

Taking the Next Step: What Can the U.S. Learn About Parental Leave from New Zealand?

By Jodie Levin-Epstein

Introduction

In 1993, the U.S. Congress passed the Family and Medical Leave Act (FMLA). The FMLA provides some employees (those working an established number of hours in a business with 50 or more employees¹) with up to 12 weeks of leave to care for children (e.g., a newborn, an adopted child, or foster child) or to address a serious illness of their own or in their family. While the employee's leave is *unpaid*, the employee's job is protected; in other words, the employee does not lose a job because leave is taken. More than 50 million workers have taken leave under FMLA, and the law is generally regarded as an important first step in acknowledging the needs of working families. FMLA has been particularly helpful for families with the economic resources to take unpaid leave. However, too many low-income working families have not been able to take time off using FMLA because they cannot afford to forgo pay while on

leave. Further, while some firms voluntarily provide paid time off, it is higher income working families who are more likely to receive such benefits from their employers.²

In order to ensure that family and medical leave is a reality for more Americans, and low-income Americans in particular, the FMLA should be amended both to increase the number of workers eligible for leave (i.e., expand access) and to provide for paid leave. One way to expand access is to increase the number of businesses that are covered by FMLA.³ Current federal law exempts businesses with fewer than 50 employees. If the threshold on the number of employees were lowered, more businesses would be required to adhere to the law.⁴ Expanding FMLA to provide family leave with pay would enable lower and higher income families alike to take parental leave (or time to care for themselves or other family members).

Opportunities for legislative change exist at both the federal and state levels. States can enact laws that build on the federal law by expanding access and/or providing paid leave. For example,

California stepped to the forefront on paid leave when in 2002 it enacted a law that provides

ABOUT THIS SERIES AND BRIEF

This is the first brief in CLASP's Work-Life Balance series. This brief and the second brief in the series, *Taking the Next Step: What Can the U.S. Learn about Sick Leave from New Zealand?*, offer key findings from the report *High Wire Act: Balancing Families and Jobs at Precarious Points* by Jodie Levin-Epstein. The report, a product of Levin-Epstein's 2004 Ian Axford Public Policy Fellowship in New Zealand, considers the implications of work leave in New Zealand and the United States and examines the implementation experiences of 17 New Zealand small businesses. CLASP hopes that an exchange of business-to-business experiences will help in the debates about work-leave policies in the United States. All briefs and the report *High Wire Act* are available at www.clasp.org.

partial pay for up to six weeks to care for a new child or sick family member.⁵ Some states, such as Maine and Minnesota, have lowered the threshold on the FMLA's 50-employee exemption.⁶

The New Zealand experience can provide policymakers in the United States with some insights on how business can benefit from paid leave and how challenges—both perceived and real—can be overcome. New Zealand first implemented unpaid leave and more recently

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provided for paid leave. This brief discusses New Zealand's experience with paid parental leave and includes qualitative data from 17 New Zealand small businesses on their experiences with the new law. It concludes with policy implications and some next steps for the United States in this arena. This brief focuses specifically on time off for parental leave; it does not focus on time off for the extended sickness of one's own or in one's family—the other aspect of FMLA.

Why Does Parental Leave Matter?

Parental leave is important for both parents and their children. The time around the arrival of a new child—through birth, adoption, or foster care—is stressful for all working parents. In addition, the period from birth to three is critical to child development.⁷ Yet for low-income working families, if the time off from work is unpaid or if the pay falls below earnings, the challenges in addressing both parental stress and child development are even greater. Indeed, for some families, the birth of a child can trigger poverty when earnings are lost and not replaced. For all families, time out of the workforce can influence future earnings potential.

Businesses also are economically affected when workers are absent. Companies must make adjustments for absent workers, which can range from assuming new costs for temporary staff to redistributing the work among

remaining staff. This can be stressful for any company but can be particularly so for small businesses. Businesses also confront a cost when a valued employee leaves, since time and money must be invested in hiring and training a replacement worker or in reorganizing staff. Employers may be able to save money, however, by making appropriate adjustments that focus on employee retention. From a business perspective, the greater the investment in an employee, the greater the interest in retaining that employee's skills.

In the United States, unpaid leave helps employers with employee retention. Unpaid leave taken through FMLA results in women staying with their jobs,⁸ according to University of Maryland researchers Sandra Hofferth and Sally Curtin. However, they also contend that unpaid leave “is not as powerful a job retention policy as paid leave.”⁹ Ninety-four percent of workers with fully paid leave under FMLA returned to the same employer, while only 77 percent of those with unpaid leave did so.¹⁰

Why Compare the U.S. to New Zealand?

If only size mattered, it would make no sense to contrast work-leave policies in New Zealand and the United States. New Zealand has fewer than 2 million workers, while the United States has about 150 million. However, the United States and New Zealand face many of the same labor-force challenges, inde-

pendent of scale. These challenges include not only increased work participation by mothers, but also an aging workforce in which fewer workers support an increasing number of older citizens. The relative shrinkage in the working-age population should propel increased business interest and investment in worker well-being, including workers who are parents.¹¹

In addition, New Zealand is not a Nordic-style social welfare state, as some Americans might assume. Until 2002, New Zealand and the United States, along with Australia, held the distinction of being the only nations within the 30-nation Organisation for Economic Co-operation and Development (OECD)¹² to fail to provide statutory paid parental or maternity leave. It wasn't until 2002 that New Zealand mandated paid parental leave.

Another reason to look at New Zealand is that it has made paid parental leave work in a small-business environment. In the United States, FMLA does not apply to small businesses—that is, those with fewer than 50 employees. In contrast, New Zealand's paid parental leave (PPL) law applies to all employers—regardless of size. In fact, the vast majority of employers in New Zealand are small under the U.S. definition. PPL, despite its challenges, does not appear to have harmed business; indeed, since enactment of PPL, small business has performed well in the marketplace. In short, New Zealand businesses successfully

KEY FACTS ON NEW ZEALAND PARENTAL LEAVE

Unpaid Leave

In 1987, New Zealand passed a law providing eligible employees with up to 12 months of unpaid, job-protected leave, which couples can share, to care for a newborn or adopted child. A mother who receives the benefit may pass it on to an eligible partner. Eligible employees are those who have been employed by the same employer for more than 12 months and worked for that employer an average of 10 hours per week, including at least one hour per week or 40 hours per month. If an employee's job is established as a "key" position, the job is not protected, but the employer is required to give the employee preference in hiring for similar positions.¹³

Paid Leave

In 2002, New Zealand expanded its parental leave legislation to provide pay along with the unpaid leave it already allowed.¹⁴

Eligibility

Eligibility for paid leave is the same as the eligibility for unpaid leave (see above).

Length of Paid Leave

Eligible employees can take up to 12 weeks of paid parental leave. These weeks, when combined with unpaid leave, cannot exceed a total of one year.

Amount of Payment

The maximum payment is NZ\$334.75 (US\$224)¹⁵ per week before tax.¹⁶ Thus, workers who earn \$334.75 or less per week have 100 percent of their wages replaced while those who earn higher wages receive only a partial wage replacement.

Funding

Parental leave is financed through general revenues; there is no contribution required of employers or employees. New Zealand's decision to finance parental leave through taxpayer funds is rare, but not unique. Both Germany and Luxembourg pay the whole cost of their parental leave schemes through their general revenues.

abide by a significantly more generous set of statutory leave policies despite the fact that the firms implementing the rules are primarily composed of companies that in the United States are typically viewed as too small to bear the challenge.

The Experience of New Zealand Businesses

The following excerpts of interviews with 17 New Zealand firms with fewer than 50 employees offer a small business perspective on parental leave.¹⁷ The interview sample is not representative and the sample is small; yet, the voices raise issues of importance that deserve to be more fully explored.

Virtually all of the firms thought that the New Zealand PPL scheme was a good idea. Employer support ranged from "extremely positive," since it helped avoid premature return to work by employees who were not yet recovered or had not yet established a new family routine, to "absolutely" beneficial, since it affirmed the organization's own interest in promoting work-life balance. Several employers supported PPL because they believed it helped retain employees. At the same time, a few employers noted that retention was not a big issue for them.

While PPL was widely supported, only one of the 17 firms offered paid leave as company

policy prior to the 2002 law change.

General-revenue financing of PPL is generally viewed positively by interviewed businesses. As one employer noted, being able to utilize taxpayer funds was "quite good" since it was "not penalizing the employer and is looking after the employee." Another said: "I'm pleased the employer contribution [in the original bill] did not fly...it is too interventionist to have an employer pool. Small business already has a huge amount of compliance costs." These comments echoed the findings of a New Zealand Labour Department survey in which employers established that they would have viewed employer contributions as prohibitively

costly (particularly for small businesses), and it would have influenced their willingness to employ female staff in the future.¹⁸ Several of the employers expressed anxiety that the costs of PPL payments might eventually be placed directly on employers. “PPL is good for employers because at the moment...[employers] are not paying.”

Smaller firms have fewer experiences with PPL. Of the 17 interviewed firms, about half (eight) had experience with PPL, because a staff person had taken leave or was about to. Experience with unpaid parental leave was also limited, even though unpaid leave has been available in New Zealand since 1987. One clothing retailer with six employees noted: “In all my 39 years in business there has never been a woman who has taken maternity leave...it just has not been something we’ve faced... and our employees are most often women.” The owner of a 10-year-old company noted that unpaid leave had presented no problems in the past because those who became pregnant “left and decided not to come back.” Of the firms that had not had experience with PPL, some were misinformed about its basic rules. For example, one owner was unaware it was financed through general revenues and instead believed that funding was through levies on employers.

Managing employee leave is never easy but is viewed as “doable.” A first choice for an employer confronting leave is whether the

work of the employee is to be redistributed, assigned to temporary staff, or put on hold. The decision is often influenced by the role of the employee and the length of the leave. Some employers expressed concern that the 12 weeks of paid leave is manageable but keeping certain jobs open for 12 months was too difficult. This suggests that at least some employers may be unaware that the rules allow some flexibility for “key” positions, which are exempted from the leave laws.

While keeping a job open for a year, particularly if a temporary hire proved to be better than the regular employee, troubled some employers, a number preferred a year’s leave to shorter leave. This was because finding temporary staff for 12 months, rather than a shorter period, was sometimes easier, depending on the nature of the position.

Managers often articulated that businesses should be able to handle the challenges of leave, independent of company size. Among the comments were: “If you value your employee, this small hiccup called PPL should not be a problem for businesses with under 50 employees,” and parental leave is manageable because “everything is manageable.”

A government-funded survey of employers of all sizes (and employees) was undertaken in the first year of PPL in New Zealand. Over half of employers (54 percent) believed PPL has had no real impact on their business. Another third (35 percent)

indicated the policy had either a positive (27 percent) or very positive (8 percent) effect. Less than one-tenth (9 percent) viewed the overall impact as negative or very negative.¹⁹

Staff satisfaction was the most frequently noted (29 percent) benefit, and employee retention was also viewed as important (22 percent). A number of employers (29 percent) see PPL as having no benefits.

What Lessons Can the U.S. Draw from New Zealand?

The United States can learn from the New Zealand experience. This section identifies recommendations for engaging business in the development of national and state parental leave policies:

1. A public-private partnership can enhance business involvement in parental leave policy debates.

In New Zealand, the Equal Employment Opportunities (EEO) Trust took a lead role in educating the business community about PPL. The EEO Trust is a government partnership of public and private sector representatives designed to help businesses engage in workplace diversity. The EEO Trust’s business members reached out to other businesses to make the business case for paid parental leave; the government partnership with businesses enhanced the power of the outreach.

In the United States, the Families and Work Institute, a New York-based nonprofit, has launched “When Work Works,” an effort similar to that of the EEO Trust. “When Work Works” is a privately funded²⁰ nationwide initiative that highlights the importance of “flexibility in the workplace as a strategy to enhance businesses’ competitive advantage in the global economy.” The Families and Work Institute collaborates with a range of organizations. A partnership with government on a range of workplace flexibility issues, including paid parental leave, could marshal greater attention to, and engagement in, the issue.

2. General-revenue financing of parental leave can eliminate or limit a likely business objection.

In New Zealand, the original legislation called for businesses to bear the cost of PPL. Many business groups objected and smaller businesses expressed concerns that if the cost of PPL was borne by employers, the policy would have been too expensive for them. The decision to fund PPL out of general revenues enabled the legislation to be enacted, since it removed one of the major concerns of businesses.

A general-revenue scheme reflects the “social good” that parental leave affords. The years from birth to three are critical to

the development of children. In the United States, not providing paid parental leave may force some parents to seek public assistance. Parents who go back to work because they cannot afford to stay at home may seek government subsidies to help pay for the high costs of infant care; other parents might enter the welfare program because of the need for a bonding period with a young child. In both of these scenarios, there is a cost to government.

Tapping general revenues to finance leave in New Zealand occurred in the context of a budget surplus. In the United States, the government confronts a record budget deficit.

MANAGING PARENTAL LEAVE: THE TALE OF TWO MCDONALD’S IN NEW ZEALAND

Two McDonald’s franchisees in New Zealand, each with 35 employees, faced the same challenge—parental leave by managers—but took two different approaches to redistributing their work. One distributed the work of the absent employee among existing staff while the other “transferred-in” a manager.

The redistribution approach resulted in putting pressure on other managers. The franchisee decided not to hire a temporary person because of perceived risks in giving operational responsibilities to someone not intimately familiar with them. The franchisee explained: “We had to muddle our way through our first PPL experience.... Now I have an understanding of what it means and what it is about. If I knew five or six months in advance, I would train someone internally to take over her position.” His manager took three months off, and is back at work, and “she is physically fine. I credit her health to the time off.” The manager who returned from parental leave is given time to express milk.

This is a testimony to the franchisee’s interest in his employees’ well-being, as well as a reflection of the relationship of breastfeeding to parental leave and employment.

The “transfer-in” of a temporary staffer was, in contrast, a seamless way to cover the work of the manager on parental leave. This franchisee, through word of mouth in the McDonald’s community, heard about another manager who had become unemployed due to downsizing. He hired her temporarily to work the exact hours of the manager on leave. He urged others to give high priority to the transfer-in approach. The franchisee believed that PPL was a good thing for employees because “it guarantees that the mother, child, and family have no pressures to come to work early.” It is good for employers because “the more you look after your staff, the better the retention.” His management message to U.S. small businesses regarding leave is: “If I was able to manage, they can manage...no problems at all.”

While a general revenue approach offers several advantages—from deflating business opposition to recognizing a “social good” and spreading the cost—the current budget constraints mean that Congressional discussion of this financing option is unlikely to take center stage in the immediate future.

In the United States, California’s new family and medical leave program is financed solely through employee contributions, which are capped at around \$1 per week. While this approach did not remove the cost concerns and objections of all employers, it enabled other employers to become advocates for the policy. Employee contribution is one potential model for national replication.

3. General-revenue financing of parental leave could facilitate a longer period of leave.

In New Zealand, legislation extending PPL from 12 to 14 weeks, in keeping with international standards, is pending. This extension would be financed through the existing financing mechanism—general tax revenues. Virtually all of the 17 interviewed businesses believed the change to 14 weeks was “neither here nor there,” since the cost would continue to be borne by the government.

This suggests that U.S. policy-makers should not assume that businesses are most concerned about the number of weeks of leave. Of greater concern to business may be who bears the cost of payments to employees

and the business costs and inconvenience related to a temporary hire.

4. Making businesses aware that parental leave is a relatively rare occurrence could facilitate support.

In New Zealand, the relatively infrequent occurrence of birth and adoption was evident in that few of the 17 interviewed firms had yet had to implement PPL since it went into effect two years ago. In addition, few had experience with job protection related to unpaid parental leave.

In the United States, small firms are exempt from providing unpaid leave under FMLA. It is not evident to what extent unpaid parental leave in such firms might be taken if it were available. It would be useful to ascertain the extent of the need for, the likely take-up of, and the likely length of such leave, were it to be offered.

5. Management of employee absence during parental leave, whether paid or unpaid, is rarely easy for small firms to manage, but it is possible.

In New Zealand, the majority of businesses who had implemented PPL felt there was no drawback.²¹ Among the cited drawbacks, the most frequently noted was the costs of temporary staffing. At the same time, the 17 interviewed firms, including those without experience dealing with parental leave, typically indicated that they had or would find a way to manage the absences. Interestingly, some

interviewees felt that, depending on the position, a year’s leave could be better than shorter leave. This is because, in certain situations, a longer time frame might provide a larger pool of attractive temporary candidates.

For the United States, it would be useful to collect case studies of small firms that have voluntarily provided parental leave, either paid or unpaid. Ideally, the case studies would describe initiatives that provided leave to low-wage workers. Detailed case studies of such employers in New Zealand and elsewhere could also inform future national and state deliberations on paid and unpaid leave statutes that cover small enterprises.

Conclusion

New Zealand and the United States are different in many respects, but they share a fundamental economic truth: they both must operate in a manner in which every worker counts. Policies that enable working parents to work—and to parent—are a vital part of that framework.

New Zealand law promotes work-life balance by providing income and job protection for eligible workers—regardless of the size of the company or the socioeconomic status of the worker. It has accomplished this in a nation of small businesses. As the United States considers national legislation, and as states develop laws, the experience of New Zealand and its businesses is instructive.

Endnotes

- 1 The FMLA is available only to those workers who work in “covered establishments.” This is defined as a company of at least 50 employees within 75 miles of the worksite. To be eligible, an employee must have worked for a minimum of 12 months at the firm for at least 1,250 hours in the last year.
- 2 Phillips, K.R. (April 2004). *Getting Time Off: Access to Leave Among Working Parents*. Washington, DC: The Urban Institute. Available at www.urban.org.
- 3 Another way to expand access would be to change the eligibility rule related to the number of hours an employee must work in order to access FMLA. To take leave under FMLA, employees must have worked at least 1,250 hours in the last year, while in New Zealand, paid parental leave is available if the employee has worked 520 hours in the last year (see Key Facts on New Zealand Parental Leave).
- 4 U.S. low-wage workers are concentrated in smaller companies. While not limited to firms with fewer than 50 employees, a study of minimum wage workers found that 54 percent work in firms with fewer than 100 employees, while the minority work in larger firms. Berger, M.C. et al. (1999). *Distribution of Low Wage Workers by Firm Size in the United States*. Prepared by Carolyn Loeff and Associates for the U.S. Small Business Administration.
- 5 The paid leave is worker-financed through an expansion of the state’s Temporary Disability Insurance program and is available to employees at firms of fewer than 50 employees. Most employees will get over half (55 percent) of their usual pay, up to a maximum, while on leave. California is one of five states that had provided paid short-term disability to birth mothers for pregnancy disability and recovery from childbirth. For more information, visit www.paidfamilyleave.org.
- 6 Thresholds below 50 employees are also part of state laws in Oregon, Vermont, and D.C. See www.dol.gov/esa/programs/whd/state/fmla/index.htm.
- 7 Shonkoff, J., & Phillips, D. (Eds.). (2000). *From Neurons to Neighborhoods: The Science of Early Childhood Development*. Washington, DC: National Research Council and Institute of Medicine, National Academy Press. Available at www4.nationalacademies.org/news.nsf/isbn/0309069882?OpenDocument.
- 8 Hofferth and Curtin contend that the unpaid FMLA legitimized the right of employed women to leave their jobs temporarily, and with that right established, women could focus on negotiating other aspects of their job, such as flexible schedules and work hours, which encourage job retention.
- 9 Hofferth, S.L., & Curtin, S.C. (2003). *The Impact of Parental Leave on Maternal Return to Work After Childbirth in the United States*. OECD Social, Employment and Migration Working Papers No. 7. Paris, France: Organisation for Economic Co-operation and Development, p. 20. Available at www.oecd.org/dataoecd/26/45/2955849.pdf.
- 10 The analysis considered both parental leave and leave for serious illness at firms covered and not covered under FMLA. It should not be assumed that an analysis solely of paid parental leave would have identical results. Commission on Family and Medical Leave. (1996). *A Workable Balance: Report to Congress on Family Leave and Medical Leave Policies*. Washington, DC: U.S. Department of Labor, p. 114. Available at www.dol.gov/esa/regs/compliance/whd/fmla/chap9.pdf.
- 11 Organisation for Economic Co-operation and Development. (2001). “Balancing Work and Family Life: Helping Parents into Paid Employment.” In *Employment Outlook 2001* (ch. 4). Paris, France: Author.
- 12 The OECD groups 30 member countries in a unique forum to discuss, develop, and refine economic and social policies. They compare experiences, seek answers to common problems, and work to coordinate domestic and international policies to help members and non-members deal with an increasingly globalized world. See www.oecd.org/document/18/0,2340,en_2649_201185_2068050_1_1_1_1,00.d.html.
- 13 *Notice about entitlement to parental leave; Form 1*. New Zealand Department of Labour.
- 14 In addition to parental leave, New Zealand provides payments through a means-tested sickness benefit for those temporarily unable to work due to pregnancy and childbirth recovery.
- 15 Currency exchange in September 2004.
- 16 The \$334.75 payment represents 53 percent of average male and female weekly earnings.
- 17 Levin-Epstein, J. (2004). *34 Voices: New Zealand Business and Worker Interviews on Sick Leave and Parental Leave*. Wellington, New Zealand: Social Policy Evaluation and Research Committee of the Ministry of Social Development. Available at www.spear.govt.nz.
- 18 Gravitas Research and Strategy Limited. (August 2003). *Evaluation of the Implementation of Paid Parental Leave*. Prepared for the Employment Relations Service, New Zealand.
- 19 Gravitas, 2003.
- 20 Families and Work Institute website. Retrieved April 2004 from <http://familiesandwork.org/3w/about/index.html>.
- 21 Gravitas, 2003, p. 22.

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ABOUT CLASP

The Center for Law and Social Policy (CLASP), a national nonprofit organization founded in 1968, conducts research, legal and policy analysis, technical assistance, and advocacy related to

economic security for low-income families with children.

CLASP studies and addresses the impact of family friendly policies, such as sick leave and parental leave, on both workers and businesses.

While family friendly

policies are important for all parents, CLASP focuses particularly on low-wage working parents whose jobs generally provide less flexibility and time off to meet the needs for family time and family caring.

CLASP POLICY BRIEF

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