



State Mandated Paid Leave Programs

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State Mandated Paid Leave Programs

Outline

A brief history of leave management

State Programs coming online – plans and timelines

Program oddities and group carrier concerns

What can we learn from New York paid family leave?

Pricing Considerations

Discussion points

A Brief History of Leave Management

State Disability Programs have been around for a long time.

- Only a few states
- Limited benefit duration and low maxes
- Group insurers mostly worry about these as an offset to group disability insurance

2019 Values

State	Name	Eff	Duration	BenPct	Wkly Max
California	SDI	1946	52 Weeks	60%	1252
Hawaii	HI	1969	26 Weeks	58%	632
New Jersey	TDB	1948	26 Weeks	66.7%	650
New York	DBL	1949	26 Weeks	50%	170
Puerto Rico	DBA	1968	26 Weeks	65%	113
Rhode Island	TDI	1942	30 Weeks	60%	867

A Brief History of Leave Management

Family and Medical Leave Act enacted in 1993

Allows employees to take up to 12 weeks per year in unpaid leave to...

- Care for a new child
- Care for a seriously ill family member
- Recover from a serious illness

Exemptions: < 50 lives, elected officials

Eligibility: 12 months of active employment with > 1,250 hours

Includes the right to retain benefits and return to work

A key element of Bill Clinton's domestic agenda

“it is important for the development of children and the family unit that fathers and mothers be able to participate in early childrearing... [and] the lack of employment policies to accommodate working parents can force individuals to choose between job security and parenting”

A Brief History of Leave Management

In 2002, California enacts the first paid family leave act, eff in 2004
Six weeks of paid leave: original rate = 1.5% of covered salary

Federal and states reaction??



A Brief History of Leave Management

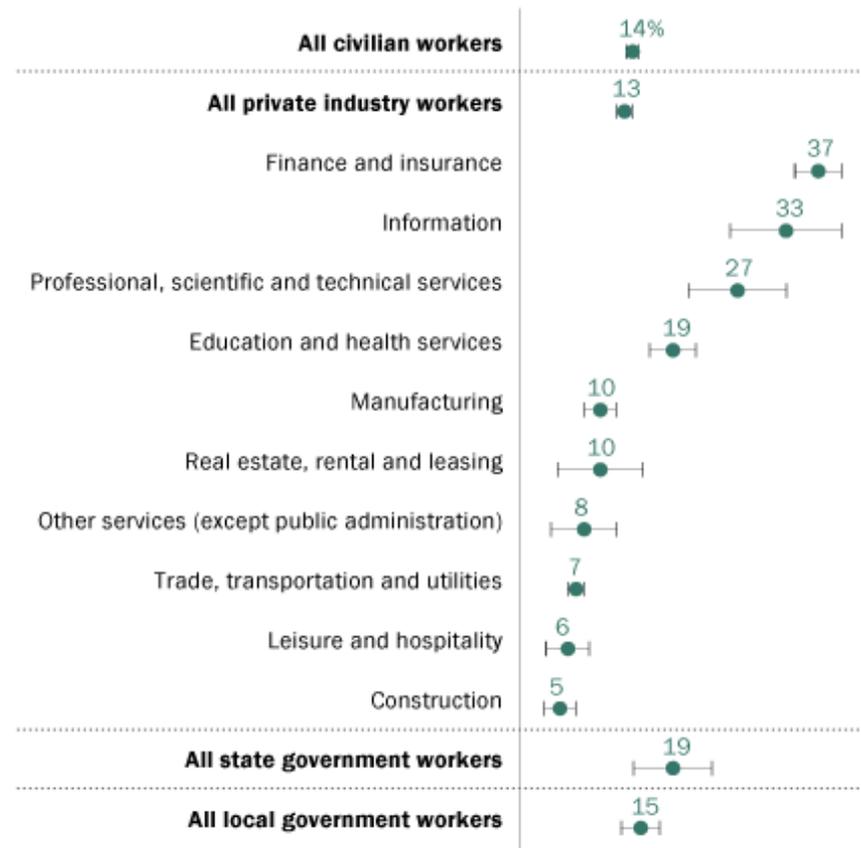
As of 2016, most people with access to paid leave programs do so through their employer program

In 2016, New York enacts a strong Paid-Family Leave Act, with benefits beginning in 2018

RI and NJ also enact plans

Getting paid family leave depends on the workplace

% of workers with access to paid family leave, by industry, 2016



Note: Lines indicate high and low point of the estimated 95% confidence interval. Survey excludes federal government, agricultural and household workers and the self-employed.

Source: National Compensation Survey, BLS.

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State Mandated Paid Medical and Family Leave Laws

State	Name	Eff Yr	Duration in Weeks			BenPct	Max
			Med	Bond	Fam		
California	SDI	2019	52	8	8	66.7%	637
Connecticut	PFML	2022	12	12 (14)	12	60%	840
WashingtonDC	UPL	2020	2	8	6	90/50%	1000
Massachusetts	PFML	2021	20	12	12	80/50%	850
New Jersey	FLI	2020	26	12	12	66.7%	650
New York	PFL	2018		10	10	55%	746
Rhode Island	TCI	2019	30	4	4	60%	867
Oregon	PMFL	2023	12	12 (14)	12	100%	1044
Washington	PFML	2020	12	12	12	90/50%	1000
Nevada		2020	1	1	1		
Maine		2021	1	1	1		

CA, RI combined with State Disability, NY and NJ kept separate

NY increasing to 12 weeks in 2021

DC, CT, MA, WA limit total leave time across all types

NV and ME: 100% of salary for "any cause": 40 hours only

Several other states (AZ, VT) have paid sick leave laws

State Mandated Paid Medical and Family Leave Laws

How does the funding work?

	Rates	Comments
CA	1.5% of wages up to \$118.4K	When PFL was enacted, rate increased by 0.200%
NY	0.153% of wages up to \$70.6K	Family only: Large increase in 2020
CT	0.5% up to \$132.9K	
WA	0.4% up to \$132.9K	Employers pay 63.3% of total tax.
MA	0.75% up to \$132.9K	Med / Fam split = 0.62% / 0.13%: Employers < 25 lives are exempt from their share of medical leave
NJ	0.08% up to \$34.4K	Family leave only
RI	1.2% up to \$64.2K	
OR	May not exceed 1% up to \$132.9K	Employers pays at least 40% of total tax
DC	0.62% (No Max)	

State Mandated Paid Medical and Family Leave Laws

Conundrum for Group Insurers

Insurers will be (are) asked by employers to administer

Insurers can offer fully insured programs but ...

- Some states mandate the rates

- States think about funding as a payroll tax and not an insurance premium

- Every state is different

Payroll Tax versus Premium

Issue 1: Many states are collecting payroll taxes prior to implementation of the program

e.g. MA is collecting tax now for benefits that begin in 2021

Rationale: Fund development of program administration

Develop a pre-funded “cushion”

Insurers do not have this option

Payroll Tax versus Premium

Issue 2: In many states the wage-base used for the taxes does not match the wage base used for benefits

e.g. MA:

Payroll Tax: 0.75% of wages up to \$132,900 (2,555 / week)

Wkly Benefit: 80% to \$715.8 +
50% of next \$687.2 (based on avg MA wages)

CP	Benefit	Ben Pct
500	400	80.0%
1,000	715	71.5%
1,500	916	61.1%
2,000	916	45.8%
2,500	916	36.7%
2,556	916	35.9%

based on 2019
values: ratios
will change in
2021

Payroll Tax versus Premium

Tax versus Premium

Issue 3: Some employer groups are exempted from some taxes

Examples:

MA: Employers with fewer than 25 lives do not have to pay employer share of payroll tax for medical leave:

Funding for MA Plan

Employer		Employee		Total
Medical	Family	Medical	Family	
0.372%	0.000%	0.248%	0.130%	0.750%

WA: Employers with < 50 lives do not pay employer share

If insurers want to fully fund the program for these groups their total rates will not be competitive

Payroll Tax versus Premium

Issue 4: There can be other unfunded liabilities

Example:

In MA terminated employees can still receive coverage, for up to six months after termination.

Questions?

1. Who pays for coverage? (likely no one)
2. How is leave defined? (cannot be based on not working)
3. Can you offset for unemployment insurance?
4. How to identify duplicate coverages?
5. Can employers provide terminated employees on census?

State Paid Leave Programs: Other Issues

1. How to define the insurable event?
If a medical event (pregnancy, injury, illness) occurs in 2020 and the insurer assumes coverage in 2021, is the insurer liable for the lost worktime in 2021?
2. Coverage for 1099 Employees:
Is the risk different? How to define missed work? Can employers provide 1099 employees on their census? How do you bill a 1099 employee?
3. Coordination of different leave benefits:
Many state cap total leave time as less than the separate caps for medical and family. How to price? How to coordinate if coverage is different? How do benefits managers track this? How will the option of female bonding claims affect maternity claims?
4. Employers are obligated to pay health premiums: Will insurers pick up this liability?

State Paid Leave Programs: Other Issues

5. Many states have a waiting period: MA is 7 consecutive days. Can employees satisfy the waiting period with PTO?
6. Some employers have employees in many different states, do they modify plan to meet all state minimums?
7. Coverage for part-time employees, risk impact of allowing intermittent leave, Employers using multiple FEIN's to avoid paying employer share of coverage, and so on...

What can we learn from New York?

New York is unusual for several reasons

- Excludes medical leave:
 - Explicitly bonding, family care, and military leave
- Single state-mandated rate: 2018: 0.126% of covered wages
- If carriers sell DBL, they are required to sell PFL
- Benefits increase over time as program phases in
- Revenue sharing arrangement: carriers that sell less risky business, will share revenue with carriers that sell more risky business
- Employers can purchase coverage through NY State Trust
- Mandated leave down to employer > 2 lives
- NY conducted a large advertising campaign about program

Coverage began in 2018: 1.5 years of experience to consider

What can we learn from New York?

Benefits are gradually ramping up

New York PFL Plan

Plan Year	Weeks	Benefit Percent	Max Weekly Benefit
2018	8	50%	\$653
2019	10	55%	\$746
2020	10	60%	\$841
2021	12	66.7%	

Max benefit is based on benefit percent times average weekly wage

What can we learn from New York?

Plan Year	Rate		
2018	0.126%	<==	most group actuaries think this is too low

In mid-2018 experience seems poor, but immature

2019	0.153%	<==	seems less than needed for plan change alone
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Experience is still worse than target, but somewhat better than expected

2020	0.270%	<==	seems way too high!
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How did NY end up with such a high rate?

What can we learn from New York?

Other Learnings:

Coverage is for all employers > 2 lives, including many businesses that normally do not buy group coverage. The experience on these groups has been better than anticipated: due to low utilization

There is a very strong case-size effect: utilization increases with the size of the group

Female utilization of leave (both bonding and family leave) is much higher than for males

Still early, but there does not seem to be a large increase in utilization over time

Male bonding has a salary influence

State Mandated Paid Leave Programs

So... Should Group Carrier's embrace fully-insured version of this product?

State mandated rates are largely “made up”, affected by politics, and do seem to be low on average.

Unfunded liabilities are a concern

But....

Employers and Employees want this benefit

Can link up well with other absence management services

Is there an opportunity right now as states pre-fund their programs?

State Mandated Paid Leave Programs - Pricing

Rick's Rules of Thumb *	Ratios
Medical Leave Costs / Family Leave Costs	4-6 to 1
Bonding Costs / Family Care Costs	5-7 to 1
Female Bonding to Male Bonding	3-4 to 1
Female Family Care to Male Family Care	2-3 to 1

* based on State Rates, CA and NY Experience

In California

Leave utilization increased significantly from 2004 to the present

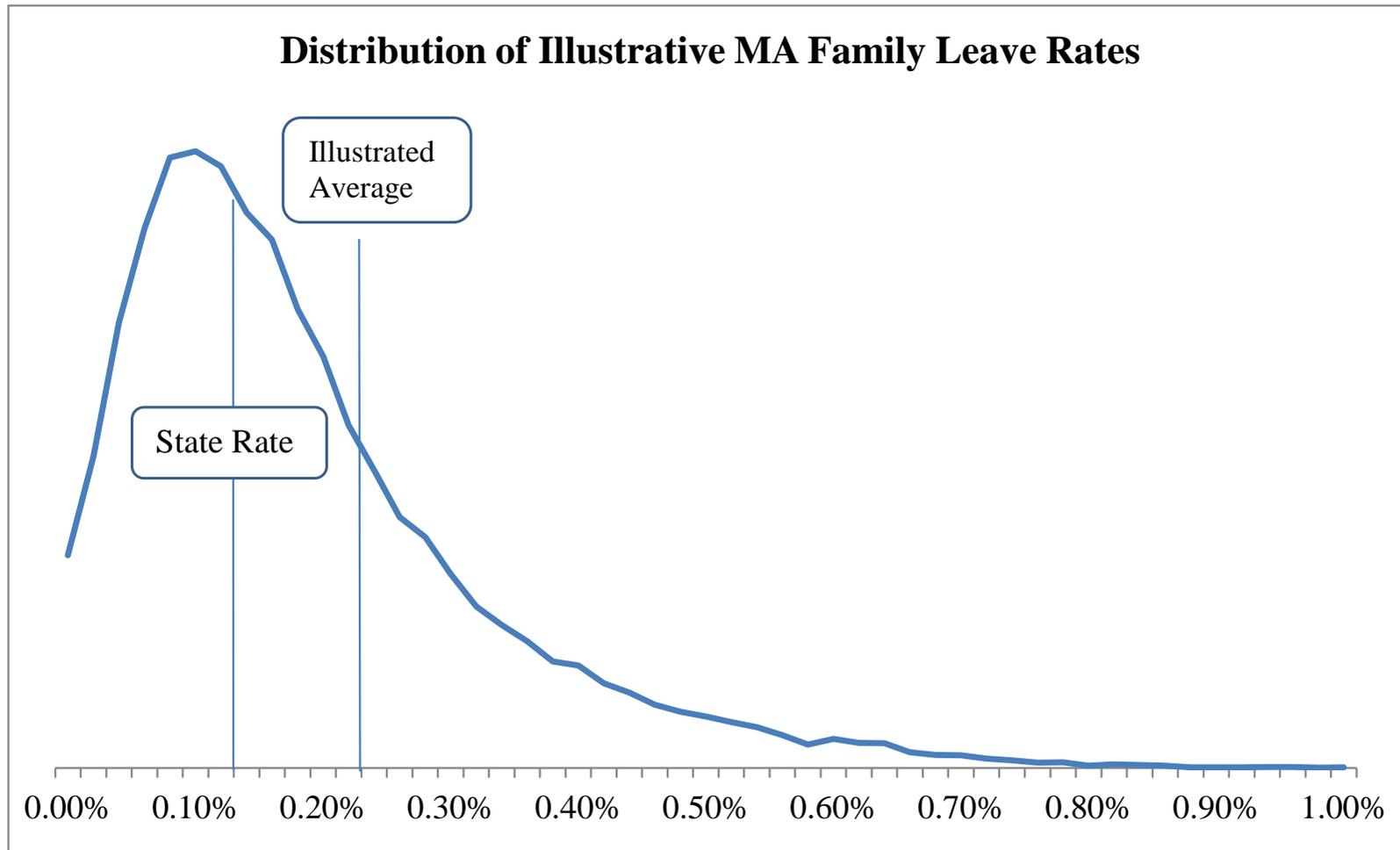
Male bonding utilization increased much faster than females

Est Utilizations (2004-2015): Females 40% to 47% Males 4 to 12%

... we find that both women and men are substantially over-represented in the health industry and under-represented in construction and accommodation and food services. These differences in program take-up across industries, especially among men, are consistent with the possibility that the perceived “family-friendliness” of an industry or a company may matter for encouraging leave use.

- American Enterprise Institute

State Mandated Paid Leave Programs - Pricing



MA Family Leave Rates are estimated: *illustrative only*
Average is 70% above the state rate, but 40% of groups are below the state rate.

State Mandated Paid Leave Programs

Other Discussion Points

1. What will happen to the STD product in a state with a liberal leave plan? (per year vs per occurrence is important)
2. What will leave due to STD experience?
3. Should we develop a supplemental wrap around STD product?
4. What will be the impact on LTD? Should the LTD plan be dove-tailed with the medical leave?
5. Will there be a Federal Leave Program?
6. What else ??