

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

By Jodie Levin-Epstein

Introduction

The United States does not have a federal law mandating that employers provide paid sick days for their employees. In practice, many companies provide this benefit because it makes good business sense. Providing paid sick days and other similar benefits allows businesses to better attract and retain quality workers. It also shows workers that their health and welfare are of concern to these businesses.

However, not all jobs provide workers with paid sick days and the situation has gotten worse. In 1997, only about 57 percent of firms provided paid sick days compared to 70 percent of firms in 1986.¹ While not all jobs provide paid sick days, all workers may face the need for such leave. Among working parents, one study found that half of

mothers and nearly one-third of fathers missed work to care for a child.² Research has found that sick children recover better when their parents are able to be involved.³

While the lack of paid sick days is not limited to particular job sectors or wages, most of the jobs that fail to provide sick days are at the lower rungs of the economic ladder. Thus, often the workers that can least afford to take unpaid time off must do so.⁴ These workers may risk losing their jobs if they take sick days. This is because low-wage workers may be in jobs that—in addition to not paying for a sick day—do not even allow a sick day to be taken, either for the worker's own sickness or the illness of a family member. The Families and Work Institute, a nonprofit research center, conducted a survey, which found that among low-wage and low-income workers, only 55 percent had access to paid sick leave compared to 82 percent of high-wage and high-income workers.

The time to care for a sick child was available to only 26 percent of low-wage workers compared to 57 percent of high-wage workers.⁵

ABOUT THIS SERIES AND BRIEF

This is the second brief in CLASP's Work-Life Balance series. This brief, along with the first one in this series—*Taking the Next Step: What Can the U.S. Learn about Parental Leave from New Zealand?*—is based on 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 Fellowship in New Zealand, considers the implications of parental and sick leave in New Zealand and the United States and highlights findings from 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.

This policy brief looks at what New Zealand has done to provide paid sick days for its workers. Drawing from the New Zealand experience, the brief then provides recommendations on what United States policy-makers can do to ensure that workers have paid sick days.

About the Author

Jodie Levin-Epstein is Deputy Director of the Center for Law and Social Policy.

To be clear, this discussion of paid sick days refers to time off from work to address *common* ailments, rather than serious illnesses. In the United States, the Family Medical Leave Act (FMLA) provides up to 12 weeks of job-protected, *unpaid* leave for qualified employees in certain firms to take time off for a *serious* illness. Paid sick days are needed for more common, short-term ailments. Though some U.S. employers limit sick days to time off for a worker's own illness, sick leave discussed in this policy brief also covers days off for the worker to care for a sick family member.

Why Does Paid Sick Leave Matter?

When employees come to work sick, their performance is often below par. This “presenteeism,” like absenteeism, carries costs to employers. One recent study concluded that workers who come to work sick cost their employers up to an average of nearly \$160 per employee annually because of reduced productivity (and that does not include the potential costs associated with co-workers who also get sick). The researchers suggest that the cost of presenteeism is greater than the cost of absenteeism.⁶ Other research

indicated that presenteeism costs employers more than \$180 billion annually but is less than the cost of absenteeism, which averages \$645 per employee per year.⁷

Businesses may worry about the cost of making leave available to parents with a sick child, but there may be “hidden” costs to employers when employees come to work while a child is sick at home. A recent study found that parents highly stressed about after-school care arrangements miss five more days of work annually than parents with low stress.⁸ It is not hard to imagine that a parent

KEY FACTS ON NEW ZEALAND'S PAID SICK DAYS

Overview

In 1991, New Zealand legislatively mandated that all employers provide a minimum of five days of paid sick or bereavement leave. As of April 2004, five days are exclusively available for sick leave, with a separate provision for bereavement leave.⁹ In addition, workers who do not use all of their sick leave in one year may carry it over into future years for up to 20 days of accumulated leave.

Uses

Sick leave may be used for an employee's illness or when the employee needs to care for a spouse or a dependent person (such as a child or elderly parent).

Eligibility

To be eligible, an employee must have six months of continuous employment with the same employer; the same five-day minimum is available to full- and part-time employees. A part-time employee is one who has worked for

the employer an average of 10 hours a week.¹⁰ Employees who have not yet worked six months may be advanced a paid sick day at the discretion of the employer.

Payment

Sick leave pay is exactly equal to the amount of pay the worker would have received if he or she had come to work. For example, if the worker normally works four hours on Saturday and is sick on Saturday, the payment is for the four hours of missed work.

Funding

The costs for employees' sick leave are borne by the individual employer. This includes the costs for the legislated minimum as well as any additional days the employer allows.

Documentation

Employers may request proof of illness at or after three days of absence. The law is silent on who pays for the documentation.

stressed about a sick child at home would suffer a similar loss of productivity.

Parents frequently miss work to care for a sick child and often worry that the time off will have negative implications for their employment. Working mothers are concerned that their job evaluation will suffer if they take time to care for their children. Specifically, 30 percent of surveyed mothers overall, 38 percent of low-income mothers, and 40 percent of single mothers worry about whether their care for their children will influence their job evaluations.¹¹

For low-income families, in particular, paid sick days are critical; these workers have less of an economic cushion to sustain them during unpaid leave. Paradoxically, losing pay for those days may occur at a time of added costs, including paying for doctor's visits and medicine. Further, both low-wage employers and employees report that workers are sometimes fired because they stay at home to care for a sick child with a common illness such as the chicken pox.¹²

Why Compare New Zealand to the United States?

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, independent 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 and the need for more workers should propel increased business interest and investment in worker well-being.¹³

Another reason to look at New Zealand is that it has made paid sick leave work in a small-business environment. In the United States, the unpaid leave law, the Family and Medical Leave Act,¹⁴ does not apply to small businesses—that is, those with fewer than 50 employees. It seems likely that U.S. small business would seek to be exempt from any proposed paid sick days law as well. In New Zealand, the vast majority of employers are small under the U.S. definition. In fact, New Zealand businesses successfully 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.

What New Zealand Businesses Say About Paid Sick Days

As described in more detail in the report, *High Wire Act*,¹⁷ New Zealand businesses were interviewed about their experiences with providing paid sick days. All of these businesses employ fewer than 50 employees, thus making them small businesses by the U.S. definition. Each of these businesses had ongoing experience with sick leave.

The interviewed firms believe that the presence of a statute on sick days was beneficial. All of the companies that discussed the role of the law (13) were supportive of it. The reasons for support ranged from employee protection, to humaneness, to a level playing field for employers. A number emphasized that sick leave was a function of decency, stating: “from a human perspective it is nice to know you won’t be punished for being ill” and “at the end of the day the employee is a person. A person will get sick. A company, to survive, must recognize that reality.” Another employer stated: “I don’t think all employers have their employees’ best interests at heart. I have experienced enough inappropriate relationships to know that not all employees get a fair deal, and a base expectation is an appropriate government role, and employees and employers

THINGS TO CONSIDER IN DESIGNING PAID SICK DAYS LEGISLATION

Who is eligible? Employee eligibility for sick leave is generally determined by the amount of time an employee has worked for an employer. The policy needs to define the eligibility time frame and determine whether to provide mechanisms to meet the needs of those workers who do not meet that threshold (e.g., advances on sick leave; other funding streams for assistance).

Who can be sick? While sick days may have been originally instituted to provide time off to a worker on the days the worker was sick, increasingly both company and government policies provide workers time off to care for a sick family member.

How long is the leave? In addition to how many days are available under sick leave, policy needs to address whether days that are unused in one year can carry over into the next. A carry-over provision can include a cap

on the number of days available within a set time frame.

What documentation? A policy can be silent regarding whether an employer can demand documentation or medical certification regarding illness. Alternatively, it could specify when documentation can be requested, who must provide the documentation, and who bears the cost of the documentation.

What is the financing mechanism? Employers are assumed to absorb the cost of paid sick days. This is largely because the number of sick days is generally limited and represents a very small fraction of an employee's annual salary. While the federal government could cover the cost of providing sick days, it is reasonable to assume that businesses' administrative costs in gaining the reimbursements could outweigh anticipated savings.

are allowed to build from there.” The value of a common set of rules was explicitly recognized by some employers who noted that the law helped, “because otherwise some other places could afford to make it a perk,” and with the law “everyone is on the same playing field.”

The businesses that provided higher wages tended to provide more paid sick days. Of the interviewed firms, 15 had policies that provided the statutory five days while two provided more. These two firms were distinguished by having amongst the highest paid employees of the 17 companies. “We want to be a fair and reasonable employer,” explained one, which provided

10 days of paid sick leave. Of the 15 businesses that did not offer more days, some said they did not because “[five days] should be sufficient,” or because of the additional cost beyond what they already absorbed for sick leave. Some firms that did not have a policy in place to provide more paid sick days than required allowed managers to use their discretion to grant extra days to employees.

Abuse of sick leave was perceived to occur by most employers; they also believed it was limited to a few employees. While a few of the employers had no concerns about sick leave and believed their employees only took leave appropriately, many perceived that a few employees took leave

when they or a family member were not sick. “We know as we get closer to the end of the year...employees are going to use sick days,” explained one employer. Another said that, while “everyone gets sick, a portion of society will take advantage of anything.” The employers tried different approaches to communicating with their employees about abuse because, as one noted, “a lax policy on sickness runs right through the business.” The concern for business is “the chaos created with last-minute call-ins.”

Carry-over of unused sick days was more often viewed as a good or neutral idea. Of the 10 employers who commented on

the new carry-over provision, only one asserted an interest in the days being used up in each year. The others thought “it is a real insurance” or “it rewards those who face a misfortune.” At the same time, a number thought it had these advantages but also carried with it the potential “to use it as holidays.” Some suggested that unused sick leave should be paid out as a bonus or in some other way be rewarded.

The absence of a statutory sick days policy in the United States was viewed with incredulity by most interviewed New Zealand businesses. Of the 16 employers who commented on this matter, two viewed the U.S. position as beneficial in that it was “fantastic for the employer” and “definitely an incentive to work.” The 14 remaining employers articulated views about the lack of a federal paid sick days law ranging from “I’m horrified” to “that’s very archaic” to “I think it is unproductive....It says that employers don’t see the value in allowing an employee some time off to get well.”

What Can the U.S. Learn from the New Zealand Experience?

The United States can learn from the New Zealand experience. This section identifies some key business-related points:

1. A national U.S. paid sick days law should be established to provide a minimum standard that applies to all businesses regardless of size.

In New Zealand, all of the interviewed small firms that discussed the role of a national law believed it was desirable to set a national standard for paid sick days. These employers viewed the law as ensuring that both employees and employers had a common understanding of what was expected in a base agreement. Employers with fewer than 20 employees felt this way as much as employers with fewer than 50 employees.

In the United States a paid sick days statute should apply to firms of all sizes.

2. A national U.S. paid sick days law should provide for a mean-

ingful illness verification process.

In New Zealand, a number of the interviewed firms felt there was a need to improve the medical verification process. Some felt that too often the medical verification had become a paper process that focused on forms rather than on medical diagnosis; this perspective was shared by some employees. One possible explanation for this problem may be a health care system overload. Providing employers with the authority to request medical certification ensures that they have a mechanism to verify that an absence was taken for the purposes intended by the leave. The medical certification process, to be sustained and credible, must recognize the capacity of the health system to provide such verification. Can the health system accommodate a verification process for illnesses that do not ordinarily necessitate a visit to the doctor (e.g., flu, a periodic migraine headache, back pain flare up)? What standards of examination are to be met? Must there be an in-person

U.S. ATTEMPTS TO ESTABLISH PAID SICK DAYS

The Healthy Families Act, introduced on June 15, 2004, would statutorily mandate seven days of sick leave for full-time employees and a pro rata equivalent for part-time employees. This is the first time a paid sick days bill has been introduced in Congress. In the Senate, the

lead sponsor is Senator Edward Kennedy (D-MA); in the House it has been introduced by Representative Rosa DeLauro (D-CT). The paid sick days would be available for an employee’s own illness or that of a family member.

visit? Can a pharmacist attest to an illness?

In the United States, a paid sick days statute should provide for the development of medical certification standards that are designed in consultation with employers, employees, and the health care system.

3. A national U.S. paid sick days law should provide for an illness verification process that considers workers' ability to pay for verification.

In New Zealand, the health care system, while undergoing change, is more broadly accessible and affordable for individuals than the U.S. system.

Nevertheless, some employers noted a willingness to pay for certification if an employee faced financial constraints.

Since the lack of health insurance is a major problem for millions of U.S. workers, the costs of the verification process for the uninsured may need to be addressed in legislation. Nearly 27 million adult workers (close to 1 of every 5 workers) are

uninsured in the U.S.¹⁵ If employers are allowed to ask for verification at any time, rather than only after a certain number of days of sick leave, more employees may face this cost issue. Thus, a U.S. statute also should weigh how short a sick leave can be taken before verification is required.

4. A national U.S. paid sick days law should provide for carry-over of unused days, up to a cap.

In New Zealand, virtually all of the 17 interviewed small businesses supported the carry-over of the annual five days of sick leave, which is capped at 20 days. It was the experience of some of these firms that few days would actually be carried over because most people needed to use their available days during the year. The ability to accumulate days by those who did not use them was seen as "insurance" or a "reward" for employees who worked with the company for a longer period.

A U.S. law should provide for carry-over into a second year. The take-up of carry-over sick

leave should be analyzed; if carry-over has benefits and is manageable for firms, future extensions should be considered.

Conclusion

This policy brief on paid sick days, and the previous one in this series on paid parental leave, provide a small business perspective on work-leave policies. As the interviews with New Zealand small businesses show, implementing work-leave policies is challenging, yet helping workers does not have to be detrimental to businesses. While some might worry that mandated paid sick days would result in untenable costs for small business, the New Zealand experience indicates these costs can be absorbed. Indeed, the latest New Zealand data show that profits have increased for the nation's small businesses.¹⁶ As the United States considers national legislation, and as states develop laws, the experience of New Zealand businesses with work-leave legislation is instructive.

Endnotes

- 1 Lovell, V. (2004). *No Time to Be Sick: Why Everyone Suffers When Workers Don't Have Paid Sick Leave*. Washington, DC: Institute for Women's Policy Research.
- 2 Henry J. Kaiser Family Foundation. (2003). *Women, Work, and Family Health: A Balancing Act*. Menlo Park, CA: Author. Available at www.kff.org/womenshealth/index.cfm.
- 3 Heymann, J. (2003). "Work Family Policy: Its Critical Impact on American Women and Families." Capitol Hill Briefing Series on Women's Health Policy, sponsored by the Henry J. Kaiser Foundation and Women's Policy Inc., October 8, 2004.
- 4 Losing a day's income is a serious issue for many workers. Nearly 80 percent of surveyed low-wage workers (earning less than \$11.00 per hour) report they are unable to save any money. Fifty-four percent have "only enough to keep up with bills" and another 23 percent have "less than needed to keep up with monthly bills). Hart Research and Wirthlin Worldwide. (2004). *Struggling to Make Ends Meet: Low Wage Work in America*. Washington, DC: Corporate Voices for Working Families.
- 5 Low wage was defined as hourly earnings of less than \$8.00 per hour in 1997 dollars; low income was defined as below 200 percent of the federal poverty threshold. Bond, J.T. (2002). *What Employers Should Know About Low-Wage Employees from Low-Income Families*. New York: Families and Work Institute.
- 6 The analysis considered 10 common, often chronic, medical conditions, such as hypertension and migraines. The lower range cost per employee averages \$120.00. Goetzl, R.Z., et al. (2004). Health, Absence, Disability, and Presenteeism: Cost Estimates of Certain Physical and Mental Health Conditions Affecting U.S. Employers. *Journal of Occupational and Environmental Medicine*, April.
- 7 Advance PCS. (June 5, 2002). Advance PCS Study Shows Top Health Conditions Cost Employers \$180 Billion in Lost Productive Time. *BW Healthwire*. Retrieved April 2004 from www.advancepcs.com.
- 8 Barnett, R., & Gareis, K. (2004). *Parental After-School Stress (PASS)*. Report forthcoming. Waltham, MA: Community, Families & Work Program, Brandeis University.
- 9 The 2003 Holidays Act provides up to three days of paid leave related to the death of a family member. See www.ers.dol.gov/nz/holidays_act_2003/bereavement.html.
- 10 In addition, the employee must have worked no less than one hour in every week or no less than 40 hours in every month of the six-month period.
- 11 Henry J. Kaiser Family Foundation, 2003.
- 12 Dodson, L., Manuel, T., & Bravo, E. (2002). *Keeping Jobs and Raising Families in Low-Income America: It Just Doesn't Work*. A Report of the Across the Boundaries Project. Cambridge, MA: Radcliffe Institute for Advanced Study, Harvard University.
- 13 Organisation for Economic Cooperation and Development. (2001). *Balancing Work and Family Life: Helping Parents into Paid Employment*. In *Employment Outlook 2001* (ch. 4). Paris, France: Author.
- 14 The Family and Medical Leave Act provides workers in businesses of 50 or more employees with 12 weeks of unpaid, job-protected leave to care for a newborn or adopted child or for a serious illness of one's own or in one's family. This leave is meant to be used for extended sick leave, not for individual sick days.
- 15 Of 141.8 million non-elderly workers, 18.7 percent are uninsured. Kaiser Commission on Medicaid and the Uninsured, Kaiser Family Foundation, and the Urban Institute (November 2004). *Health Insurance Coverage in America 2003: Data Update*. Washington, DC: Authors, Table 7. Available at www.kff.org.
- 16 Profits per full-time equivalent (FTE) increased between 2001 and 2002. See www.med.govt.nz/irdev/ind_dev/smes/2004/2004-11.html.

Work-Life Balance Series

January 2005
Brief No. 2

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

Work-Life Balance Series, No. 2

www.clasp.org
202.842.2885 fax
202.906.8000 main
Washington, DC 20005
1015 15th Street, NW, Suite 400