as well as the recently proposed FAMILY Act. Most policies exclude workers in certain industries and occupations. Notably, only the FAMILY Act covers employees of the federal government. However, the recently passed Federal Employee Paid Leave Act (FEPLA) largely fills this gap in coverage, giving 2.1 million federal workers 12 weeks of paid parental leave.^{vi} Rhode Island and Massachusetts exclude state or local government employees, respectively, while California, Connecticut, and New York exclude both state and local government employees. Connecticut and Massachusetts also exclude private-sector employees in certain occupations.

In addition to these exclusions, each PFML policy requires workers to meet certain eligibility criteria to receive benefits. Most policies have a simple earnings requirement, ranging from the FAMILY Act's requirement of \$1 earned in the last year to Rhode Island's requirement of \$13,800 earned in the last year. New York and Washington's policies require employees to have worked a certain number of hours in the last year to receive benefits. Because PFML policies have differing eligibility criteria, we are able to determine which requirements and exclusions most acutely restrict overall access, as well as access for specific groups of workers.

ii Since CPS participants respond to four consecutive months of surveys and only answer questions about their earnings and hours in the ORG survey, the CPS only has both job tenure and earnings/hours data for participants in the specific sample we constructed.

iii We chose to use 2018 data rather than 2020 data since so many workers were laid off in March and April 2020 due to COVID-19.

iv FEPLA was passed as part of the National Defense Authorization Act for Fiscal Year 2020. National Defense Authorization Act. S.1790. 116th Cong. (2019). <https://www.congress.gov/bill/116th-congress/senate-bill/1790>

v Because participants only report their *current* earnings and usual hours worked per week for the ORG survey, we need to assume that these values have not changed during their time working at their current job in the last 12 months to make our estimates.

vi We used the differences in nested models' deviances to determine variable significance, using a threshold of $p = 0.05$. We selected our final models using backwards stepwise selection.

Findings and Discussion

RESEARCH QUESTION 1: WHAT PERCENTAGE OF U.S. WORKERS WOULD BE ELIGIBLE FOR PAID LEAVE UNDER THE PROPOSED FAMILY ACT AND EIGHT STATE PFML PROGRAMS IF EACH WERE EXPANDED NATIONALLY?

We begin our analysis by comparing overall coverage rates for the nine PFML policies based on the eligibility criteria listed in Appendix A. Table 1 shows the estimated percentage and number of civilian employees ages 15 and over who would be eligible for each PFML policy if it was implemented nationwide, as well as standard errors for these estimates. Note that every policy except that FAMILY Act excludes employees of the federal government. Because these workers are now largely covered by FEPLA, whether or not the PFML policies we are investigating also cover them is not particularly salient. As such, we provide estimates for two variants of each PFML policy: one which excludes federal government employees and one which includes them. We present these results in Figure 1 to highlight the effect of excluding employees of the federal government.

Figure 1: Overall Proportion Eligible for PFML

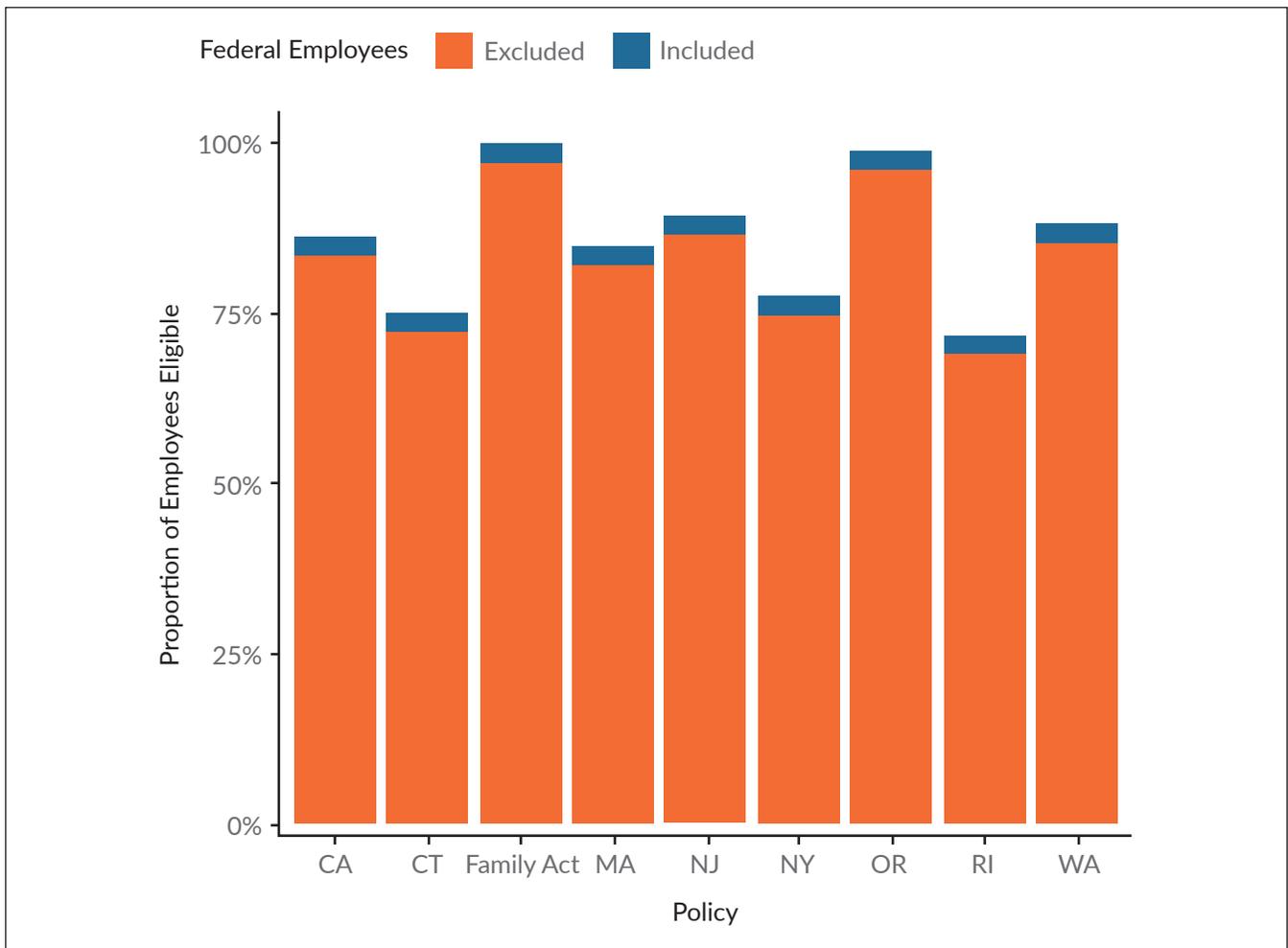


Table 1: Overall Percentage of Workers Eligible for Each PFML Policy. Standard errors in parentheses.

Policy	Percent Eligible Without Federal Employees	Percent Eligible with Federal Employees	Number Eligible Without Federal Employees (millions)	Number Eligible with Federal Employees (millions)
FAMILY Act	97.1 (0.10)	99.9 (0.02)	133.6 (0.13)	137.5 (0.03)
Oregon	95.8 (0.12)	98.6 (0.06)	131.8 (0.16)	135.6 (0.09)
New Jersey	86.5 (0.20)	89.3 (0.18)	119.1 (0.27)	122.8 (0.25)
Washington	85.3 (0.20)	87.9 (0.19)	117.3 (0.28)	121.0 (0.26)
California	83.4 (0.21)	86.2 (0.20)	114.8 (0.30)	118.6 (0.27)
Massachusetts	81.8 (0.22)	84.5 (0.21)	112.5 (0.31)	116.3 (0.29)
New York	74.7 (0.25)	77.4 (0.24)	102.8 (0.34)	106.5 (0.33)
Connecticut	72.2 (0.26)	75.0 (0.25)	99.4 (0.36)	103.1 (0.34)
Rhode Island	69.0 (0.27)	71.7 (0.26)	95.0 (0.37)	98.7 (0.36)

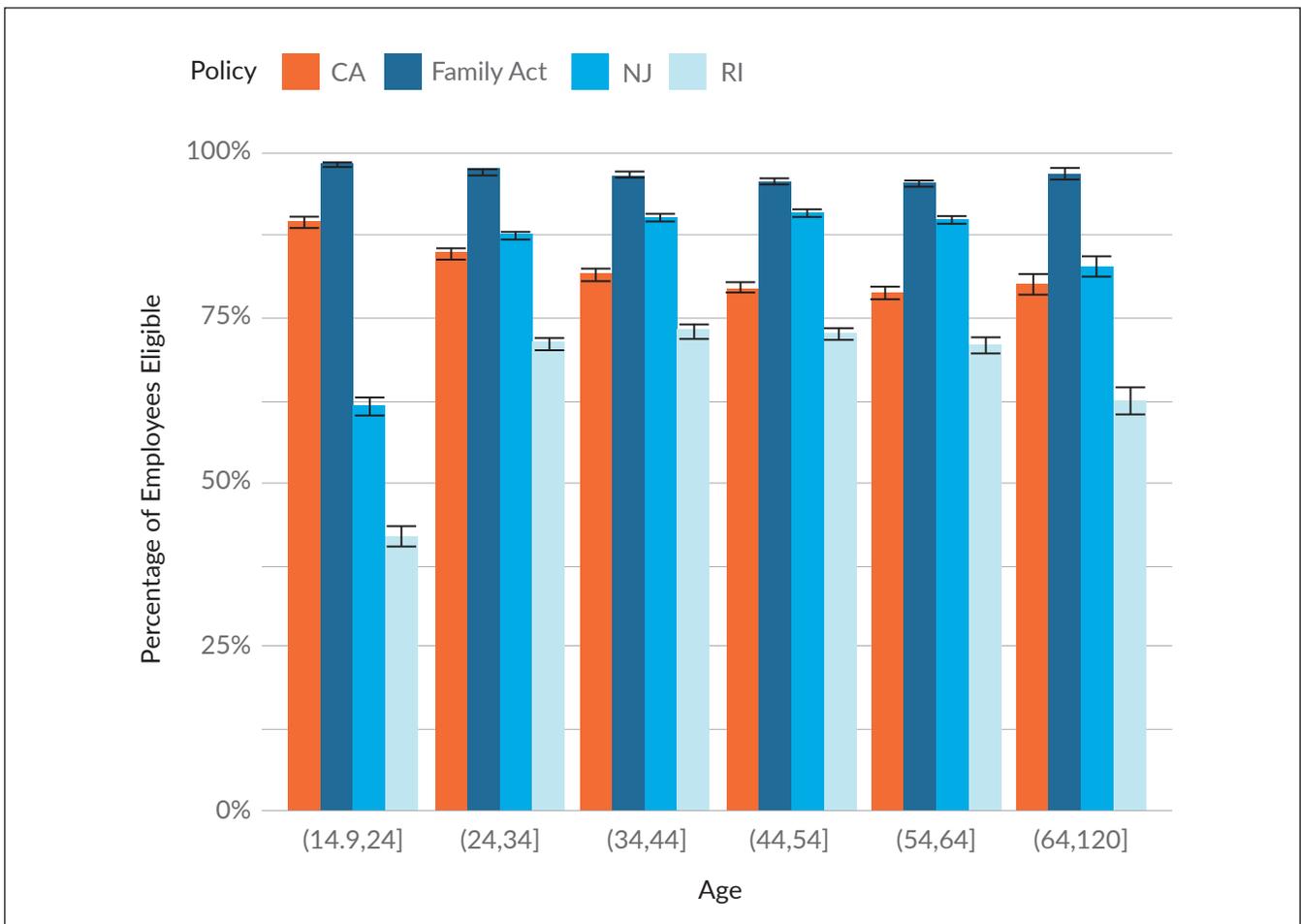
We see that the FAMILY Act covers almost everyone, even after we exclude federal employees. While we might expect coverage among the PFML policies with minimum earnings requirements to decrease steadily with larger earnings thresholds, we see that the California policy actually covers fewer workers than the Oregon and New Jersey policies despite having a lower earnings requirement. This coverage shortfall stems from the California policy’s exclusion of state and local government workers. That Oregon covers 12 percent more of the employee population than California underscores the scale of these exclusions. The Massachusetts policy similarly falls short due to its exclusion of local government workers and workers in certain industries. Unsurprisingly, the Rhode Island and Connecticut policies, which have uniquely high earnings thresholds of \$13,800 and \$9,300 in the base period, respectively, cover the fewest workers.

RESEARCH QUESTION 2: HOW WOULD ELIGIBILITY RATES UNDER THESE POLICIES VARY FOR DIFFERENT GROUPS IF EACH WERE EXPANDED NATIONALLY?

With a firm grasp of overall coverage rates, we explore how PFML eligibility varies for different groups of workers. Rather than analyzing subgroup coverage under all nine policies, we narrow our focus to four: the current California, New Jersey, and Rhode Island programs, and the FAMILY Act. Throughout our analysis we exclude employees of the federal government from the FAMILY Act for the reasons outlined above. While we compared coverage under these policies based on a wide array of worker characteristics—gender, race, age, education, total family income, urban/rural status, industry, occupation, and whether they have a child under age 1—here we present only on the characteristics for which disparities between groups are most pronounced: age, family income, education, industry, and race. Figures 2 through 6 provide estimates of the percentage of workers eligible for each PFML policy based on these characteristics, as well as 95 percent confidence intervals for those estimates. The black brackets in the bar graphs represent confidence intervals.

Figure 2 shows coverage under each policy by age. Notably, coverage under the FAMILY Act varies only slightly across age groups. Under the New Jersey and Rhode Island policies, eligibility rises and then falls with age, peaking for workers between the ages of 35 and 54. Coverage is markedly low for workers between the ages of 15 and 24 (only 62 percent and 42 percent of these workers are eligible under the NJ and RI policies, respectively). This pattern makes some intuitive sense, as the oldest and youngest workers are less likely to hold full-time positions. Interestingly, the opposite trend holds under the California policy and the FAMILY Act, which cover workers between the ages of 15 and 24 at the *highest* rates of any age group. This trend is likely a consequence of these policies' low earnings requirements (\$300 and \$1 in the base period, respectively).

Figure 2: Percentage Eligible for PFML by Age



In Figures 3 and 4 below, we see similar patterns in coverage based on family income and education. Coverage under the New Jersey and Rhode Island policies steadily increases with family income while coverage under the California policy decreases with family income. As before, this somewhat counterintuitive pattern stems from the California policy’s exclusion of government workers. Notably, the California policy is more equitable in its coverage than the New Jersey and Rhode Island policies, with a narrower range of eligibility rates by family income.

Figure 3: Percentage Eligible for PFML by Family Income

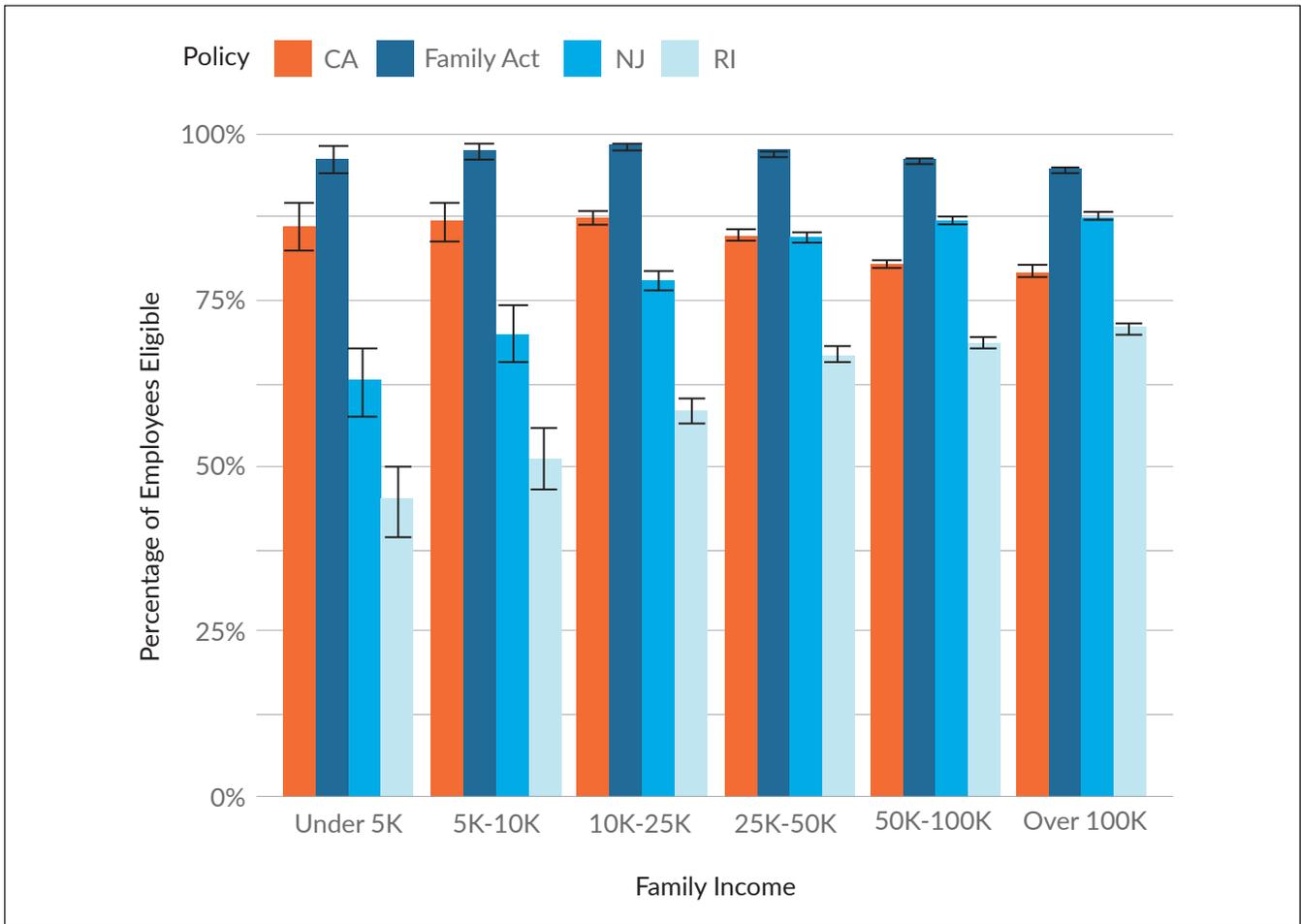
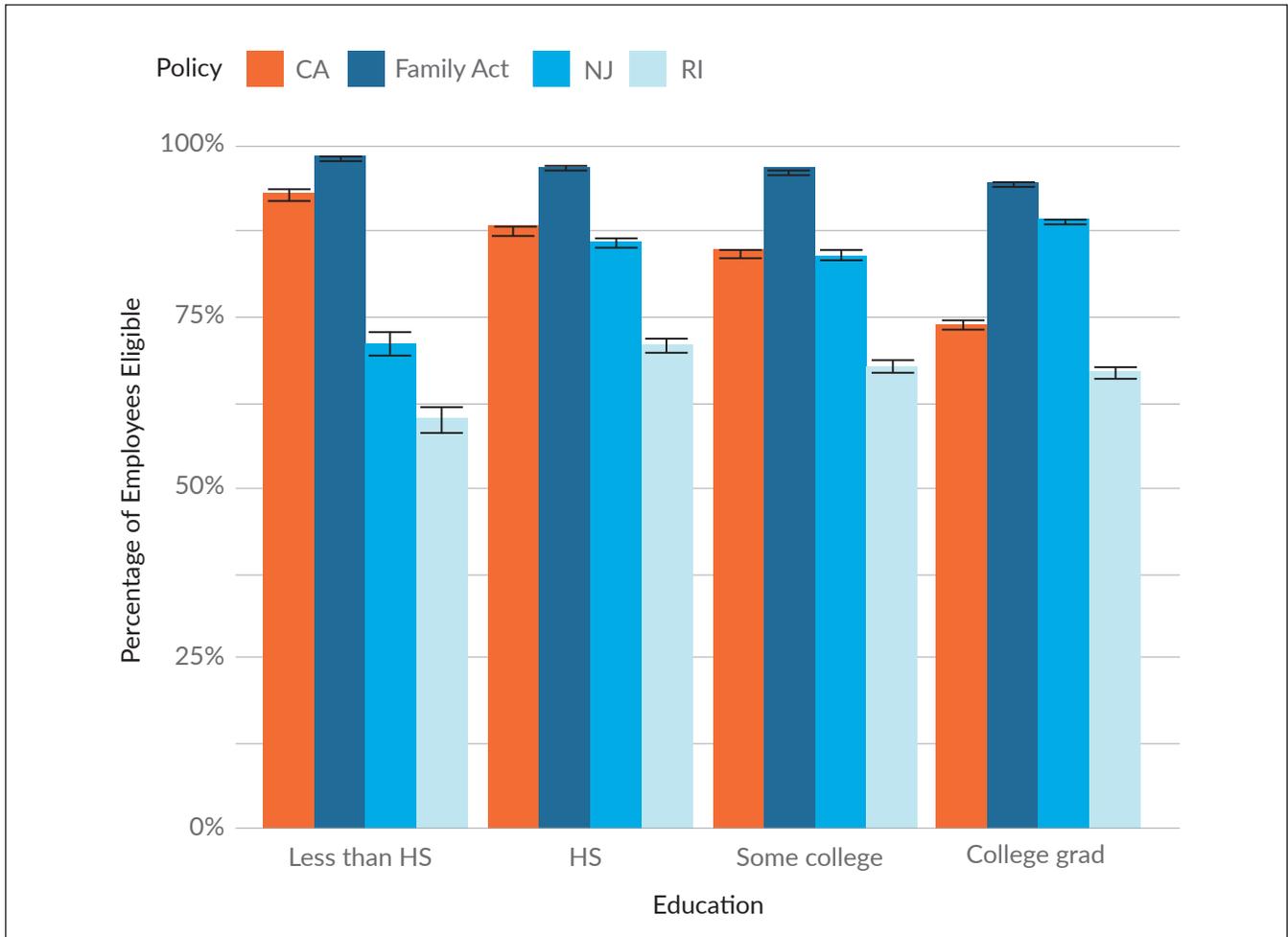


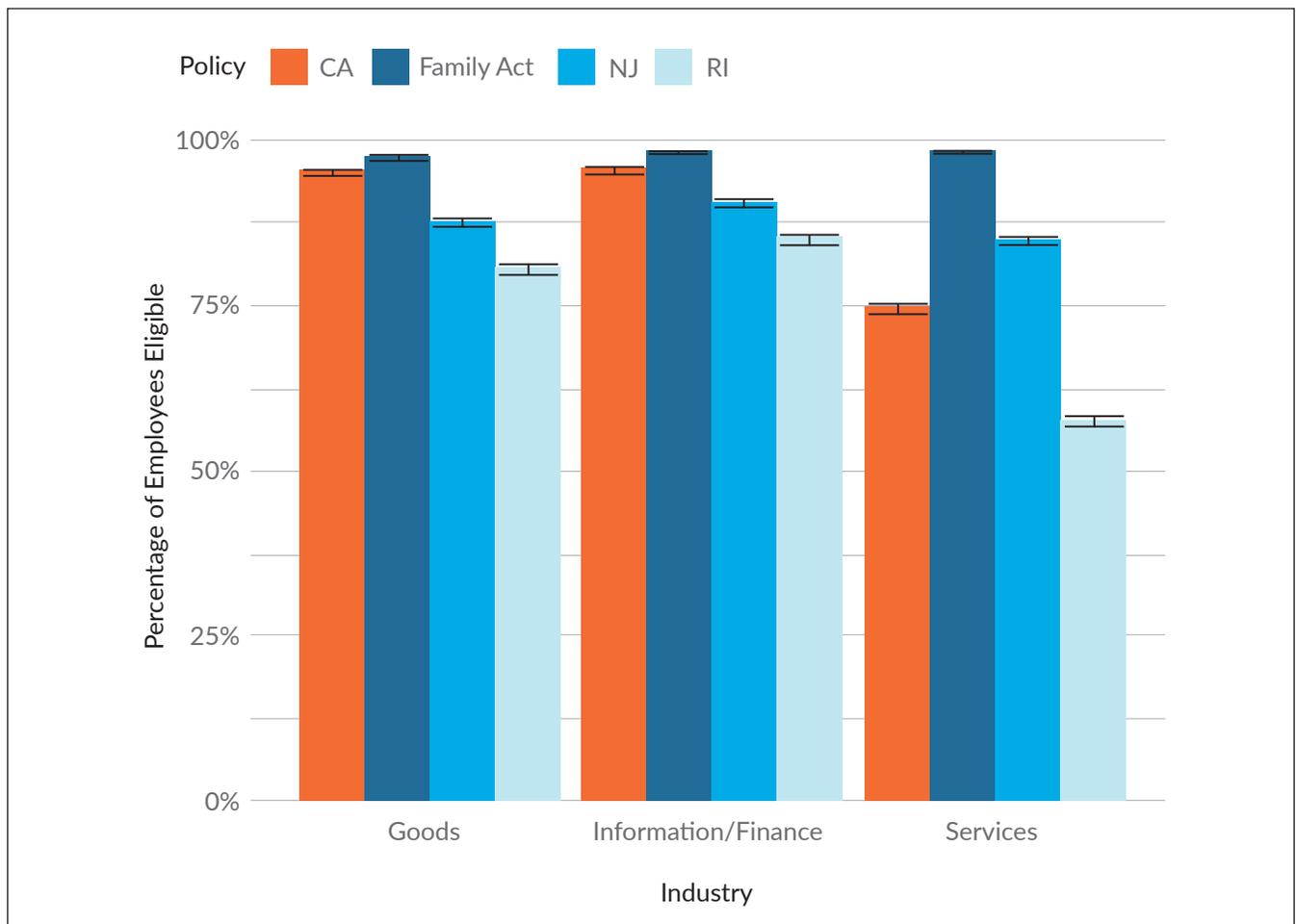
Figure 4: Percentage Eligible for PFML by Education



While similar trends hold for education, we note that coverage for workers with some college education is actually lower than coverage for workers who have only completed high school under all three state PFML policies. These small declines in coverage rates for workers with some college education stems mostly from the policies’ exclusion of federal government workers. Similarly, the Rhode Island and California policies cover college educated workers at even lower rates than workers with some college education due to their exclusion of state and local government workers

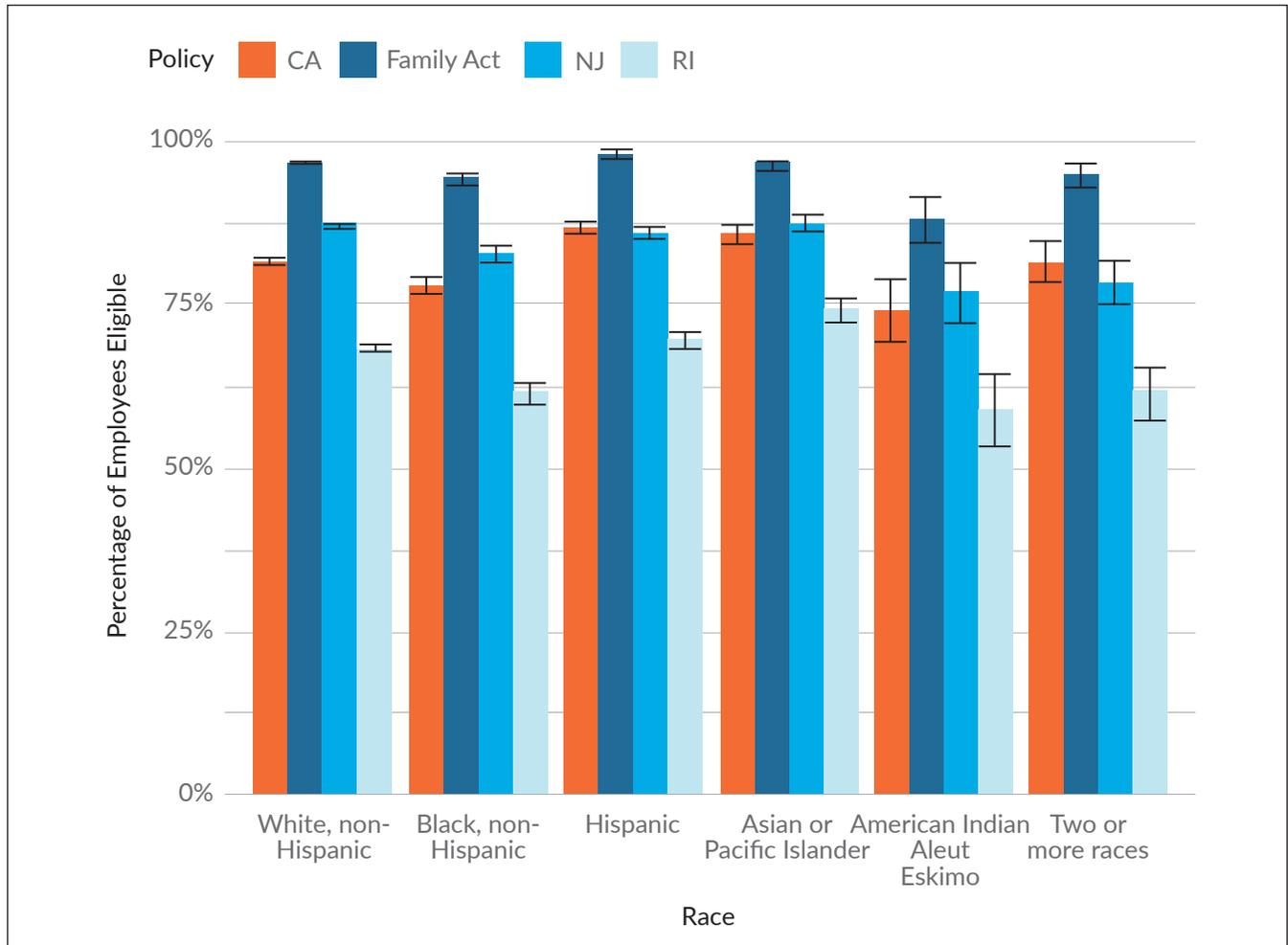
Figure 5 provides eligibility rates by industry, which we have grouped into three categories: “Goods”, “Information, Finance, and Professional Services”, and “Services.” We see that eligibility rates are far lower for service workers than for workers in other industries under the California and Rhode Island policies. Notably, coverage rates for service workers do not drop by nearly as much under the New Jersey policy and the FAMILY Act. The New Jersey policy covers service workers at higher rates than the California and Rhode Island policies largely because it covers state and local government employees, many of whom are in service roles, while the other policies do not. Additionally, because the New Jersey policy gives workers two ways to qualify for benefits—workers can either earn \$10,000 in the base period or earn at least \$200 weekly for 20 weeks—it covers an additional 1.8 percent of service workers who did not make \$10,000 in the base period but did meet the second criterion.

Figure 5: Percentage Eligible for PFML by Industry



Lastly, Figure 6 shows eligibility rates by race. We see that White, Hispanic, and Asian workers are covered at higher rates than workers of other races under all four policies. Additionally, Black workers are covered at slightly higher rates than American Indian/Aleut/Eskimo workers and workers of two or more races under all of the policies except for California’s. However, the differences in coverage for these three groups are fairly small and the estimates have wide confidence intervals. Notably, differences in coverage between the three state policies are larger than differences between racial groups within a single policy.

Figure 6: Percentage Eligible for PFML by Race



To get a complete picture of how eligibility rates under these four PFML policies vary for workers of different backgrounds, we fit logistic regression models relating eligibility for each policy to a worker’s gender, race, age, education, total family income, urban/rural status, industry, occupation, and whether the worker has a child under age 1. Although the differences in coverage between some groups are slight, we find that all of the above characteristics are statistically significant predictors of eligibility under the Rhode Island PFML policy, that all of the predictors except urban/rural status are significant under the New Jersey PFML policy, that all of the predictors except parental status are significant under the California PFML policy, and that all of the predictors except urban/rural status, parental status, and age are significant under the FAMILY Act.^{vii} A worker’s industry, age, and education are among the most significant predictors for all three state policies.^{viii} Notably, family income is a far stronger predictor of eligibility under the Rhode Island and New Jersey policies than the California policy. Under the Rhode Island and New Jersey policies the probability of eligibility steadily increases with family income, as the estimates in Figure 3 suggested.

RESEARCH QUESTION 3: WHAT WOULD WORKERS’ AVERAGE WEEKLY BENEFITS BE UNDER THESE POLICIES AND HOW WOULD THEY VARY FOR DIFFERENT GROUPS IF EXPANDED NATIONALLY?

With a firm grasp of which workers are eligible for the California, New Jersey, and Rhode Island PFML policies and the FAMILY Act (excluding employees of the federal government), we examined how much money workers would actually receive under each of these policies based on the wage replacement formulas listed in Appendix B. New Jersey calculates eligible workers’ benefits based solely on their weekly earnings.⁴¹ California calculates eligible workers’ benefits based on quarterly earnings, which we converted to weekly benefits.⁴² Rhode Island calculates workers’ benefits based on 4.62 percent of the wages they earned in their highest-earning quarter. This equates to about 60 percent of a worker’s weekly wages, so we made that conversion for our analysis.⁴³ The FAMILY Act calculates benefits based on monthly wages, which we converted to weekly wages for our analysis. Table 2 provides our estimates for the average weekly benefits for eligible workers under these four policies, as well as standard errors for these estimates.

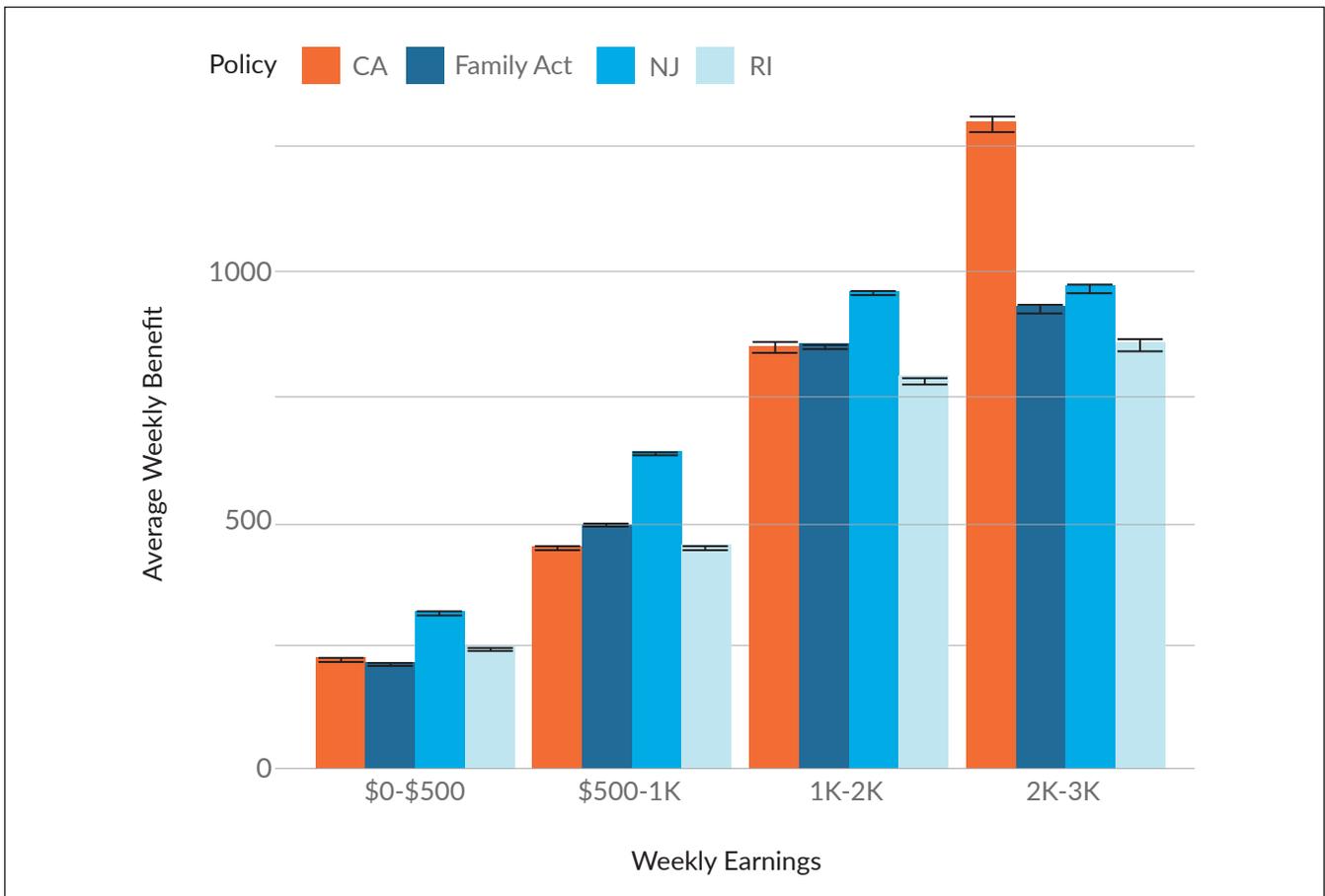
Table 2: Average Weekly Benefits Under Select Policies. Standard errors in parentheses.

Policy	Average Weekly Benefit
New Jersey	\$696 (\$1.84)
California	\$574 (\$2.16)
Rhode Island	\$560 (\$1.96)
FAMILY Act	\$554 (\$1.47)

vii We used the differences in nested models’ deviances to determine variable significance, using a threshold of $p = 0.05$. We selected our final models using backwards stepwise selection.
viii That is, removing these variables would lead to the largest increases in the deviance.

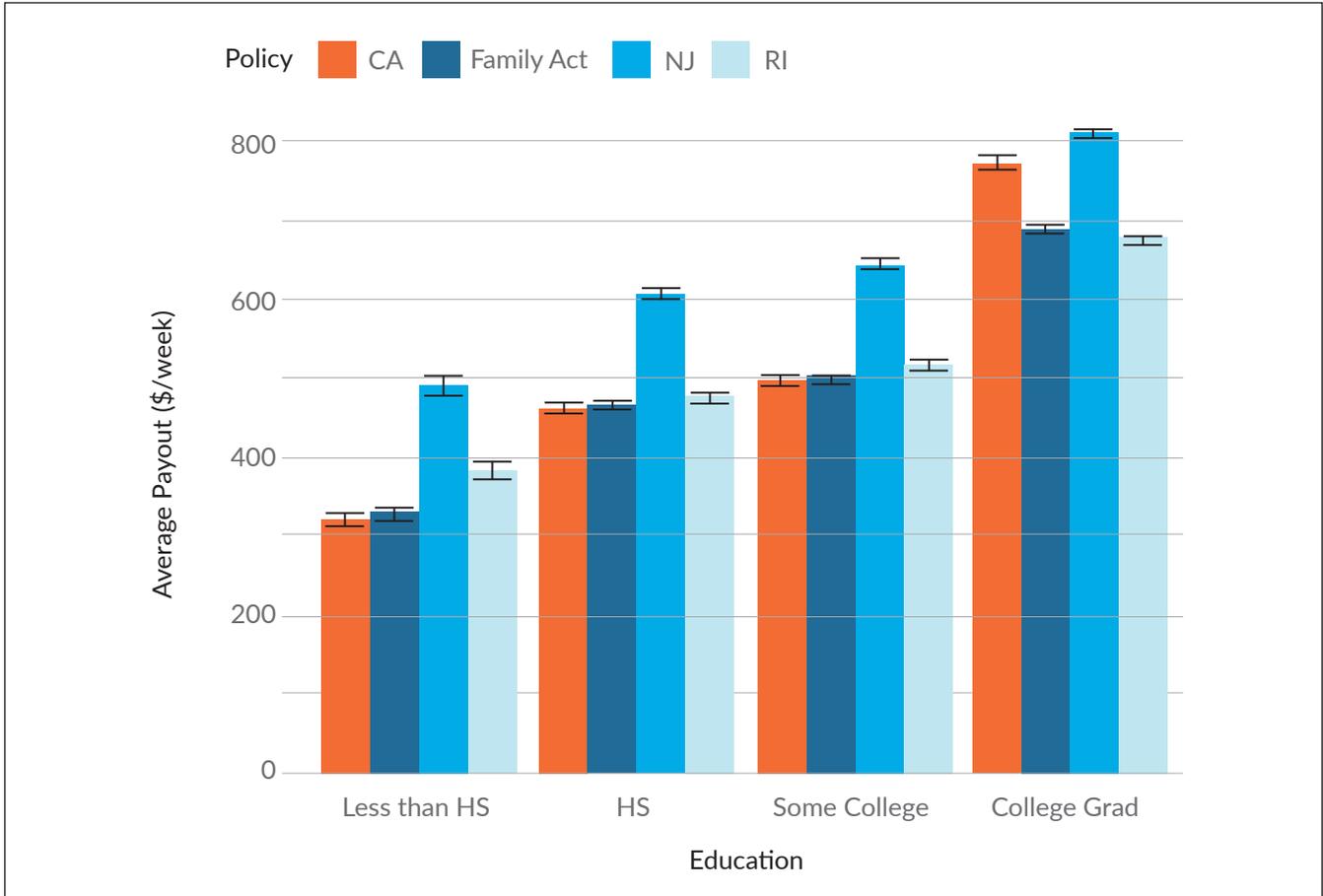
Since weekly benefits increase with higher earnings under all four PFML policies up to a cap, average benefits for different groups will inevitably reflect known disparities in earnings. Still, the magnitude of the differences in benefits between groups may vary considerably across PFML policies depending on their wage replacement formulas. As in our eligibility analysis, we focus on the characteristics for which differences between groups are most pronounced. Figure 7 provides estimates and 95 percent confidence intervals for average weekly benefits across different levels of weekly earnings for the California, New Jersey, and Rhode Island PFML policies and the FAMILY Act. Naturally, benefits increase with earnings under all four PFML policies. Still, California’s policy stands out for providing much greater benefits to workers earning over \$2,000/week than to those earning less. As we will soon see, the California policy’s generosity towards high earners also leads to greater disparities in weekly benefit amounts along the lines of education, race, and gender. New Jersey’s policy, on the other hand, is the most generous for all other groups, particularly for those making between \$500 and \$1,000 per week.

Figure 7: Average Weekly Benefit Amount by Weekly Earnings



In Figure 8, we see similar patterns in average weekly benefits by education. While benefits for college graduates are appreciably higher than benefits for non-college graduates under all four policies, California’s policy clearly has the largest college premium, with college graduates receiving over \$275 more per week on average than workers with only some college education. Despite this, New Jersey’s policy remains the most generous across all education groups.

Figure 8: Average Weekly Benefit Amount by Education



In our analysis of eligibility by race, we found fairly small differences in coverage for workers of different races under each of the PFML policies. Our estimates of average weekly benefits by race (shown in Figure 9) reveal starker disparities that reflect pay inequities. We see that White and Asian workers would receive roughly \$100 more per week than Black workers, Hispanic workers, American Indian/Aleut/Eskimo workers, and workers of two or more races under each of the policies. Notably, California’s policy produces the biggest differences in average weekly benefits across different racial groups.

Figure 9: Average Weekly Benefit Amount by Race

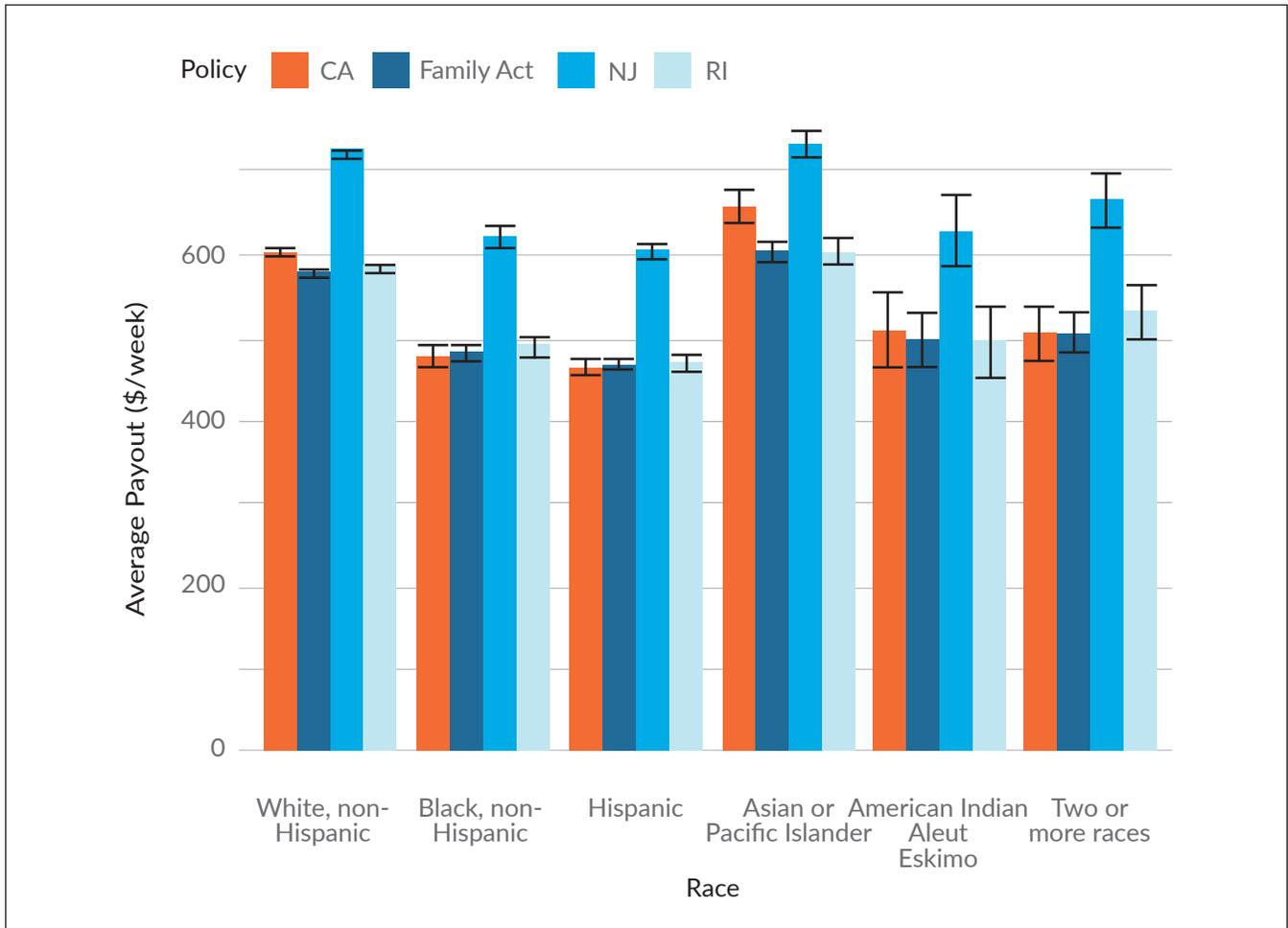
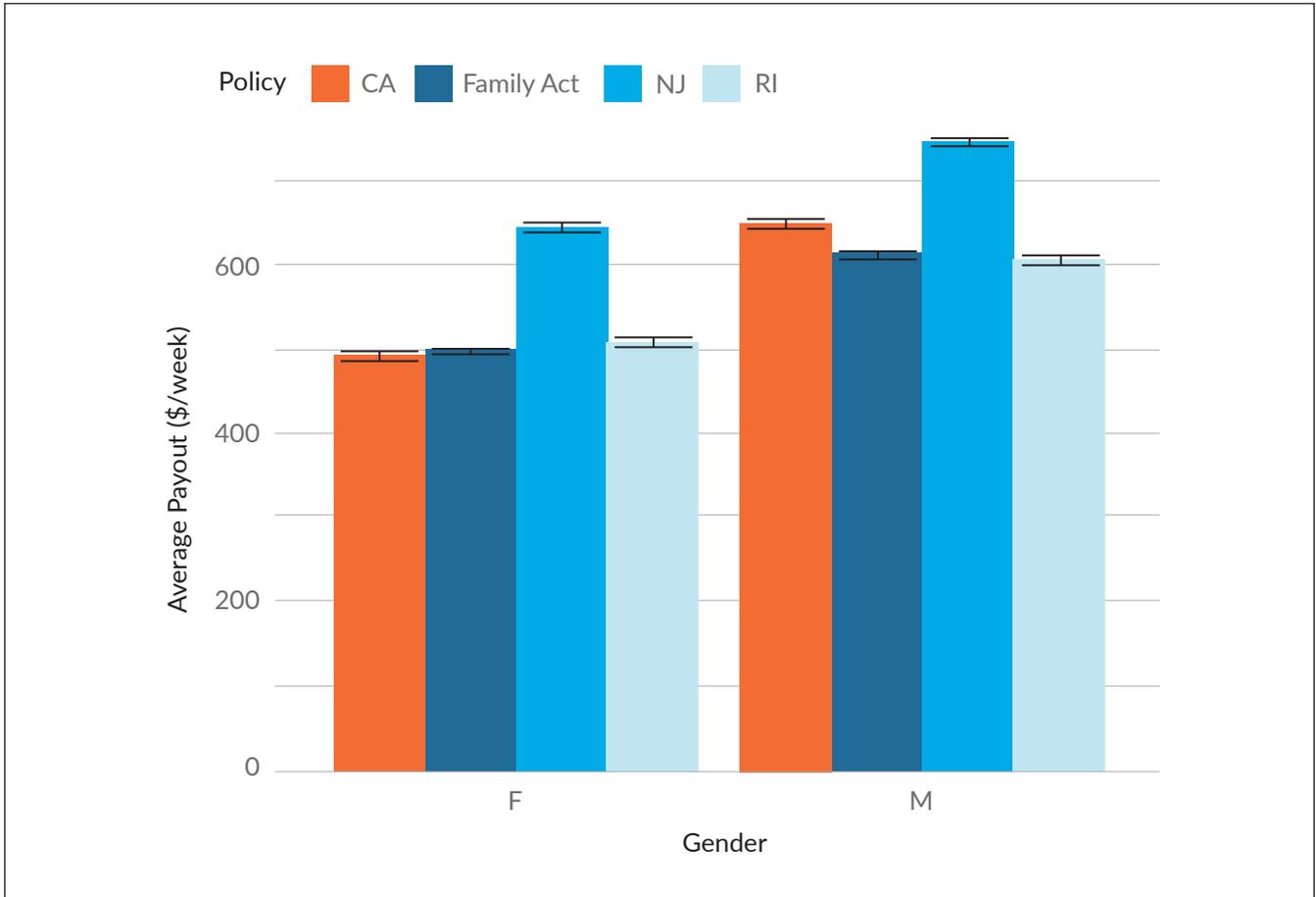


Figure 10 shows average weekly benefits by gender. We see that male workers would receive higher weekly benefits on average than female workers under all four policies. Given that benefits are based solely on earnings, these gaps reflect the wage gap between men and women. The difference in average weekly benefit amounts between genders would be largest under the California policy. New Jersey’s policy would have the highest average benefits for both men and women of any of the policies.

Figure 10: Average Weekly Benefit Amount by Gender



Conclusions and Recommendations

This report examines eligibility rates and average weekly benefits under various PFML policies using a sample of civilians ages 15 and older who are employed for wages pulled from two Current Population Survey (CPS) questionnaires. To address our first research question, we estimated survey participants' earnings, hours, and weeks worked to determine what percentage of the sample would be eligible for each of the state PFML policies and the proposed FAMILY Act if it were implemented nationwide. Our findings show that the FAMILY Act would cover more U.S. workers than any of the existing state programs. Oregon had the second highest coverage rate, which can be attributed to its inclusion of public sector employees and relatively low (\$1,000) earnings threshold. New Jersey, which has a higher earnings threshold but includes public sector employees, had the next highest coverage rate. California, which has a low earnings threshold but excludes public sector employees is at the midpoint of coverage. Rhode Island, which has a high earnings threshold and excludes public sector employees, has the lowest coverage rate.

For our second research question, we narrowed our focus to the FAMILY Act, California, New Jersey, and Rhode Island PFML policies. We calculated the percentage of various subgroups eligible for paid leave under the FAMILY Act, New Jersey, California, and Rhode Island programs. The FAMILY Act had the highest levels of coverage for every group. We found that coverage under the New Jersey and Rhode Island policies steadily increases with family income and education while coverage under the California policy decreases with family income and education, likely due to California's exclusion of state and local government workers. If state and local government workers were not excluded from the analysis, it would follow the same pattern as the FAMILY Act. We found that California and Rhode Island's PFML policies provide limited coverage to service workers. However, coverage rates for service workers do not drop by nearly as much under the New Jersey policy or the FAMILY Act because both policies include state and local government workers and have more flexible earnings requirements. We found that White and Asian workers are covered at higher rates than workers of other races under all four policies.

Lastly, we used the survey data to estimate the average benefit amount for each of the PFML policies if it were implemented nationwide. New Jersey's policy is the most generous for all other groups, particularly for those making between \$500 and \$1,000 per week. California's policy on the other hand, is most generous for workers earning over \$2,000 a week. Even though New Jersey doesn't have a tiered wage replacement structure like California, its policy is the most generous because it pays out 85 percent of average wages, as opposed to the 60 to 70 percent range in California. Even though California's maximum benefit amount is higher than New Jersey's, only a small number of California workers are eligible for the highest payment. California's policy also leads to greater disparities in weekly benefit amounts along the lines of education, race, and gender.

RECOMMENDATIONS FOR POLICYMAKERS

In order for policymakers to ensure the inclusiveness of future PFML policies, we recommend focusing on the eligibility criteria and the benefit amount structure based on this analysis.

Eligibility Criteria

1. Include public sector employees and workers in all industries.

As demonstrated by California's eligibility coverage rate, excluding public sector employees from PFML greatly reduces its overall coverage. In order to reach as many workers as possible, it's important that all sectors, industries, and occupations are included in the eligibility criteria. The recent Ways and Means Committee's proposal aims to cover all workers, including both full- and part-time workers, the self-employed, and public and private sector employees.

2. Choose a low earnings requirement.

While the FAMILY Act has the lowest earnings threshold (only \$1), the thresholds in California (\$300) and Oregon (\$1,000) are similarly low enough to provide access to the majority of U.S. workers. Thresholds significantly higher than this greatly reduce the inclusiveness of the PFML policy. The Ways and Means proposal simply requires that workers have wages or self-employment income in the 30 days prior to taking leave, similar to the FAMILY Act.

Equitable Benefit Structure⁴⁴

1. A higher reimbursement rate has a bigger impact on equity than multiple wage replacement rate tiers.

Our comparison of New Jersey's high reimbursement rate with California's moderately tiered reimbursement structure shows that a higher reimbursement rate is better for equitable distribution. New Jersey had the most generous wage replacement rate for all groups, except the highest earners. California had the highest benefit amount for the workers with the highest wages and also had the most disparities by race, gender, and education. While California's tiers range from 60 to 70 percent, other states (i.e., Connecticut, Oregon, Washington, DC, and Washington) have tiers that go all the way up to 90 or 100 percent of wages. States with tiers that cover higher percentages of wages for low-income workers may have stronger redistribution effects. Notably, both the American Families Plan and the Ways and Means plans propose higher wage replacement rates than the FAMILY Act (up to 80 and 85 percent, respectively).

2. Consider setting a lower earnings threshold for the maximum benefit.

California workers are eligible for the maximum benefit amount at weekly wages of \$2,165 or greater, while New Jersey workers are eligible for the maximum benefit amount at weekly wages of \$1,133. However, few California workers in this analysis receive the maximum benefit. This structure may contribute to a less equitable distribution of benefits (compared to New Jersey).

This analysis was conducted prior to the release of both the Ways and Means Committee and the Biden-Harris paid leave plans. This analysis and the recommendations, however, are all the more relevant as policymakers continue to debate details on a paid leave proposal. A paid leave program that addresses the above recommendations will be more equitable, inclusive, and accessible to a range of working American families.

LIMITATIONS OF ANALYSIS

Our estimates throughout this study reflect the limitations of the CPS surveys we used. In particular, we assumed workers' weekly hours and earnings during the survey period did not change over the course of a year to estimate their total hours and earnings in the last year. Moreover, our findings present a snapshot of employment in early 2018. Potential PFML eligibility rates and average benefits have likely fallen because of the COVID-19 recession and may take years to recover. Still, the differences between the PFML policies remain the same and will reproduce similar trends under typical economic conditions.

In addition, this analysis focused on eligibility criteria, wage replacement rates, and maximum benefit levels. It did not evaluate other aspects of benefits provided under each program, such as number of weeks of leave or the provision of job protection. These and other PFML program features have also been proven to influence inclusiveness and access to paid leave.

RECOMMENDATIONS FOR FURTHER RESEARCH

Because our analysis was limited to the sample of non-contract workers in the United States, we would suggest further research to examine the ways in which including self-employed and contracted employees would change the rates of eligibility under each of the proposed policies. Self-employed workers can opt into PFML policies in California, New York, Connecticut, Washington, DC, and the proposed FAMILY Act. Contract workers can opt into PFML policies in Oregon and Washington.⁴⁵ Given the growing prevalence of contract work, this should be taken into consideration. Additionally, our analysis does not consider the immigration status of workers. Federal policies will need to consider the inclusion of workers who have various immigration statuses.

We limited some analysis to these four policies because they have the most substantiated backgrounds. Further research could be done to compare other federally proposed paid leave policies as well as expansion of any of the other state policies that we didn't fully explore in this report.

Our literature review recommends more future research on the current definition of "family" and how it impacts employees in non-traditional forms of family. By better understanding this issue, policymakers will be able to make PFML policies more inclusive to all families.

Our analysis makes recommendations on eligibility criteria and points out the problem of accessibility of PFML to employees. Eligibility and accessibility are different aspects of use of paid leave. We suggest future studies distinguish between these two issues when evaluating employees' non-use of paid leave—for example, whether it is due to the limited eligibility requirements or employees' limited access to knowledge on PFML.

In addition, this research can inform analytic approaches to evaluating the equity and accessibility of the most recent paid leave proposals, critical to achieving universal PFML access.

Appendix A: Summary of U.S. PFML Policies

Paid Leave Policy	Eligibility	Wage Replacement Rates	Timeline
FAMILY Act (National)	All workers. Workers must have earned at least \$1 in the last year. ⁱ	66% of avg wages; Has min and max benefit amounts. ⁱⁱ	Proposed in 2017 and most recently in 2021. ^{iii,iv}
California	All private sector employees covered. Employees must have earned \$300 in base period. ^v	60-70% of avg wages depending on wages; Has min and max benefit amounts. ^{vi}	Enacted 2002, effective 2004; expanded 2016, effective 2018; expanded 2017 and 2019, effective 2020 ^{vii}
Connecticut	All private sector employees covered. Employees must have earned wages of at least \$2,325 in the highest quarter of the first four in the last five quarters. ^{viii}	60-95% of avg wages depending on wages; Has max benefit amount ^{ix}	Enacted 2019, effective 2021 and 2022 ^x
District of Columbia ^{xi}	All private sector employees who spend more than 50% of work in DC covered. ^{xii}	Up to 90% of avg wages depending on wages; Has max benefit amount. ^{xiii}	Enacted 2017, effective July 2020 ^{xiv}
Massachusetts	All private sector and state government employees covered. Employees must have earned at least \$5,100 during the last 4 quarters. ^{xv}	50-80% of avg wages depending on wages; Has max benefit amount. ^{xvi}	Enacted 2018, effective 2019 and 2021 ^{xvii}

i National Partnership for Women & Families. (2020). The Family and Medical Insurance Leave (FAMILY) Act. <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/family-act-fact-sheet.pdf>.

ii National Partnership for Women & Families. (2020). The Family and Medical Insurance Leave (FAMILY) Act. <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/family-act-fact-sheet.pdf>.

iii FAMILY Act. S.337. 115th Cong. (2017). <https://www.congress.gov/bill/115th-congress/senate-bill/337>.

iv FAMILY Act. S.463. 117th Cong. (2021). <https://www.congress.gov/bill/117th-congress/senate-bill/248/text>.

v California Employment Development Department. Am I Eligible for Paid Family Leave Benefits? https://edd.ca.gov/Disability/Am_I_Eligible_for_PFL_Benefits.htm.

vi National Partnership for Women & Families. (2019). State Paid Family and Medical Leave Insurance Laws. <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/state-paid-family-leave-laws.pdf>.

vii National Partnership for Women & Families. (2019). State Paid Family and Medical Leave Insurance Laws. <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/state-paid-family-leave-laws.pdf>.

viii Ibid.

ix Ibid.

x Ibid.

xi Excluded from our analysis due to unique eligibility requirements.

xii Ibid.

xiii Ibid.

xiv Ibid.

xv Ibid.

xvi Ibid.

xvii Ibid.

Paid Leave Policy	Eligibility	Wage Replacement Rates	Timeline
New Jersey	All private and public (non-federal) employees covered. Employees must have earned at least \$200 each week (for 20 weeks), or at least \$10,000 during base period. ^{xviii}	85% of wages; Has max benefit amount. ^{xix}	Enacted 2008, effective 2009; expanded 2019, effective 2019 and 2020 ^{xx}
New York	Most private sector employees covered. Full-time employees eligible after 26 consecutive weeks of employment. Part time employees eligible after 175 days.	50% for own disability and 67% for family care; Has max benefit amount. ^{xxi}	Enacted 2016, effective 2018 ^{xxii}
Oregon	All private and public (non-federal) employees covered. Employees must have earned at least \$1,000 in wages and paid into the PFML Insurance Fund in the base year. ^{xxiii}	65% of state average wages + 50% of additional wages; 100% of wages if under 65% state average wages. ^{xxiv}	Enacted 2019, effective 2022 and 2023 ^{xxv}
Rhode Island	All private employees covered. Employees must have been paid at least \$13,800 in the base period (approx. last 12 months). ^{xxvi}	Around 60% percent of wages on average. Has max benefit amount. ^{xxvii}	Enacted 2013, effective 2014 ^{xxviii}
Washington	All private and public (non-federal) employees covered. Employees must have worked for at least 820 hours the base period (approx. last 12 months). ^{xxix}	90% of state average wages + 50% of additional wages; 90% of wages if under 50% state average wages. ^{xxx}	Enacted 2017, effective 2019 and 2020 ^{xxxi}

xviii Ibid.

xix Ibid.

xx Ibid.

xxi Ibid.

xxii Ibid.

xxiii Ibid.

xxiv Ibid.

xxv Ibid.

xxvi <https://dlt.ri.gov/tdi/employers/>

xxvii National Partnership for Women & Families. (2019). State Paid Family and Medical Leave Insurance Laws. Retrieved from <https://www.nationalpartnership.org/our-work/resources/economic-justice/paid-leave/state-paid-family-leave-laws.pdf>.

xxviii Ibid.

xxix Ibid.

xxx Ibid.

xxxi Ibid.

Appendix B: Calculation of Wage Replacement Rates for Select PFML Policies

	Benefit calculation (all \$ based on weekly wages)	Minimum weekly benefit amount	Maximum weekly benefit amount
FAMILY Act	0 < Income <= \$202.80 (min benefit amount) \$202.80 < Income <= \$1,398.60 (66% of wages) Income > \$1,398.60 (max benefit amount)	\$134	\$923
California	0 < Income <= \$71.47 (min benefit amount) \$71.47 <= Income < \$489.33 (70% of wages) \$489.33 <= Income < \$2,165 (\$342.04 OR 60% of wages, whichever is higher) Income >= \$2,165 (max benefit amount)	\$50.00	\$1,300
New Jersey	If income <= \$1,133.18 (85% of wages) Income > \$1,133.18 (max benefit amount)	N/A	\$963.84
Rhode Island	If income <= \$1,420, then 60% of wages If income > \$1,420, then max benefit amount	N/A	\$851.99

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- 11 Department of Labor. (2020). Federal Employees Rights. https://www.dol.gov/sites/dolgov/files/WHD/posters/FFCRA_Poster_WH1422_Federal.pdf.
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