



# Our Working Nation

How Working Women Are Reshaping America's Families and Economy and What It Means for Policymakers

A Policy Roadmap

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Heather Boushey and Ann O'Leary March 2010



Center for American Progress



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# A call to action

This fall, the Center for American Progress together with Maria Shriver published a major report on the historic transformation of the American worker and the American workforce: *The Shriver Report: A Woman's Nation Changes Everything*. That report explored three key transformations in our families, our workplaces, and our entire society.

First, women now make up half of all workers in the United States, a threshold never reached before in the history of our nation.

Second, mothers are now primary breadwinners—making as much or more than their spouse or doing it all on their own—in nearly 4 in 10 families. If you add mothers who are co-breadwinners—contributing at least a quarter of the family income—*The Shriver Report* found that two-thirds of mothers are breadwinners or co-breadwinners in their families. While women of color and lower-income women have always worked in substantial numbers, the last few decades have shown striking increases in women's work across all racial and income groups.

These developments alone are a dramatic shift from the late 1960s, when women were one-third of the workers in the United States, and just over a quarter were breadwinners or co-breadwinners in their families. But not only has our workforce changed. Today, the very makeup of our families is dramatically different than it was in the mid-1970s when women began entering the workforce in larger numbers.

*The Shriver Report* explored this third key transformation, too. In 1975, nearly half of families with children consisted of a male breadwinner and a female homemaker. Today, that number is just one in five families. In 1975, single parents made up only 1 in 10 of our families with children. Today, single-parent households are one in five of our families with children.

In *The Shriver Report*, top-notch academic and policy experts from around the country examined how the major institutions in our society—government, our health and education systems, business, faith-based institutions, and the media—are responding to these key changes in our society and where they fall short. In each instance, the authors of the report find that our institutions are not adequately keeping up with these changes.

But we also found that there is an appetite among men and women for institutions to address this reality. Our poll, conducted with the Rockefeller Foundation and Time Inc., confirmed that overwhelming majorities of both men and women said that government and businesses need to adapt by providing flexible work schedules, better childcare, and paid family and medical leave. Both men and women agreed that businesses that did not adapt would be left behind.

The Center for American Progress believes these new workplace and family dynamics need to be recognized and become central tenets of our nation's progressive domestic and economic policy priorities. Policymakers and the public are hungry for real, detailed solutions to address this transformation of “Our Working Nation,” which not incidentally is the title of this report. In it, CAP offers solutions that go to the heart of our country's social and economic policies.

This policy roadmap is written in response to the plea for detailed, specific solutions that will help American workers and families meet the dual demands of work and family and, in turn, will strengthen our economy and the well-being of our families and our children. In the pages that follow, we outline a set of policies that address the needs of today's workers and working families as they really are, not as we imagine them to be. We focus on four key areas where we believe we need to make the most important changes:

- Updating basic labor standards to account for the fact that most workers also have family responsibilities by instituting predictable and flexible workplace schedules, ensuring that workers have access to paid family and medical leave, and establishing the right to paid sick days for all workers
- Improving basic fairness in our workplace by ending discrimination against all workers, including pregnant women and caregivers
- Providing direct support to working families with childcare and eldercare needs
- Improving our knowledge about family responsive workplace policies by collecting national data on work-life policies offered by employers and analyzing the effectiveness of existing state and local policies

This is a popular and doable agenda. Men and women of all political stripes are united in their desire to see the government and business update workplace policies in response to the needs of today's workers and families. But this desire isn't just part of a long wish list. These issues are essential to stabilizing the middle class and improving our economy. Businesses are more profitable when they adopt these policies, and families are more economically stable when they have access to workplace flexibility, paid family leave, and caregiving support.

To move these issues forward, we provide ideas for policymakers at all levels of government. The Obama administration, for example, should do more with its executive power to institute family-friendly workplace policies in our nation's federal workforce and in the vast workforce of federal contractors and grantees. Congress is already engaged in proposing family-friendly reforms, including introducing legislation on paid sick days, paid family and medical leave and workplace flexibility, but our legislators should move forward with these proposals.

So too could states and localities. Several states are leading the way by enacting paid family and medical leave, but more could be done at the state level while they await federal action. Finally, local governments also can serve as a laboratory for developing innovative workplace policies that are smart for business, smart for workers and smart for families. San Francisco and Washington, D.C. have led the way in this area by enacting paid sick days for their workers, and voters in Milwaukee have approved paid sick days (but enactment of the voter initiative is on hold pending a challenge in court). Still, other cities need to begin to act.

We also stress in this report that businesses do not need to wait for government action to institute family responsive workplace policies. In *The Shriver Report: A Woman's Nation Changes Everything*, we highlighted a number of businesses that are leading the way in creating workplaces that truly meet the needs of today's workers. Business leaders can use this report as a guide to the type of policies and practices workers need and that, in the end, will make them more profitable and more competitive in the global marketplace.

In short, "Our Working Nation" challenges policymakers at all government levels and business leaders to consider the facts about the makeup of today's workers and working families and then enact progressive policies to help them become better workers and caregivers—improving our economy and our society along the way. These are lofty goals worthy of a new progressive era in our nation's history.

– John Podesta, president and chief executive officer of the Center for American Progress





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# Introduction and summary

When we look back over the 20th century and try to understand what's happened to American workers and their families, the movement of women out of the home and into paid employment stands out as one of the most important transformations. Women are now half of all workers on U.S payrolls, two-thirds of mothers are bringing home at least a quarter of the family's earnings, and 4 in 10 mothers are either the sole breadwinner (a single, working mother) or are bringing home as much or more than their spouse (see Figure 1).<sup>1</sup> This increase in women's workforce participation and contribution to the family income has been dramatic across all racial and class lines, but is particularly striking among low-income women who are now primary breadwinners in two-thirds of their families.

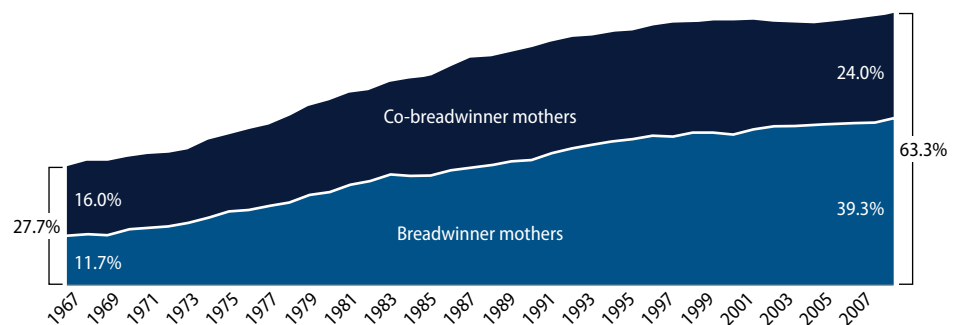
The movement of women into employment has transformed how we work and live. Yet government, business, educational, and other social institutions all around us are not keeping pace. Consider these everyday realities faced by so many families across the nation:

Inside the home, the majority of families no longer have someone to deal with life's everyday humdrum details or emergencies—from helping the kids with homework to doing the grocery shopping, or from being home for a sudden home repair emergency to picking up a sick child from school or taking an ailing parent to the doctor.

Workplaces are no longer the domain of men: Women are now half (49.9 percent) of employees on employer's payrolls.<sup>2</sup> While most men and women continue to work in different kinds of jobs, most workers under 40 today have never known a workplace without women

**FIGURE 1**  
**The new workforce**

Share of mothers who are breadwinners or co-breadwinners, 1967 to 2008



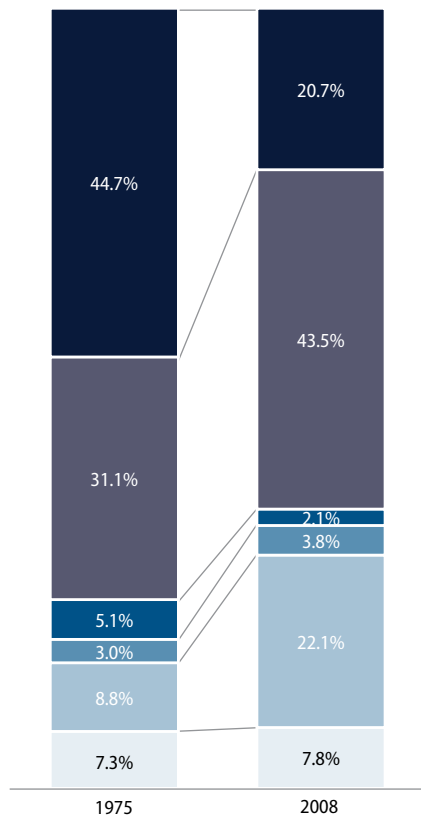
Source: Heather Boushey and Jeff Chapman's analysis of Miriam King, Steven Ruggles, Trent Alexander, Donna Leicach, and Matthew Sobek. Integrated Public Use Microdata Series, Current Population Survey: Version 2.0. [Machine-readable database]. Minneapolis, MN: Minnesota Population Center [producer and distributor], 2009.

Notes: Breadwinner mothers include single mothers who work and married mothers who earn as much or more than their husbands. Co-breadwinners are wives who bring home at least 25 percent of the couple's earnings, but less than half. The data only include families with a mother who is between the ages of 18 and 60 and who has children under age 18 living with her.

**FIGURE 2**  
**The new normal**

Changes in family structure and work, families with children under age 18, 1975 and 2008

- Married, traditional (only husband employed)
- Married, dual earner
- Married, both parents unemployed
- Married, non-traditional (only wife employed)
- Single parent, employed
- Single parent, unemployed



Source: Bureau of Labor Statistics, Economic News Release: Table 4. Families with own children: Employment status of parents by age of youngest child and family type, 2007-08 annual averages; Bureau of Labor Statistics, Indicator 18: Parent's Employment, Employment status of parents with own children under 18 years old, by type of family: 1975 to 1993.

bosses and women colleagues. Yet the vast majority of workplaces are still structured as though all workers have a stay-at-home spouse to deal with family needs.

Schools still let children out in the afternoon long before the workday ends and close for three months during the summer—even though the majority of families with children are comprised of either a single working parent or a dual-earning couple.

Most workers—men and women—now have family responsibilities that they must negotiate with their spouses, family members, bosses, colleagues, and employees, as well as the institutions around them, such as the childcare center or a doctor's office that doesn't have evening or weekend hours—even though so many people work odd hours in our 24/7 economy. Yet many workers have little power in negotiating their schedules with their employer, especially in nonunion settings.

The federal government has not updated its policies to aid families to reflect these new realities in the workplace and in the home. And the laws we do have on the books—the provision of unpaid, job-protected leave offered by the Family and Medical Leave Act and the prohibition against sex discrimination under Title VII of the Civil Rights Act—don't fully meet the needs of today's workers, especially lower-income workers.<sup>3</sup> Nor to any great degree have state and local governments updated their laws to address these problems. Yet this is one of the most significant policy challenges of the 21st century. Policymakers need to re-evaluate the values and assumptions underlying our nation's workplace policies to ensure that they reflect the actual—not outdated or imagined—ways that families work and care for their loved ones today.

Decades ago, the most common family consisted of a breadwinner husband and a stay-at-home wife (see Figure 2). While even then that did not describe the majority of families—and families of color have long been more likely to have working mothers—now, this is not even the most common type of family. Instead, there is a flowering of a variety of kinds of families. The marriage rate is currently at the lowest point in its recorded history,<sup>4</sup> and divorce remains a steady presence in the lives of many families.<sup>5</sup> More than one in five families with children is headed by a single parent.<sup>6</sup> There are approximately 770,000 same-sex couples living in the United States, 20 percent of whom are raising children.<sup>7</sup> This poses challenges for policymakers who must craft policies that meet the needs of all these kinds of families, not only the minority of families that look like “traditional” families.

Perhaps one of the biggest underreported implications of this transformation is the impact on men. No longer do men always bear the full burden of earning the majority of the family's finances, but they are now more likely to have—and want—to take time off work to attend to their family. With most mothers contributing to the family's budget, there are relatively few families with a full-time stay-at-home wife. Men and women are now left to negotiate the challenges of work-family conflict, such as who will go in to work late to take an elderly family member to the doctor or stay home with a sick child. Given this, it comes as no surprise that men in dual-earner couples today are reporting even more work-family conflict than women.<sup>8</sup>

In the United States, our policies more often than not implicitly assume that families have someone at home that provides care and can deal with school hours that are inconsistent with workday patterns or hospitals that send home recovering patients who need assistance. Many of our workplaces put no limits on mandatory overtime, do not require employers to provide predictable schedules, and discipline employees for even asking to talk with their employer about the kinds of workplace flexibility they need to cope with the complexities of modern family life. This is no way to run an economy and care for the next generation of Americans.

Americans are hungering for change. Our poll conducted for *The Shriver Report: A Woman's Nation Changes Everything* shows that most Americans agree that women working is good for the economy and society, and most also agree that our institutions need to embrace this new reality. A full 85 percent of Americans agree that businesses that fail to adapt to the needs of modern families risk losing good workers.<sup>9</sup> This includes 84 percent of men, 87 percent of women and 91 percent of liberals, and 80 percent of conservatives (see Figure 3).<sup>10</sup>

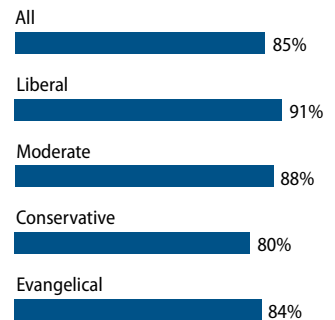
This report outlines a policy agenda that addresses the needs of today's workers and families as they really are, not as we imagine them to be. The agenda is inclusive and focuses on policies that we believe have the most political saliency and for which advocates can build a broad coalition of support. The policy agenda laid out here explicitly focuses on ensuring that workers from across the income strata and in all kinds of families can make use of these policies and that the agenda will lead to a marked improvement in the ability of families to manage work-family conflict.<sup>11</sup> But while this report outlines key policies, it is not an exhaustive list. We focus on four key areas where we believe we need to make the most important changes:

- Updating basic labor standards to account for the fact that most workers also have family responsibilities by instituting predictable and flexible workplace schedules, ensuring that workers have access to paid family and medical leave, and establishing the right to paid sick days for all workers

FIGURE 3

Q: Businesses that fail to adapt to the needs of modern families risk losing good workers: strongly or somewhat agree

By identity



Source: Rockefeller/TIME poll commissioned by the Center for American Progress and Maria Shriver, 2009.

We can improve our economy's productivity, our businesses' global economic competitiveness, and our society's ability to care for our children, our sick, and our elderly. These are 21st century reforms that simply must be enacted.

- Improving basic fairness in our workplace by ending discrimination against all workers, including pregnant women and caregivers
- Providing direct support to working families with childcare and eldercare needs
- Improving our knowledge about family responsive workplace policies by collecting national data on work-life policies offered by employers and analyzing the effectiveness of existing state and local policies.

These recommendations are not just good policy; they are good politics. They have a broad, cross-cutting base of support and can be crafted to work for workers in all kinds of families; not only for professional workers, but for middle- and low-income workers as well.

Some will question whether this is the right time to address these issues, given that the U.S. unemployment rate remains near 10 percent. For employers, one of the key findings from research over the past couple of decades has been that failing to address work-family conflict hampers productivity, primarily through increasing costly employee turnover. What employers need to recognize is that the worker with care responsibilities or the need for flexibility is no longer the exception, but is now the rule.

Management styles that can rise to the challenge of finding workable solutions to this problem will see the benefits in the bottom line. As employers, both public and private, look to implementing more part-time work and furloughs due to the Great Recession, this provides them with opportunities to experiment with policies on reduced hours, of which there is now a large literature on “best practices.”<sup>12</sup>

This agenda lays out a vision that addresses a challenge that has been a half century in the making. A key piece signaling recovery from the Great Recession will be seeing real growth in family incomes. But addressing the time squeeze and stresses of life for working families—all of them—will not happen until we address their work-family conflicts. And this will remain a potent political issue longer after the recession turns into a solid recovery.

We hope these progressive recommendations will help policymakers see the wisdom and political saliency of enacting reforms that match the needs of our workplaces with the needs of our families. We can improve our economy's productivity, our businesses' global economic competitiveness, and our society's ability to care for our children, our sick, and our elderly. These are 21st century reforms that simply must be enacted.

# Improving basic labor standards

*“The vision for the Department of Labor is good jobs for everyone. And one of the key components of a good job is having workplace flexibility for family and personal caregiving. We believe that work-life balance includes policies such as paid leave, flexible work schedules and teleworking, employee assistance programs, childcare and eldercare support.”*

– Seth Harris, deputy secretary of labor, Congressional Testimony, November 10, 2009.

This is a great vision. Today’s basic labor standards and government incentives for private sector employers to offer good benefits are not yet adequate to meet the needs of today’s workers who must, most often by necessity, combine work and family responsibilities in so many different, sometimes impossible, ways.

Workplace labor standards and benefits were built around the assumption that workers were breadwinners who had someone at home to take care of any matters related to the family. Today, that simply isn’t the case in four out of five families. This means that workers are left with limited capabilities to control their work schedules or to take paid and job-protected time away from work to respond to family needs. As we highlighted in *The Shriver Report*, only about a quarter of employees report that they have some kind of flexibility, though a much larger share of employers, anywhere from about half to most of them, report offering some kind of flexibility.<sup>13</sup> Regardless, workers with the least access to flexible and predictable work schedules are disproportionately low-wage workers, female workers, and workers of color.<sup>14</sup>

These standards were also constructed around a workforce that was more likely to be covered by a collective bargaining agreement. Unions have historically improved the pay and benefits for workers, including those around work-family conflict. The Labor Project for Working Families, for example, documents how collective bargaining agreements have included language to help workers meet their care responsibilities.<sup>15</sup> But with unionization rates decreasing over the past quarter century—down to 12.3 percent in 2009 from 20.1 percent in 1983—most workers cannot rely on unions to help them with their work-family conflict.<sup>16</sup>

Further, even when the government offers private-sector employers incentives to provide good benefits, the benefits are more likely to go to professional, higher-wage workers than

Low-wage workers are left with very limited access even to the basic package of benefits expected by higher-wage workers.

to low-wage workers.<sup>17</sup> Low-wage workers are left with very limited access even to the basic package of benefits expected by higher-wage workers.<sup>18</sup> Take the example of paid sick days, which became prevalent during World War II when the federal government was trying to control wages. Wage controls were in place, but the government allowed employers to attract workers with benefits that would not count toward the wage caps, including health insurance, pensions, and paid days off for vacation and for illness.<sup>19</sup> The historic remnant of this government incentive, however, is not spread equally across the workforce. Today, 81 percent of the highest-paid workers have access to paid sick days compared to 33 percent of the lowest-paid workers.<sup>20</sup>

So what should the government do? Put into practice the vision outlined by Deputy Secretary of Labor Seth Harris to ensure that “good jobs for everyone” includes workplace policies such as “paid leave, flexible work schedules and teleworking, employee assistance programs, childcare and eldercare support.” This section of our report will offer some concrete recommendations for improving basic labor standards offered to employees in the United States by both private employers and the federal government; later in this report, we address childcare and eldercare support.

At a minimum, basic labor standards should provide workers with the ability to control their work schedules and access needed flexibility and should include paid family and medical leave and paid sick leave for all workers, regardless of whether they are at the top or the bottom of the pay scale. These issues are not new, but with the rise in mothers as breadwinners, the percentage of our workforce needing these basic standards is increasing. Paid sick days, paid family and medical leave, and greater predictability and flexibility are not luxuries, but in fact are key to controlling costs by increasing worker productivity, reducing absenteeism, and cutting overhead costs.<sup>21</sup> They are good for the bottom line and make sense, even in the midst of an economy pulling out of deep recession.

In this section we discuss how to make progress on these goals. We will focus in this report on the specific components that should be part of our basic labor standards:

- Making the case for the right of workers to request predictable and flexible work schedules as part of our country’s basic labor standards and future economic competitiveness
- Moving toward a universal, national paid family and medical leave to provide all workers with the ability to take time off to help families manage their lives better and help employers retain workers with 21st century needs.<sup>22</sup>
- National paid sick days that allow workers to have paid time off for their own illness, to care for an ill family member, or to cope with a domestic violence situation

Each of these policy initiatives helps workers to meet unique family needs. Workplace flexibility and predictability allow workers to manage the day-to-day business of working and managing family responsibilities. Paid family and medical leave allows workers to



plan for longer-term leave to recover from one's own serious illnesses or to care for a newborn or newly adopted child or care for a family member with a serious illness. Paid sick days allow workers to take time off to deal with their own or a family members' short-term, unplanned illnesses. In each case, these policies can be crafted to address the needs of workers at the top, middle, and the bottom of the wage distribution.

We focus on these goals because they are important for meeting the needs of families, reforming outdated labor standards, and improving our economy's long-term economic growth prospects. But we also do so because there are identifiable—and politically salient—short- and medium-term steps we can take to meeting these long-term goals that will benefit workers across the income distribution and which will draw a broad coalition of support from both men and women.

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### Flexible and predictable work schedules

In recent years, our 24/7 economy has led to an increase in the problem of uncontrollable schedules for employees. As employers set up systems to ensure efficiency in production and service, too often the needs of employees are left out of the equation. This means that for low-wage workers, they can be faced with constantly changing work schedules, which make arranging consistent child or eldercare nearly impossible.

For blue and pink collar workers, employers' belt tightening coupled with meeting service demands too often means that workers are required, often with no notice, to work mandatory overtime hours even if they have an obligation to be at home to relieve a babysitter, pick up the kids at the end of the school day, or take an aging relative to the doctor. For professional workers, even the ordinary nine-to-five workday often no longer works because schools still close the doors in the middle of the afternoon and now there is no one left at home to provide care and too few quality, affordable afterschool options.

Workplace flexibility allows workers to alter their schedules at work, the location of their workplace, or both, enabling them to meet their responsibilities at work and address their family and caring responsibilities. Workplace predictability ensures that, at a minimum, workers will know their work schedules in advance from day to day and week to week so that they can make arrangements for their children or other family members who need care.

Work schedules that are flexible and predictable help workers sustain their family responsibilities over a lifetime—from coordinating with school schedules and arranging infant and childcare in the early years to carving out caregiving time for an elderly, ailing parent or spouse in later years. While the campaign for flexible and predictable work schedules has not received as much attention as paid sick and family leave, there has been steady, important research, advocacy, business and labor leadership going on in this area for many years.

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In 2003, the Alfred P. Sloan Foundation launched the National Workplace Flexibility Initiative, which supported the critical work of building up the scholarship and developing policy recommendations in this area through university-based research as well as through key organizations including Corporate Voices for Working Families, the Families and Work Institute, and Workplace Flexibility 2010 at Georgetown University Law Center.<sup>23</sup> And, notably, this body of work has often addressed the specific issues facing low- and moderate-wage workers in achieving workplace flexibility.<sup>24</sup> This critical groundwork can be used to build the case for flexible and predictable work schedules and to bring greater attention in Washington, D.C. and in states and communities around the country to the need for policy action.<sup>25</sup>

Americans want workplace flexibility. In our poll for *The Shriver Report*, we found that support for flexible workplaces is overwhelming. A full 74 percent of Americans say that employers should be required to give workers more flexibility in their work schedules.<sup>26</sup>

In an economic climate where furloughs are commonplace, involuntary part-time employment is steadily increasing, and many workers feel lucky to have any job at all, discussions of predictable and flexible work arrangements may seem like a luxury. Yet providing employees with flexible and predictable workplaces is a proven strategy to increase worker productivity, reduce absenteeism, and cut overhead costs.<sup>27</sup> This is true even for low- and moderate-wage workers, where reducing turnover saves firms money.<sup>28</sup>

In fact, some employers instituting cost savings measures as part of the economic downturn are doing it in a way that provides their employees with greater control and flexibility over their schedules—a win-win for employers and employees. The state government of Utah, for example, mandated a four-day workweek for its employees. The state didn't cut hours or wages, but did find that compressing the workweek into four days saved the state on its energy bill with a 13 percent reduction in energy costs and saved workers as much as \$6 million in gasoline costs from losing an extra day of commuting.<sup>29</sup> Both surveys of human resource directors and employees in the state government showed overwhelming agreement that the new schedule helped to alleviate work-family conflict.<sup>30</sup> And, most telling, 82 percent of state employees said that they'd like to continue working the 4/10 schedule—four days a week, 10 hours a day.<sup>31</sup>

Those who didn't like the Utah experiment, however, are an important part of the story—they are largely workers with young children who had difficulty finding extended childcare.<sup>32</sup> The problem with the Utah experiment is that it lacks one essential element of the type of workplace flexibility we are promoting—workers must have input into the flexible or alternative work schedule so that they can arrange care for family members to match their work schedule.

There are other examples in today's climate that do provide worker's with control and give businesses savings in return. Take voluntary furloughs. To avoid layoffs, a number of

employers are instituting either mandatory or voluntary furloughs. Voluntary furloughs allow workers to choose whether to reduce their hours in exchange for a pay cut. Leaving the decision in the hands of the employee allows workers to balance out their family caregiving and family economic needs to make the best decision for themselves while also serving as a cost containment measure for the business.

The experiments with flexibility and scheduling happening today could serve as an impetus to provide greater opportunities for employers and employees to work together on a more permanent portfolio of flexibility benefits. To that end, we discuss below what we mean by flexible and predictable workplace policies and benefits.

## Workplace flexibility

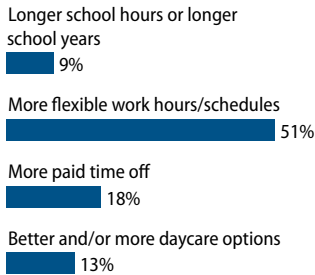
The key to workplace flexibility is that participation is at the worker's discretion and it does not entail pay or promotion penalties (it may entail pay cuts commensurate with reduced hours, but not penalties over time). This kind of flexibility must be worked out in close consultation between workers and management. Firms that have experimented with this kind of flexibility often allow employees to make requests for flexibility, which begins a process of negotiation that includes not only how the schedule will aid the employee in meeting needs outside of work, but also how the new schedule will ensure that the needs of the employer continue to be met.

Businesses have a range of options to choose from to implement this kind of flexibility. Employers could allow workers to set hours around a "core" set of hours when everyone must be at work, such as putting in an eight-hour day as long as the worker is at the office between the hours of 10 a.m. and 4 p.m., or allowing workers to set a regular shift, starting at 8 a.m. instead at 9 a.m. in order to leave an hour earlier. Alternatively, businesses could allow employees to work at a satellite office closer to home, to work at home, or to telecommute regularly. Implementing any of these kinds of flexibility requires regular communication between the worker and management to ensure the effectiveness and to set up a process to make changes in the schedule.

For employers, providing workplace flexibility is cost efficient. Instituting these policies can allow a business to have a nimble workforce consisting of loyal employees. Flexibility in work location, for example, is an environmentally friendly, cost-saving feature for many businesses, allowing them to save costs on office space while contributing to the reduction in congestion and pollution.<sup>33</sup> Allowing workers flexibility is also a proven way to reduce absenteeism and reduce costly employee turnover, which, on average, costs just over 20 percent of an employee's annual salary to replace that worker.<sup>34</sup> Already, one-third of private sector employers recognize the benefits of these policies and offer flexible workplace policies.<sup>35</sup>

FIGURE 4

**Q: Which of these things, in particular, would need to change in order for working parents to balance evenly their job or business, their marriage, and their children?**



Source: Rockefeller/*TIME* poll commissioned by the Center for American Progress and Maria Shriver, 2009.

Many companies are already doing these kinds of things. Take Hewlett-Packard Co., one of the world's leading technology companies. It has offered flexible hours to almost all of its employees for nearly forty years. And IBM Corp. has 40 percent of its 330,000 workers work virtually; from client sites or homes.<sup>36</sup>

The American public believes that workplace flexibility is important, too. In our poll for *The Shriver Report: A Woman's Nation Changes Everything*, we asked people this question:

“Which of these things, in particular, would need to change in order for working parents to balance evenly their job or business, their marriage, and their children?”

We gave them the choices of longer school hours or longer school years, more flexible work hours/schedules, more paid time off, or better and/or more daycare options. Figure 4 shows that the most common response was “more flexible hours/schedules,” indicating just how important the day-to-day challenges are for workers and their families. Men and women with children and those in lower-income families were more likely than other groups to say that “more paid time off” was the most important issue, with 21 percent of women and 23 percent of men with children at home giving that answer, as well as 18 percent of those living in families with less than \$40,000 a year in income, but even among these groups, more flexibility was most often seen as the key issue.

An example of what we are not proposing is the “comp time” legislation introduced since the early 2000s. That legislation would amend the Fair Labor Standards Act to allow employees to receive time off in lieu of overtime pay for hours worked beyond the standard 40-hour workweek. But this legislation allows the employer to determine when that time off would occur, rather than the employee, so that the flexibility could be entirely to the employer and not to the employee's benefit.<sup>37</sup> Advocates and economists expressed grave concerns that this legislation would likely lead to an increase in involuntary overtime.<sup>38</sup>

Of course, there is no “one size fits all” policy solution: Policymakers should not mandate that every employer offer a particular or specific kind of flexibility because that would interfere with true business needs. There are, however, a variety of policy options on the table that would encourage employers to work with their employees to find schedules that work for everyone. This brings us to our first family-friendly public policy goal.

*The goal: Increase access to fair workplace flexibility*

Employees and employers need a structure to work together to establish workplace flexibility and predictability. One of the biggest challenges with legislating around workplace flexibility is that success requires a change in business culture and a willingness to rethink how businesses can be most effectively run. At its core, meeting the goal of increasing access to fair workplace flexibility requires that employees have greater leeway to ask for and get flexibility or predictability in terms of hours or location of work, and that workers who choose reduced hours still get fair pay and benefits and are not subject to retaliation.

Changing corporate culture is a heavy lift, but many U.S. firms have already begun to move along this path. In *The Shriver Report*, Brad Harrington and Jamie Ladge cite a number of studies showing that when corporate climates allow workers flexibility, the benefits are considerable.<sup>39</sup> They note that Deloitte Touche Tohmatsu, a professional services consulting business, estimated a cost savings of \$41.5 million in 2003 in reduced turnover costs by retaining employees who would have left if they did not have a flexible work arrangement.<sup>40</sup>

One idea to encourage a change in mindset is to follow the model set out in the United Kingdom, New Zealand, and Australia by implementing “right to request” laws and policies.<sup>41</sup> These right- to-request laws do not mandate that employers provide every worker with the schedule they desire, but the laws do require that employers set up a process to discuss and negotiate workplace flexibility and only allow the employer to turn down the requests for certain business reasons.

This would be an improvement over the current situation in the United States, where an employee could be disciplined for even asking about flexibility or predictability. Putting in place a “right to request flexibility and predictability” would provide workers with the ability to make these requests without the fear of retaliation in the workplace. Asking for a flexible or predictable schedule would become a protected right.

In the United Kingdom, the path toward the right to request flexibility actually began with a national conversation about workplace flexibility and the need for fair compensation for workers with reduced hours. In 2000, the U.K. government formed a Work and Parents Taskforce, consisting of business and labor leaders to promote innovative and competitive business practices along with the fair treatment of employees.

In 2002, as a result of the work of the taskforce—and a push from the businesses community to convert a proposed entitlement for workers to receive reduced work schedules into a right to request an alternative schedule—Parliament passed the “Right to Request Flexibility” law.<sup>42</sup> Only workers with young children under 6, workers with disabled children under 18, and workers caring for an adult relative have the right to request in the United Kingdom.<sup>43</sup> Employers may refuse the request for flexibility only for certain business reasons, including the burden of additional costs, detrimental effect on meeting customer demand or on the quality and performance of the business, or inability to reorganize the existing staff to make it work.<sup>44</sup>

This “soft touch” legislation has been effective in increasing the number of workers in the United Kingdom with flexible schedules. Businesses have also found that this policy has been good for the bottom line. Even though employers had fairly broad discretion to deny the requests, only 10 percent of requests have been turned down since the law was enacted. And flexible schedules and working locations reduced employee turnover, which helps employers cut costs and retain valuable employees.<sup>45</sup>

Of course, there is no “one size fits all” policy solution: Policymakers should not mandate that every employer offer a particular or specific kind of flexibility.

Many workers are required to work overtime with little or no warning or have schedules that change often. These workers do not have scheduling predictability.

For this model to work in the United States, it would require the kind of “national conversation” that happened in the United Kingdom, as well as thinking through the ability of our legal and institutional structure to incorporate this kind of mandate and crafting the legislation to ensure that workers across the income distribution would be able to take advantage of this kind of proposal. The legislation would need to set up a structure to ensure that employees have a true right to request a schedule that works for them, as well as their employer, even in the absence of a union setting.

The consideration of adopting the U.K. model in the United States should also take into account whether a “right to request” provides enough of a right to employees to ensure that they can indeed attain flexible or predictable schedules. An alternative, stronger model can be found in the Australian state of New South Wales where employees are protected against discrimination based on care responsibilities, and employers are required to affirmatively provide reasonable, flexible work schedules unless doing so would cause the employer undue hardship.<sup>46</sup>

Further, in order for right to request to work effectively in the United States, it should also be used to help workers who do not want (or cannot work) overtime, who want to place limits on their hours, and who need help in addressing the issue of scheduling predictability.

The second part of this goal is that access to workplace flexibility should not lead unfairly to lower wages or benefits. Part-time workers are paid less for doing the same job.<sup>47</sup> Flexible schedules can “mommy track” workers, leading to pay and promotion penalties.<sup>48</sup> These results can be avoided through legislation requiring part-time parity in wages and benefits or by requiring that such principles be taken into account as employers consider requests for flexible work arrangements.

#### Predictability in work schedules

Many workers are required to work overtime with little or no warning or have schedules that change often. These workers do not have scheduling predictability. This kind of workplace may provide the employer with the flexibility to base staff levels on immediate needs, but it gives the employee little scope to cope with finding childcare or addressing other personal or family needs and leads to higher turnover as employees are faced with impossible choices between their work and family responsibilities. These issues are common for low-wage workers, but middle- and higher-income workers face challenges with scheduling predictability as well—although it more often takes the form of mandatory overtime or extremely long workweeks.

A lack of scheduling predictability can lead to significant conflict between work and family. Researchers have found that low-wage jobs in retail and hourly jobs often have schedules that are not available until a few days before a worker’s shift, yet childcare centers, who need to meet their bottom line as well, often require parents to pay for care

for a full week regardless of whether the child needs care that week and many providers do not offer nontraditional hours.<sup>49</sup>

Without predictability or flexibility, workers not only fear being fired or passed over for promotion, but many are forced out to quit entirely. Unstable schedules can wreak havoc on the day-to-day lives of families who are trying to manage care for children or the elderly and when those challenges become too much, many workers simply quit.<sup>50</sup> Consider the retail worker Kenya, who was interviewed by researchers Julie R. Henly, H. Luke Shaefer, and Elaine Waxman. Kenya put it this way, “[d]on’t too many people get fired a lot. Basically... most of ‘em leave because the schedule doesn’t work around their schedule.”<sup>51</sup> This is not just bad for the worker, it’s bad for business and hampers productivity as turnover exacts a costly toll on businesses.<sup>52</sup>

Many workers also experience demands for mandatory overtime or alternatively, may be sent home from work because there is not enough business. Again, these practices can wreak havoc on complicated family schedules and can cause major problems for family incomes. Workers may need to get home after work to care for a family member or may be charged by the minute if they pick up their child late from after-school care. Yet workers who are sent home may have already paid out for childcare or refused hours on their second job.<sup>53</sup>

On top of this, as the economy continues to struggle, we are seeing an increase in practices and policies that promote maximum flexibility for employers, but which often leaves workers with less control, less predictability, and less stability.<sup>54</sup> This means workers—particularly low-wage workers working in the retail and food service industries, but this happens to workers across the income spectrum<sup>55</sup>—are now experiencing a greater likelihood of reduced hours, sudden changes in work schedules, or requirements for great levels of availability with no guarantee of core hours to be worked.<sup>56</sup>

So here is our second public policy goal.

*The goal: Require employers to limit mandatory overtime and provide predictable schedules*

This is a long-term goal and, in the interim, we should encourage employers to limit mandatory overtime and provide predictable schedules. The government can then work to highlight the best ways employers have found to do so. There are a variety of ways forward to encourage employers to work with their employees to find schedules that work for both. Without compromising the need of employers to be responsive to the changing demands of the market, employers can institute policies that provide workers with greater control over their work schedules, including:

- More advance notice of work schedules
- Work schedule stability from week to week with a core set of hours to be worked at the same time, such as 70 percent to 80 percent of hours to be worked at the same time each week<sup>57</sup>



- Worker input into schedules, including implementing scheduling systems that allow workers to self-schedule, bid for desired shifts, and swap shifts with each other without prior approval from the employer
- Commitment to no mandatory overtime for workers or, at a minimum, employers should commit to advanced notice of any mandatory overtime required of employees and seek volunteers for overtime first

These simple policies would provide all workers, including low-wage workers, with more predictable schedules. This would, in turn, allow families to better coordinate care, including childcare, eldercare, and care for a sick family member, as well as other aspects of daily life with their jobs. Even without new laws, employers can and should implement these solutions on their own.

### Recommendations for concrete action: Congress

#### *Require the right to request flexibility and predictability*

Rep. Carolyn Maloney (D-NY) has introduced the Working Families Flexibility Act, H.R. 1274, which would allow an employee to request a change in number of hours worked, times when the employee is required to work, and location of work from their employer. The bill establishes certain employer duties regarding the consideration of such requests, including establishing a process for negotiating the request and providing the employee with an explanation when rejecting the request. Perhaps most importantly, this bill also provides job protection and prohibits retaliation against employees who make flexibility requests.

This bill may also be able to help employees gain more predictability. For instance, if employees can effectively use the law to request a certain schedule or to provide boundaries for their hours, without penalty, then this could help push employers to offer greater predictability. But the commitment to predictability should be made explicit in the bill.

Rep. Maloney introduced her bill in both the 110th and 111th Congress, but it has not received serious attention by any of the committees of jurisdiction such as the House Education and Labor Committee. On the other side of Capitol Hill, the late Sen. Edward Kennedy (D-MA) had introduced a Senate companion bill in the 110th Congress, but no other senator has taken up the legislation and so it has not been introduced in the Senate in the 111th Congress.

These ideas deserve serious consideration by the leaders of Congress, who should commit to move these bills through the committees of jurisdiction in both the House and the Senate. At the same time, we hope the flexibility bills will be amended to explicitly include workplace predictability and ensure that workers across the wage distribution would be able to take advantage of this policy, not just the higher-paid professional workers.



In addition, we believe that this bill should be strengthened to limit the reasons by which employers may deny an employee an alternative flexible or predictable schedule. Employers should be limited to business reasons in denying requests for flexible and predictable schedules and should be required to establish that making the change would cause undue hardship to the business.

#### *Encourage employers to offer predictable schedules*

The right-to-request-flexibility legislation does not get at some of the major systems and culture shifts that need to happen on the part of employers to provide workers with greater control to manage the predictability of their work hours. Congress should explore how best to increase scheduling predictability for low-wage workers.

A first step would be for Congress to hold hearings on the practice of mandatory overtime to determine whether the Fair Labor Standards Act should be amended to flatly prohibit the practice. Over the past several years, Congress has consistently put forward bills prohibiting mandatory overtime by nurses and health professionals, but there is evidence that the problem goes beyond the health sector. At a time when companies are reluctant to hire new employees, some are thriving on a skeletal workforce and then forcing employees to work mandatory overtime shifts rather than first seeking workers who wish to accept voluntary overtime assignments. This is not good for workers or our economy.

At a minimum, Congress should ensure that the government is not subsidizing companies that require mandatory overtime. President Barack Obama and Senate Democrats have put forward a proposal to reward businesses that either hire new workers or increase the salaries and wages of their current workforce by providing such businesses with a tax credit or a reduction in payroll taxes. As this proposal moves through Congress, it should be amended to prohibit any company receiving this tax break from requiring mandatory overtime of their workforce. This amendment would ensure that the government is not subsidizing mandatory overtime.

This additional requirement would ensure that employers hired more workers to cover their needs—boosting employment at a time when our economy sorely needs more jobs—rather than relying on a skeletal crew working mandatory overtime, and would provide workers with the type of predictability they need. This requirement wouldn't prohibit employers from offering voluntary overtime, which workers could take on in order to earn more of their family income, but would limit the practice of mandatory overtime which causes severe hardship on workers with caregiving responsibilities.

In addition, the House Education and Labor Committee and the Senate Health, Education and Labor Committee should hold exploratory hearings on how best to incentivize the private sector to implement predictable scheduling for employees, including developing and implementing scheduling systems that allow workers to gain control over their own schedules and receive advance notice of their schedules.

Congress should ensure that the government is not subsidizing companies that require mandatory overtime.

### *Encourage states to adopt short-term compensation programs*

In 17 states, employees can receive unemployment benefits to compensate for reduced work hours, but the U.S. Department of Labor could be doing more to improve and expand this program. Congress should promote nationwide implementation of this program by encouraging the Department of Labor to provide clear guidance on the program as currently there is administrative confusion for states considering newly adopting such programs.<sup>58</sup>

The 1982 legislation required that any employer who participated must continue health insurance and retirement benefits, and that the program must have the consent of bargaining representatives in unionized shops. The 1992 legislation, however, did not include those provisions, which has led to a lack of clarity about the program requirements.<sup>59</sup> The current guidelines are unclear as to what rules a state must include if they want to adopt this kind of program.

Congress could adopt a technical amendment as part of a future extension of the federal Emergency Unemployment Compensation program, or another vehicle such as the Labor-Health and Human Services appropriations bill to make clear that short-term compensation programs must comply with the 1982 rules. Enactment of such an amendment would send a clear signal that the states should adopt short-time compensation laws as an option for employers.

## Recommendations of concrete action: The executive branch

### *Use the presidential bully pulpit to create a national campaign for workplace flexibility and predictability*

Encouraging a shift in culture and attitudes about workplace flexibility is key to moving the ball forward. President Obama should create a national awareness campaign on workplace flexibility, as suggested by Workplace Flexibility 2010. This campaign could include:

- Sending senior government officials, such as the Secretary of Labor Hilda Solis and Vice President Joseph Biden (representing the Middle Class Task Force) on a national listening tour to hear about the challenges that workers and businesses face with regard to the lack of predictable or flexible schedules and host town hall meetings with experts and community members to talk about how flexible work arrangements might address those challenges
- Using the Department of Labor to highlight best business practices for flexibility and predictability, including establishing a system of national recognition for those businesses that model the best practices in flexibility and predictability for their entire workforce, and offering technical assistance to businesses interested in doing more to increase predictability or flexibility
- Encouraging policymakers to make high-profile speeches and to write opinion pieces highlighting the utility of flexible and predictable work arrangements for families and communities

- Using advertising in various media—print, television, the Internet—to explain how flexible and predictable work arrangements can help meet the challenges of the 21st century economy and the changing American workforce
- Encouraging employer recruiters at local community colleges and universities to advertise, as part of their recruiting efforts, their use of flexible work arrangements

*Provide federal workers with the “right to request flexibility”*

The federal government has historically led the way in creating flexible work arrangements for federal employees, but at this time it is not outperforming the private sector. Currently, just under one-third of federal workers have access to flexible schedules, which is the same proportion in the private-sector workforce. The private sector outshines the federal government in both the percentage of the workforce that telecommutes (6 percent of federal employees compared to 15 percent of private sector workers) and the percentage of the workforce working part time (approximately 3 percent of federal workers are working part-time for non-economic reasons, meaning they are generally voluntarily working as part-time workers, compared to just over 8 percent of private-sector workers who are working part-time for non-economic reasons).<sup>60</sup>

The policies are on the books to allow federal workers to take advantage of these flexible work arrangements, but the government isn’t doing enough to aid workers and managers to make it happen. Case in point: Fifty-six percent of federal employees qualify for telecommuting, but in order to be able to take advantage of telecommuting federal employees must get the approval of their supervisors often with no right to appeal this decision, which may be one reason that only 6 percent of employees actually take advantage of the federal telecommuting program.

The Office of Personnel Management, led by John Berry, already announced a commitment to make the federal government a model agency and improve employees’ access to some of these existing programs. The federal government could do even more by giving federal employees the right to request flexibility and access these benefits. Through an executive order or presidential memorandum, President Obama could direct the Office of Personnel Management to develop a fair and uniform process in the federal government to allow federal workers the right to request flexibility, ensure that the request is seriously considered and that employees are not retaliated against for asking.

*Study the innovations in flexibility and predictability resulting from the Great Recession*

The U.S. Department of Labor and Vice President Biden’s Middle Class Task force should partner to study the workplace policies the private sector implemented as a result of the Great Recession. There was a tremendous rise in workers who are now working part time for economic reasons. Overall, as of January 2010, 8.3 million people were working part time for economic reasons—an increase of 3.7 million workers from when the recession began in December 2007.<sup>61</sup>

The Middle Class Task force should partner to study the workplace policies the private sector implemented as a result of the Great Recession.

Over the course of the Great Recession, most of this increase—nearly three-quarters—has been attributable to “slack work or business concerns” rather than only being able to find part-time employment. This means employers are instituting a variety of policies and practices to limit the hours their employees are working. We know that some employers embraced practices to give workers some control and decision making over reduced hours or altered schedules.<sup>62</sup> To study this grand experiment in reducing and altering work schedules, the U.S. Department of Labor and the Middle Class Task Force should study these policies and practices and disseminate “best practices” and innovations, including how these policies play out differently for workers across the income distribution and in different kinds of occupations.

### Recommendations for concrete action: The states

#### *Initiate flexibility-predictability taskforces*

State governments do not need to wait for federal action. Governors and state legislators could initiate a taskforce to examine barriers to flexibility and predictability in their states, as well as study innovative policies and practices for flexibility and predictability within their state. These taskforces could be charged with completing a report to their governors on the policy recommendations for improving workplace flexibility and predictability.

Like in the United Kingdom, these taskforces should include representatives from both business and labor. But the state task forces should be tailored to the industries and unique needs of workers in their states. Each industry will have varying needs for employees, which will affect flexibility and predictability. These concerns and issues should be brought to the state taskforces.

#### *Introduce the right to request flexibility and incentives for predictability*

To date, only one state—New Hampshire—has introduced state legislation that would allow employees the right to request flexibility, but this legislation has not moved out of committee.<sup>63</sup> Other states could begin consideration of how to improve workplace flexibility and predictability through the introduction of state legislation.

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### Paid family and medical leave: Reforming and updating our social insurance system

*“Those of us in the Senate must do everything we can to help hard-working American families, and [The Family Leave Insurance Act of 2007] represents a significant first step in those efforts. As the father of six children, I deeply understand the challenges families face following childbirth, in times of sickness, and when loved ones fall ill. In Alaska, the majority of parents hold full-time jobs outside the home, which often makes this pressure even more intense.”*

– Sen. Ted Stevens, June 21, 2007

The foundations for our nation's social insurance infrastructure was set out in the Social Security Act signed into law by President Franklin D. Roosevelt in 1935. The various policies implemented as a part of the Social Security Act focused on ensuring that the breadwinner's wage would be replaced if he (as it was most often a he) became disabled, was deceased, was unable to find work through no fault of his own, or was in retirement. Widows with children were provided with a nominal benefit because it was assumed that they could not support themselves otherwise.

While this system has many enduring features that have stood the test of time—such as the notion that social insurance should cover every worker—the presumptions inherent in the system involving work and family are outdated. Because there are fewer stay-at-home parents, the risk of family caregiving needs and medical situations turning into livelihood-threatening events is much higher today than it was in 1935 when Social Security was established.

As Ann O'Leary and Karen Kornbluh note in *The Shriver Report: A Woman's Nation Changes Everything*, the basic problem is that “our national system of social insurance has never been updated to provide financial support to families who have a drop in income because a worker cuts back on work or needs to temporarily leave the workforce to provide care to a child or sick or elderly relative.”<sup>64</sup> As one of the key foundations of our basic labor standards, our social insurance system should be updated to reflect the realities of today's workforce.

Being able to take time off to provide for family care responsibilities is an important benefit that our social insurance system should include. Paid family and medical leave is critical for family well-being as well as job security. That's why adding paid family and medical leave to our system of social insurance should be the next goal.

#### The current state of play: Unpaid family and medical leave

Currently, some U.S. workers have the right to 12 weeks of job-provided unpaid leave for their own illness, to care for a new child (adopted, foster, or birth), or to care for a sick family member under the Family and Medical Leave Act. According to the most recent Department of Labor report in 2000, only about half of U.S. workers are covered because the law excludes workers who have been with their employer for less than a year, have worked fewer than 1,200 hours over the past year at their firm, or work for a firm that employs fewer than 50 employees.<sup>65</sup>

Upon passage, FMLA quickly became a critical linchpin in meeting the family care needs of workers, who previously had no guarantee of time off to care for their families' needs. For those workers who qualified for FMLA coverage, it was a significant step in solving the problem of care brought on by the widespread employment of mothers. But the restrictions in FMLA make it hard for many women and low-wage workers to qualify since they are more

Being able to take time off to provide for family care responsibilities is an important benefit that our social insurance system should include.

likely to work part time and at small businesses. Further, because this leave is unpaid leave, many workers cannot afford to use it, especially among low- and middle-income families.<sup>66</sup>

Beyond the FMLA, only 8 percent of employees have access to paid family leave to care for a newborn, newly adopted child or care for a seriously ill family member.<sup>67</sup> About 40 percent of U.S. workers are covered by an employer-provide paid short-term disability program that provides income replacement when an employee is ill or temporarily disabled (including for pregnancy-related reasons or childbirth, but not for family caregiving purposes).<sup>68</sup>

Businesses report that the FMLA often works to their benefit. According to the most recent survey of FMLA, conducted in 2000, a large majority of employers who are currently required to comply with FMLA report that it has had no noticeable effects on their establishments' productivity, profitability, or growth, and has had a positive or neutral effect on employee productivity, absences, turnover, career advancement, or morale.<sup>69</sup>

Paid family and medical leave, if implemented in a way that makes sense, is likely to offer businesses even more benefits.

Paid family and medical leave, if implemented in a way that makes sense, is likely to offer businesses even more benefits. Women who have access to paid maternity leave are more likely than those with unpaid leave to return to work after they have a child, improving their lifetime earnings profile.<sup>70</sup> Workers who have time off for a serious illness recover quicker, as do ill family members who have the care of a loved one.<sup>71</sup> At least some portion of these workers will likely remain healthy enough to work longer than otherwise.

It is in the interest of employers to finance paid family and medical leave through social insurance, not individual companies.<sup>72</sup> With a social insurance system, employers need to provide the job or an equivalent job to the employee who needs to take such a leave if that worker is covered by FMLA, but they do bear the burden of paying employees during these critical periods of leave. If employers must each provide paid family and medical leave, then those who have disproportionately young or female staff (who are most likely to need parental leave) or older staff (who are more likely to need leave for their own or a family member's illness), will bear an undue burden for these costs, which is exactly what a national social insurance program will avoid.

### The way forward

Even though very few workers have paid family and medical leave, this policy is widely desired by the majority of the public. Nationwide, 77 percent of Americans believe that businesses should be required to provide paid family and medical leave for every worker that needs it. And this support for true family values cuts across the political spectrum: Sixty-four percent of conservatives and 89 percent liberals agree that businesses should be required to provide paid family and medical leave (see Figures 5 and 6).<sup>73</sup>

Most recently, the momentum toward paid family and medical leave has been happening at the state level. Two states, California and New Jersey, boast paid family and medical

leave programs that build on long-standing Temporary or Short-Term Disability Insurance programs, TDI or SDI, and in Washington State, the legislature passed a stand-alone paid parental leave program, but they have yet to fund it.<sup>74</sup> In both California and New Jersey, the TDI program provides near universal coverage to workers in the state for a disability or illness occurring off the job that limits one’s ability to work, including pregnancy disability (excluding only certain public employees).<sup>75</sup> In 2002, California extended their SDI program to offer six weeks of partial wage replacement for family leave. New Jersey passed a similar legislation last year.<sup>76</sup>

Moving forward, there are only three other states with Temporary Disability Insurance—New York, Rhode Island, and Hawaii—and only New York is actively considering expansion of its TDI program to include family leave.<sup>77</sup> The potential for passage in the states without TDI programs may be limited, although Oregon and New Hampshire are looking into paid family and medical leave and the Family Income to Respond to Significant Transitions Act, HR 2339, sponsored by Congresswoman Lynn Woolsey (D-CA), could help spur more action in the states if passed. A positive sign is that President Obama’s fiscal year 2011 budget includes \$50 million to help states set up their own paid family and medical leave programs.

*The goal: Paid family and medical leave for all workers nationwide*

It makes the most sense to establish a national paid family and medical leave program alongside our Social Security system for retirement and long-term disability. Setting up a new standalone, social insurance program for paid family and medical leave would be more costly and less efficient than adding this to Social Security. This is even more true if each state does this on its own.

The Center for American Progress proposes that policymakers build on the efficiencies of the Social Security program by adding benefits for three “life events” currently covered by the Family Medical Leave Act—one’s own serious illness, care of a seriously ill family member, and care for a newborn or newly adopted child—for the same amount of leave time as FMLA, which is a maximum of 12 weeks per year. We call this proposed program Social Security Cares.<sup>78</sup>

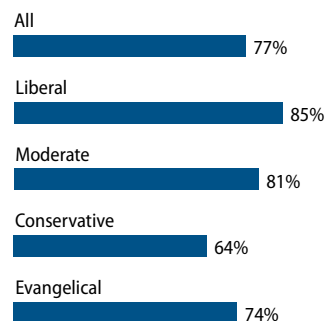
Social Security Cares would cover every worker currently covered by Social Security, which is nearly every U.S. worker, even those who do not receive unpaid job-protected leave from the FMLA. Eligibility for the program should be based on a worker’s lifetime employment history and would use reasonable terms, such as those already established for survivor’s benefits, which allow young, part-time, and low-wage workers to qualify for benefits, even when they are early in their careers. Benefit levels would also be tied to lifetime employment history and, like survivor’s benefits, would use a progressive benefit structure that would allow young, part-time, and low-wage workers to receive reasonable benefits.

Adding family and medical leave to Social Security is the best available way to administer paid family and medical leave insurance and provide universal coverage at the lowest cost

**FIGURE 5**

**Q: Businesses should be required to provide paid family and medical leave for every worker that needs it: strongly or somewhat agree**

By identity

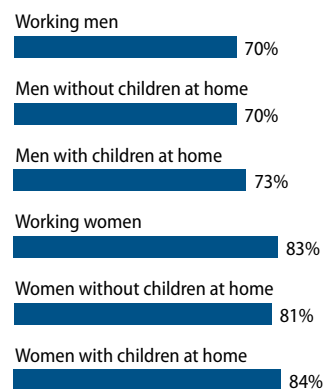


Source: Rockefeller/TIME poll commissioned by the Center for American Progress and Maria Shriver, 2009.

**FIGURE 6**

**Q: Businesses should be required to provide paid family and medical leave for every worker that needs it: strongly or somewhat agree**

By gender, work status, and children



Source: Rockefeller/TIME poll commissioned by the Center for American Progress and Maria Shriver, 2009.



possible. The bureaucracy is already set up to administer the system. The addition of paid family and medical leave must address the issue of timeliness of benefit payments, but holding the bureaucracy accountable to the program's goals will be necessary whether we set up a new system or work with the Social Security Administration. Because the Social Security Administration already administers benefits to workers who become disabled and a worker's surviving family members, there is a structure in place to establish the criteria for eligibility and benefits that takes into account a variety of life circumstances and employment histories.

Paying benefits during family and medical leaves is not terribly expensive. Estimates are that covering 100 percent of salaries for all workers would cost about \$120 per worker per year. Covering less than 100 percent of salaries would cost considerably less.<sup>79</sup>

There is every reason to believe Social Security Cares would strengthen, not weaken, the Social Security program overall. Some workers will increase their lifetime employment because this policy encourages them to stay employed through periods when they needed family or medical leave, so they will pay into Social Security for more years than they would have otherwise, boosting the resources for the system overall.

Adding paid family and medical leave to the Social Security system would improve our basic labor standards and acknowledge that we live in a world where most families no longer have a stay-at-home parent. It would complement other ideas to help caregivers establish sufficient social security credits to qualify for retirement benefits. Further, it would strengthen the intergenerational compact between young workers—who could then access the benefits of social insurance when they need it while they're working—and older workers who will maintain access to Social Security's retirement benefits and now should be able to have the benefit of an adult child who can afford to take time off work to help care for them if they need it.

*The goal: Expand job-protected leave to cover more workers and ensure that the definition of family is more inclusive*

Finding a way to provide paid family and medical leave is not enough. More workers need to have the security of job protection during their leave. FMLA's job protection coverage should be expanded beyond workers in large businesses and to part-time workers. Part-time workers need job protection for family and medical leave just like full-time workers, and there's no reason to exclude them from coverage.

Twenty-eight percent of U.S. employees work for employers with fewer than 50 employees,<sup>80</sup> and smaller businesses should be included under FMLA as a basic labor standard, like they are included in other standards, such as the minimum wage or overtime provisions. Not covering small businesses does not eliminate the challenges facing the majority of small employers who have employees with care responsibilities; it only masks the reality that these employees also have illnesses in their family and have children. Paid family and medical leave administered through a social insurance program would help small employers pay for these kinds of leaves.



Furthermore, currently under FMLA, employees are entitled to take leave only to care for a spouse, son, daughter, or parent of the employee, but this narrow scope does not allow for family breadwinners to take care of relatives who may be helping them with childcare or who are reliant on their extended family because of shifting employment patterns in the U.S. economy. Workers should be able to take leave to care for their domestic partner or to care for a close relative who is not an immediate family member, such as an ailing grandparent or aunt or uncle, without fear of job loss. FMLA should be amended to give employees this right.

## Recommendations for concrete action: Congress

### *Paid family and medical leave*

Rep. Pete Stark (D-CA) introduced the Family Leave Insurance Act of 2009, H.R.1723, in the 111th Congress. The bill would require the secretary of labor to establish a national paid family and medical leave insurance program. The bill allows the secretary to do so by contracting with states to establish or expand a state program or for the governor of a state to enter into an agreement with the commissioner of Social Security to establish a program in that state. The bill could be adapted to administer the entire national program through Social Security. The legislation would need to ensure adequate funds for the administration of the new benefits as workers would need to be paid in a timely manner and waiting times should be kept to a minimum.

Sen. Chris Dodd (D-CT) introduced a similar bill in the Senate in the 110th Congress, co-sponsored by former Sen. Ted Stevens (R-AK), but Sen. Dodd has yet to do so in this Congress. This bill directs the secretary of labor to create a national paid family and medical leave insurance program, but does not provide direction on the mechanism by which to do so.

To date, there have been no congressional hearings or movement on these bills. We recommend that both the House and the Senate begin a dialogue about the importance of paid family and medical leave. The House Education and Labor Committee and the Senate Health, Education, Labor, and Pensions Committee should hold hearings on these bills to explore how best to construct a national paid family and medical leave insurance program.

In June, the House of Representatives passed the Federal Employee Paid Parental Leave Act of 2009, H.R. 626, which would provide dedicated paid parental leave to federal employees. The companion bill in the Senate, S. 354, introduced by Sen. Jim Webb (D-VA), awaits action by the Senate Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia. Moving forward on this would be a good next step.

Congress should  
work to expand  
family and medical  
leave coverage  
within FMLA.

In addition, the U.S. Congress should encourage more states to experiment with establishing paid family and medical leave, as well as take similar steps at the federal level. Legislation introduced by Rep. Lynn Woosley (D-CA), the Family Income to Respond to Significant Transitions Act, H.R.2339, would provide funds for states that establish a system of partial or full paid leave for a minimum of six weeks to care for a newborn or newly adopted child, to recover from a serious health condition or to care for a seriously ill family member. And, as noted above, the legislation introduced by Rep. Pete Stark (D-CA), the Family Leave Insurance Act of 2009, H.R.1723, would allow the secretary of labor to contract with states to establish or expand a state paid family and medical leave programs. No comparable bills have been introduced in the Senate in the 111th Congress.

*Expand the Family and Medical Leave Act to cover all workers*

Congress should work to expand family and medical leave coverage within FMLA. Several bills currently pending in Congress would expand the definition of family or what kinds of leaves are covered by the FMLA.

Rep. Maloney's Family and Medical Leave Inclusion Act, H.R. 2132, for example, would expand the definition of family so that an employee could take leave to care for his or her same-sex spouse (as determined under applicable state law), domestic partner, parent-in-law, adult child, sibling, or grandparent who has a serious health condition. And Rep. Lynn Woolsey (D-CA) introduced her Domestic Violence Leave Act, H.R. 2515, in the 111th Congress, which would allow workers to use FMLA leave to care for oneself or a family member who is suffering the effects of domestic violence, sexual assault, or stalking.

Another set of bills broadens the coverage of FMLA to include more businesses or more types of workers:

- Rep. Maloney's Family and Medical Leave Enhancement Act, H.R. 824, introduced in this Congress, would extend FMLA coverage to workplaces with 25 employees to 50 employees and would allow workers 24 hours of leave per year to allow more parental involvement in their children's school or activities, as well as routine family medical needs.
- A similar bill, the Family and Medical Leave Expansion Act, was introduced on the Senate side by Sen. Dodd in previous Congresses (S. 282 in the 109th Congress and S. 304 in the 108th Congress), a Senate version was not introduced in the 110th or 111th Congresses.
- The Family Fairness Act, H.R. 389, sponsored by Rep. Tammy Baldwin (D-WI), which eliminates the minimum-hours requirements for FMLA so that part-time workers would become eligible for qualified leaves at covered establishments. There is currently no companion bill in the Senate.

With one-half of the workforce excluded from FMLA coverage and many more workers who cannot access leave to care for the family members closest to them, these bills should be introduced in the Senate and both chambers should work together to move forward on the expansion of FMLA.

Congress and the Obama administration recently showed their leadership on expanding FMLA by passing the Airline Flight Crew Technical Corrections Act, which amends the so-called hours-of-service requirement of FMLA specifically to include flight crews, whose hours are calculated in a unique manner and as a result were not covered by the original FMLA. This bill was signed into law on December 21, 2009, by President Obama.

## Recommendations for concrete action: The executive branch

### *Work with Congress to Pass the Federal Employee Paid Parental Leave Act*

A strong push by President Obama in support of the Federal Employee Paid Parental Leave Act of 2009, H.R. 626/S. 354, would help ensure the federal government provides a minimum of four weeks of paid parental leave to its employees, which could be extended up to six weeks based on the Office of Personnel Management's recommendation.

Public health research shows that six weeks of paid parental leave is not enough time for baby bonding with a new infant, but this bill is an important first step. Furthermore, federal employees will still be able to use their accrued paid vacation leave during their 12 weeks of job-protected leave afforded under FMLA for the purposes of baby bonding.

### *Reinforce role as a model employer on family and medical leave policies*

The federal government already has a solid set of policies on unpaid family and medical leave and paid sick leave. But the federal government could do more to raise awareness about these policies and to ensure that they are being uniformly enforced across agencies.<sup>81</sup>

The federal government is required to offer eligible employees leave under the Family and Medical Leave Act. FMLA requires 12 weeks of unpaid, job-protected leave to allow employees to attend to the employee's own serious health condition, recover from child-birth, care for a newborn or newly adopted child, or care for a seriously ill child, spouse, or parent. Federal employees are permitted to use up to 12 weeks of their accrued paid annual leave (including paid sick days) for FMLA purposes.

Some federal employees are also eligible for an additional 24 hours of job-protected, unpaid leave to participate in childcare or school activities related to their child's educational advancement, or to participate in volunteer activities for a child who is not their own. This policy, however, is left to the discretion of individual agencies and supervisors.

The federal government could do much more to help federal contractors fight sex discrimination and reach their affirmative action goals for women.

The federal government, however, does not collect any comprehensive data on the use of family and medical leave policies. Collecting this data would help determine which employees are accessing the leave policies and whether agencies are equally and uniformly enforcing them. The president should direct all federal agencies to report to the Office of Personnel Management on whether and how their employees are using these policies, including a study on the percentage of employees who are able to use accrued paid leave during FMLA leaves. OPM could then use this information to encourage agencies to do more in enforcing these laws where there are low levels of take-up.

*Encourage federal contractors to offer paid family leave*

Executive Order 11246 prohibits sex and race discrimination in the federal contractor workforce and requires federal contractors to put in place affirmative action programs to improve the recruitment and retention of minorities and women. To date, the federal government has not advised federal contractors to consider the implications of the lack of family leave and workplace flexibility on its workers, particularly women.

The federal government could do much more to help federal contractors fight sex discrimination and reach their affirmative action goals for women. First, the Office of Federal Contract Compliance Programs could more rigorously investigate whether pregnancy and family caregiving discrimination is occurring when it conducts audits of federal contractors. Second, OFCCP could provide technical assistance to federal contractors on meeting their affirmative action goals by encouraging federal contractors to examine their workplace policies and practices with regard to workplace flexibility and family leave. Finally, the federal government could reward potential contractors in competitively bid contracts by providing additional points to those employers who provide paid family leave to their employees.<sup>82</sup>

Recommendations for concrete action: The states

*Expand existing programs or create new programs for paid family leave*

California and New Jersey should be applauded for ensuring families in those states have paid time off for caregiving through their long-standing Short-Term and Temporary Disability Insurance programs. There are three other states that have these programs that also could expand them to provide paid family and medical leave—New York, Rhode Island, and Hawaii. As noted above, New York is the only state actively considering legislation to do so. New York should act on this legislation and the others should begin the process of evaluating similar expansions.

The President included \$50 million in his FY2011 budget to help states set up new paid family and medical leave programs. In addition, Congresswoman Woosley's Family Income to Respond to Significant Transitions, or FIRST Act H.R. 2339, would make

funding available to allow states to start and sustain paid family leave programs. The bill would provide grants to states to administer full or partial wage replacement for all conditions covered by the Family and Medical Leave Act. States could also contribute by extending this benefit to state employees.

*States with paid family leave programs should raise awareness*

California was the first state in the nation to pass a paid family leave law in 2002, building on its State Disability Insurance system, which already provided paid leave for disabilities related to pregnancy and childbirth. The law provides workers with six weeks of partial pay for workers to take leave to care for and bond with a newborn or newly-adopted child or to provide care for a seriously ill family member.

Over the past eight years, the law allowed hundreds of thousands of Californians to take leave to bond with a newborn or care for a seriously ill family member.<sup>83</sup> But awareness of the program still remains extremely low compared to awareness about the State Disability Insurance Program or the national Family and Medical Leave Act. A 2007 survey demonstrated that only 28 percent of Californians were aware of the California Paid Family Leave Program.<sup>84</sup> This compares to 69 percent of surveyed adults who were aware of the State Disability Insurance Program.<sup>85</sup> In California, low-income workers are the least aware of the California Family Leave Program. Fourteen percent of workers making less than \$25,000 were aware of the program compared to 36 percent of workers making more than \$75,000.<sup>86</sup>

New Jersey, only the second state to enact and implement paid family leave, began implementing their new paid family leave law this year. Already, the numbers of claims filed and approved is lower than anticipated for the first year of the program.<sup>87</sup> Extensive outreach was not implemented in the first year of the program, but advocacy groups are urging the state's labor commissioner to raise awareness in the second year. The legislation specifically allots administrative costs for outreach, conducting surveys and research.

California and New Jersey need to do more to raise the awareness of these programs among their citizens. Both states have the ability to do so by using funds in their disability trust funds to improve education and awareness about the program. A major public education campaign could be conducted without needing to dedicate general funds.

These public education campaigns could include efforts to reach new parents through their obstetricians, gynecologists and pediatricians and through new media, and it could reach the elderly (who also are in need of caregiving) through AARP and other senior groups. In addition, the campaign could be directed at low-income communities and workplaces to try to reach those employees who are least likely to be aware of the program, as well as non-English language media.

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## Paid sick days

A robust campaign in Washington, D.C. and in the states—led by the National Partnership for Women and Families and the Family Values at Work: A Multi-State Consortium to Promote Economic Security—is now fighting for the right for all workers to have a minimum level of paid sick days. Paid sick days are a critical component of updating our basic labor standards. Paid sick days allow workers to take short, unplanned leave when the worker or a family member is ill with an everyday illness.

In this economic downturn and with the wake-up call that our country could face another public health threat of the H1N1 flu virus or another even more deadly scare, the need for paid sick days becomes ever more urgent. Workers who are afraid of losing their job will not choose the risk of staying home with a child, and more children will go to school or daycare ill or be left home alone. Or instead, workers will stay home when their children are seriously ill, choosing family over work but endangering the livelihood of the family. The public health and the economic well-being of our families should not be threatened simply because a worker or a child has the flu.

*The goal: Every worker should be able to take paid time off to recover from an illness*

There are times when a person is simply too ill to be at work, especially if they have a contagious disease, or when they need to stay home from work to care for an ill family member. For this time off to be effective at helping ill workers, they need to be able to use it without prior notice to their employer. Some have argued that workers who have paid vacation or other personal leave are really “covered” for sick time, but many workers cannot take this kind of leave without giving their employer advance notice, making it unusable when a child wakes up with the flu or other urgent care needs arise so this is not a viable policy strategy.<sup>88</sup>

Yet, there are only two places in the United States where workers have the right to job-protected leave if they are sick: San Francisco as of 2007 and Washington, D.C. as of 2008. Voters in Milwaukee passed a paid sick days ballot initiative in 2008, but it is being held up by a court injunction.

## Recommendations for concrete action: Congress

Congress should move forward with The Healthy Families Act, HR 2460 and S 1152, which would allow workers to earn one hour of sick leave for every 30 hours worked, up to seven days of paid sick days per year. The law excludes workers in firms with 15 or fewer employees.

The Subcommittee on Workforce Protections of the House Education and Labor Committee held a hearing on the proposed legislation in June of 2009. It is being spearheaded by Rep. Rosa DeLauro (D-CT). The Senate bill was introduced by the late Sen. Edward Kennedy (D-MA) and is now being managed by Sen. Dodd in the Health, Education, Labor, and Pensions committee.

## Recommendations for concrete action: The executive branch

The federal government should lead the way by rewarding federal contractors that provide their employees with a minimum level of paid sick days.<sup>89</sup>

The federal government is already a model employer when it comes to its own employees. The federal government allows its employees to accrue paid sick leave at a rate of 13 days per year, which can be fully used for one's own personal illness, including pregnancy, childbirth and recovery, to care for a family member with a minor illness or injury, to attend to the death of a family member, or to accompany family members to routine medical appointments. And adoptive parents may use accrued sick leave for purposes related to the adoption of a child.

Like the rest of the private sector, federal contractors are much more likely to offer paid sick days to their higher-wage employees. The federal government could make a real impact if it rewarded federal contractors by providing additional points during the review of competitively bid contracts for offering a minimum level of paid sick days to its employees.

## Recommendations for concrete action: The states

States and localities should follow the lead of San Francisco, Washington, D.C., and Milwaukee, who have all passed paid sick days legislation. Three states—California, Minnesota, and Oregon—have already passed laws requiring private-sector employers providing paid sick days to allow employees to use their earned sick leave to care for an ill family member.<sup>90</sup> But states should go further and require a minimum level of paid sick days to be offered to all employees. More than 15 states have pending legislation.<sup>91</sup>

# Improving basic family-friendly fairness in the workplace

*“More and more women are denied jobs or promotions because they’ve got kids at home. As the son of a single mother, that is not the America that I believe in. I’ll be a President who stands up for working parents. We’ll require employers to provide seven paid sick days each year. We’ll enforce laws that prohibit caregiver discrimination. And we’ll encourage flexible work schedules to better balance work and parenting for mothers and fathers. That’s the change that working families need.”*

– Presidential-candidate Barack Obama, November 7, 2007

Our country has a set of employment nondiscrimination laws at the federal, state and local levels that require workers to be treated fairly with regard to hiring, retention and promotion on the job. At the federal level, Title VII of the Civil Rights Act of 1964 makes it unlawful for employers to provide unequal treatment to employees on the basis of race, religion, color, national origin, or sex. In 1978, Title VII was amended by the Pregnancy Discrimination Act to make clear that sex discrimination includes discrimination on the basis of pregnancy, childbirth, or related medical conditions.

In addition, the Family and Medical Leave Act of 1993 makes it unlawful to fire a worker who needs to take unpaid leave to recover from one’s own serious illness, disability, or medical condition (including childbirth), care for a newborn or newly adopted child, or care for a seriously ill family member. While these laws help millions of workers gain access to and keep good jobs, they fall short in fully covering all workers against discrimination based on pregnancy and family responsibilities.

First of all, large swaths of our workforce are not covered by our antidiscrimination and family and medical leave laws. FMLA alone excludes half of all workers in the United States either because they don’t work for a covered employer (with 50 or more employees) or they haven’t met the threshold workforce attachment requirements (one year working for the same employer at least 1,250 hours).<sup>92</sup> Title VII, including the Pregnancy Discrimination Act, excludes employers with fewer than 15 employees, which means 15 percent of the workforce is automatically excluded.<sup>93</sup>



What's more, our courts have weakened pregnancy discrimination protections offered over time, and this has a disparate impact on low-wage workers. Even for workers who are covered by the Pregnancy Discrimination Act, they may lack the protection they need to take time away to give birth and recover from it. As we note in *The Shriver Report*, a number of federal courts have interpreted the Pregnancy Discrimination Act to mean employers that do not allow workers any leave or extremely limited leave to recover from an illness or a disability are under no obligation to provide leave to pregnant workers.<sup>94</sup>

This gap in anti-discrimination protections affects the half of the workforce that is not covered by FMLA and most acutely affects low-wage workers who work for companies that offer no or limited leave to their employees for any reason. Nearly 80 percent of private-sector workers in the lowest earnings quartile have no access to short-term paid disability leave. Two-thirds of these low-income workers have no access to paid sick days, and nearly half receive no paid vacation days.<sup>95</sup> With no access to leave, women who by necessity must be away from work to give birth may lose their jobs.

Furthermore, a pregnant woman is offered no protection under the Pregnancy Discrimination Act if she needs physical accommodations during her pregnancy. If she is standing on her feet or lifting heavy items as part of her job, for example, and her doctor has told her to avoid these activities, her employer is under no obligation to transfer her to work that accommodates these restrictions. Instead, the employer can legally fire the pregnant worker.<sup>96</sup> This failure to accommodate means that many workers suffering from pregnancy-related, temporary disabilities are without any protection in the workforce.

Nor are workers with family responsibilities explicitly covered under federal law. In recent years, there has been a movement, led by Joan C. Williams at the Center for WorkLife Law, to fully utilize existing antidiscrimination laws to protect workers against discrimination on the basis of family responsibilities and to expand these laws to explicitly cover family responsibilities discrimination. This work led to critical policy guidance issued by the Equal Employment Opportunity Commission in 2007, which provides guidance to employers on using laws, including Title VII, to combat discrimination against workers with caregiving responsibilities.<sup>97</sup>

Using federal law and with the aid of this guidance from the Equal Employment Opportunity Commission, workers have had some success fighting discrimination on the basis of gender stereotypes—mothers should do all the childraising, men should bring home all the bacon—but all workers would be more fully protected with an explicit prohibition against caregiving discrimination.

Federal law currently does not explicitly prohibit discrimination on the basis of family responsibilities, but the Center for WorkLife Law recently released a report documenting that there is a growing number of state and local laws explicitly prohibiting family respon-

Large swaths of our workforce are not covered by our antidiscrimination and family and medical leave laws.

Most workers in the United States are without protection against family discrimination.

sibilities discrimination.<sup>98</sup> Many of these laws focus exclusively on discrimination aimed at parents of dependent children, but a handful go further and allow protection for workers caring for other dependents such as a disabled adult child or a dependent elderly relative.<sup>99</sup> Still most workers in the United States are without protection against family discrimination.

All of these types of family responsibilities discrimination are on the increase. A 2006 report documented a 400 percent increase in cases involving family responsibilities discrimination.<sup>100</sup> Pregnancy discrimination in the United States has long been on the rise, particularly among women of color, as carefully documented by the National Partnership for Women and Families on the 30th anniversary of the Pregnancy Discrimination Act.<sup>101</sup> The filing of pregnancy discrimination complaints has fluctuated over the years, but there appears to be a pattern of increased claims of pregnancy discrimination during times of recession.<sup>102</sup>

This makes sense because during recessions many more people are laid off—this was especially the case during the Great Recession—leading to more pregnant women who were fired under circumstances that could lead to discrimination claim filings. Because statistics from the Equal Employment Opportunity Commission show that cases found to have merit remain at approximately 50 percent whether the economy is shrinking or growing and we know more claims are made during times of downturn, there are greater actual numbers of women with real claims of pregnancy discrimination in times of recession than at other times.

The Center for WorkLife Law maintains a database of published cases and settlements involving discrimination against pregnant women and caregivers. While there is no national data kept on complaints of family responsibilities discrimination, there is anecdotal evidence from the Center for WorkLife Law that suggests that such discrimination also increased during the current recession.<sup>103</sup> For example, the Center for WorkLife Law has seen a rise in the phone calls to their hotline by workers claiming pregnancy and caregiving discrimination.<sup>104</sup>

Those kinds of discrimination cases cited by the Center for WorkLife Law are apparently being reported more frequently to the Equal Employment Opportunity Commission. During the first year of the Great Recession, the EEOC's backlog of discrimination cases increased dramatically, with a 35 percent jump from the end of 2007 to the end of 2008.<sup>105</sup> Fortunately, Congress this year intervened to give the EEOC additional funding to deal with this backlog, but in previous recessions the agency has often seen an increase in claim filings with no commensurate rise in enforcement funding to address the needs.<sup>106</sup>

The EEOC has been persistently underfunded and unable to fully enforce the existing laws protecting workers against pregnancy and caregiver discrimination. Reports produced by the U.S. Commission on Civil Rights have consistently found that low levels of funding and reductions in staff are undermining our civil rights laws.<sup>107</sup> Even before fighting for new antidiscrimination and antiretaliation laws, Congress needs to continue to increase funding so that EEOC can enforce these laws.

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## Antidiscrimination laws should provide for more robust family-friendly workplace policies

There is a critical role for antidiscrimination laws that underpin the implementation of the work-family policies we recommend. If employers are allowed to discriminate against workers with caregiving responsibilities, then the mere act of taking advantage of paid family and medical leave or asking for workplace flexibility could lead to discrimination against those workers. Currently, our antidiscrimination framework only tangentially recognizes “caregiver discrimination” as a distinct issue. That must change. Here we have two public policy goals:

*The goals: Enforce current antidiscrimination and antiretaliation provisions and broaden antidiscrimination laws to fully protect workers against family responsibilities and pregnancy discrimination*

Any new set of family-friendly policies need to provide strong antidiscrimination and antiretaliation provisions, and existing antidiscrimination laws need to be improved as well. The focus must be to improve benefits for all workers to ensure greater workplace flexibility, paid family and medical leave, and greater support for child and elder caregiving through new legislation, as detailed in the previous sections of this report. But existing and new benefits must be backed up with prohibitions against discrimination and retaliation.

We believe there are a number of steps that can be taken now to improve on and increase the enforcement of our existing antidiscrimination and antiretaliation laws. We argue that the recommendations we detail below could work to protect workers now from family discrimination while Congress works to ensure that as new benefits and policies are developed it develops robust enforcement mechanisms and provisions against retaliation for accessing these new benefits.

### Recommendations for concrete action: Congress

*Improve enforcement of our pregnancy and caregiving discrimination laws*

The Judiciary Committees in both the House and the Senate should hold hearings to better understand the lack of protection faced by pregnant workers and workers with caregiving responsibilities under our existing civil rights laws. These hearings should focus on how best to improve enforcement of existing laws and should include recommendations for amending the existing laws to more fully protect workers.

*Appropriate more funding for antidiscrimination enforcement*

Congress passed a FY 2010 budget that included a \$23 million increase in enforcement funds for the EEOC to address the 70,000 in backlogged discrimination cases.<sup>108</sup> This increase is necessary, but not sufficient. From 2000 to 2010, the EEOC faced a 25 percent reduction in staffing and in the last year alone, the agency faced a 20 percent increase in discrimination cases.

If the EEOC is going to effectively tackle pregnancy and caregiving discrimination, Congress must give it the sufficient appropriations to hire enforcement staff and focus on the necessary enforcement of existing laws.

## Recommendations for concrete action: The executive branch

### *Conduct a coordinated, nationwide enforcement campaign*

With greater numbers of women in the workforce and pregnancy and caregiving discrimination on the rise, the Equal Employment Opportunity Commission and the Office of Federal Contract Compliance Programs at the Department of Labor should work together on a coordinated public education and enforcement campaign to ensure pregnancy discrimination and family responsibilities discrimination are fully enforced. Specifically, Title VII of the Civil Rights Act prohibits sex discrimination in the workplace, which includes a prohibition against employment actions taken based on stereotypes, such as denying family leave to a man who is providing care because of an assumption that men should leave this job to women.

The National Partnership for Women and Families recommended that the EEOC conduct such a campaign after investigating the rise in pregnancy discrimination cases, particularly among women of color.<sup>109</sup>

The EEOC and the Office of Federal Contract Compliance Programs already have the authority to work together to have a larger impact and to ensure that both pregnancy and caregiver discrimination are addressed. Together, they should develop a coordinated campaign to raise awareness about these types of discrimination and to ensure that workers understand the full range of tools available to them to combat such discrimination.

### *Require federal contractors to prevent pregnancy and caregiver discrimination*

As Ann O’Leary noted in her recent report, “Making Government Work for Families,” the federal government can do much more to ensure that the federal contracting workforce combats pregnancy and caregiver discrimination. Executive Order 11246 prohibits sex and race discrimination in the federal contractor workforce, but it has not been rigorously enforced to protect federal contract employees from sex discrimination on the basis of pregnancy or caregiving responsibilities. Part of the reason for this lack of enforcement is that the Office of Federal Contract Compliance Programs has largely focused on systemic discrimination cases, which are harder to find in the case of pregnancy and caregiving discrimination.

The new head of this office, Patricia Shiu, has already indicated a strong willingness to revamp operations to fully meet its mission of prohibiting discrimination broadly and even in individual cases. This revamp should include greater education of employers and enforcement officers on the issues of pregnancy and caregiving discrimination—both through the coordinated campaign recommended above and through more routine updates such as updating compliance manuals and training its enforcement officers

on these issues, including enforcing the EEOC guidance on the unlawful treatment of workers with caregiving responsibilities and the strong OFCCP regulations prohibiting pregnancy discrimination.<sup>110</sup>

#### *Assess effectiveness of executive order prohibiting parental discrimination*

In 1999, President Bill Clinton prohibited parental discrimination in the federal workforce, but there is little indication that this executive order was enforced during the Bush administration. The Obama administration could assess the effectiveness of this executive order, determine whether it needs to be more robustly enforced, and consider whether the scope should be broadened to prohibit family responsibilities discrimination.

The Office of Personnel Management should make this part of their systemwide review of how to improve the family-friendly policies already on the books. As part of this effort, OPM should focus on whether and how this executive order is working and whether federal employees need additional tools to combat parental or family caregiving discrimination in the federal workforce.

#### Recommendations for concrete action: The states

##### *Strengthen pregnancy discrimination laws*

Only 10 states provide better protection than the federal Pregnancy Discrimination Act, either by state law or regulation, by prohibiting termination of employment based on pregnancy where an employer offers no leave or inadequate leave.<sup>111</sup> Those states are California, Connecticut, Iowa, Louisiana, Massachusetts, Montana, New Hampshire, Hawaii, Ohio, and Washington.<sup>112</sup>

While three states—Vermont, Maine, Minnesota, and Oregon—and the District of Columbia provide greater protection for all workers by providing state family and medical leave protection that covers more of the workforce,<sup>113</sup> there are still many women in many other states who have no access to job-protected family and medical leave and work for employers who provide them with no leave. All states should evaluate the scope of the lack of coverage in their state and either extend state family and medical leave laws to cover more workers or, at a minimum, ensure that pregnant women will not be fired for taking a leave to give birth and recover.

##### *Adopt family-friendly antidiscrimination statutes*

Only Alaska and the District of Columbia prohibit discrimination on the basis of family responsibilities.<sup>114</sup> More states should follow their lead.

Indeed, there are 63 local jurisdictions in 22 states other than Alaska and the District of Columbia that prohibit this type of discrimination. Among them are Miami Beach, Atlanta, Chicago, and Milwaukee.<sup>115</sup> These local laws should serve as a lesson for states to consider what is needed and what works.

## Direct support for caregiving

*“The true strength of the American family finds its roots in an unwavering commitment to care for one another. In difficult times, Americans come together to ensure our loved ones are comfortable and safe. Whether caring for a parent, relative, or child, our Nation’s caregivers selflessly devote their time and energy to the well-being of those they look after.”*

– President Obama, October 30, 2009

Ensuring parents and other family members have the ability to take time away from work or schedule their work around their family obligations is critical for most Americans in the workforce. Workplaces policies alone, however, are inadequate to ensure that our children, our elders, and our ill or disabled family members receive the care they need during the hours in which family members, who would otherwise provide care, are at work helping to sustain the family economically.

Workplace policies must be constructed in a way that meet the diverse caring needs of families. And these policies also must be coupled with the development of policies that allow paid caregivers to substitute for the unpaid family care when family members are at work. Further, these policies must be construed to ensure that paid caregivers receive livable wages and benefits are covered by the basic labor standards other workers receive, such as minimum wage and overtime provisions, along with the policies outlined here. Caregivers are disproportionately women and women of color and ensuring basic labor standards for these jobs is key to ensuring basic fairness in our workplaces.<sup>116</sup>

Today, there are more than 15.3 million children under 6 in the United States who need care while their parents are at work.<sup>117</sup> In addition, this year approximately 9 million Americans over the age of 65 need long-term care, a number that is projected to increase to 12 million by 2020.<sup>118</sup> Our government has left the responsibility of care for these millions of children and elders—both in terms of financing and the time away from work needed to care—largely up to families. That also needs to change. Here’s our vision.

Most Americans—68 percent—agree that the government or businesses should provide more funding for childcare to support parents who work. The support is weaker among conservatives, but half (50 percent) agree, compared to 85 percent of liberals, and

66 percent of evangelical Christians (see Figure 7). The support is strongest among lower-income families, even among conservatives, with 75 percent of conservatives with annual family income below \$20,000 and 60 percent with family income between \$20,000 and \$40,000 agreeing, compared to 85 percent of liberals with family income \$60,000 per year.

There is more of a gender gap on this issue than other work-family issues as women, especially those with children at home, are more likely to agree with this policy agenda than men, although the support among men is still considerable with 60 percent of men without children at home agreeing (see Figure 8).

## Increase government support for childcare and eldercare

At one time, our country and our political leaders envisioned a national, universal childcare system, which would have created federally financed childcare centers, and provided childcare for free to parents below a certain income level and tiered subsidies to aid the middle class in affording childcare.<sup>119</sup> This universal childcare bill passed the Congress in 1971, but the vision ended when President Richard Nixon vetoed it that same year.

Since then, our government has expanded and added to a mix of programs aimed at providing childcare assistance to low-income families, including Head Start and the Child Care Development Block Grant program, alongside childcare tax breaks aimed at middle-class families, including the Child and Dependent Care Tax Credit. These programs provide the federal backdrop and support for states and communities, which add their own funding to build on and expand childcare and preschool in the states.

Still, these programs only begin to meet the financial needs of assistance by low-income and middle-class families for childcare. In fact, only one in seven children eligible for direct childcare assistance receives it.<sup>120</sup> And in the vast majority of states, the annual price for childcare for an infant in a childcare center was higher than a year's tuition at a four-year public college.<sup>121</sup>

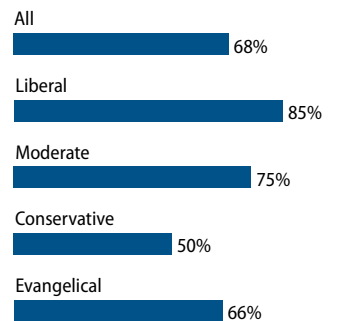
Today, there is a strong coalition of advocates for working families and children, including the National Women's Law Center, which is leading a coalition of children and family advocates to push for affordable, high-quality childcare.<sup>122</sup> The coalition's agenda includes a goal of doubling the number of families receiving childcare assistance nationwide. Achievement of this goal is the first step in recommitting to the goal of universal, nationwide support for childcare.

The coalition already can boast about some success. President Obama included nearly \$5 billion in additional Head Start and childcare funding in the \$787 billion economic stimulus and recovery package passed by Congress in March 2009, but much of these federal funds have provided a backstop to states that have cut their funds amid dire state budget deficits. Thus, the number of families receiving childcare support has not increased dramatically.

FIGURE 7

**Q: The government should provide more funding for child care to support parents who work/businesses should provide their employees with more child care benefits: strongly or somewhat agree**

By identity

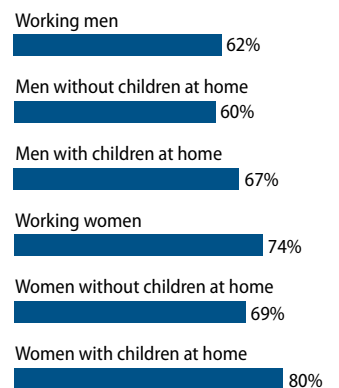


Source: Rockefeller/TIME poll commissioned by the Center for American Progress and Maria Shriver, 2009.

FIGURE 8

**Q: The government should provide more funding for child care to support parents who work/businesses should provide their employees with more child care benefits: strongly or somewhat agree**

By gender, work status, and children



Source: Rockefeller/TIME poll commissioned by the Center for American Progress and Maria Shriver, 2009.



In the vast majority of states, the annual price for childcare for an infant in a childcare center was higher than a year's tuition at a four-year public college.

In fact, initial indications are that there was a decline in the number of families receiving support.<sup>123</sup> President Obama's FY 2011 budget proposal offers more hope and commitment to families with childcare responsibilities by making the largest one-year investment in the Child Care Development Block Grant in the last 20 years—an increase of \$1.6 billion—and of expanding the Child and Dependent Care Tax Credit to provide greater relief to middle-class families. In addition, bills have been introduced by Sen. Barbara Boxer (D-CA) and Sens. Blanche Lincoln (D-AR) and Olympia Snowe (R-ME) as well as Rep. Dutch Ruppersberger (D-MD) that would expand the Child and Dependent Care Tax Credit to make it refundable for our lowest-income families.<sup>124</sup>

The federal government needs to make a continued investment in improving access to childcare, which will lead to greater workplace stability for parents and, with a focus on quality, lead to better jobs for childcare workers, the vast majority of whom are women. The Center for American Progress also wants government to focus on the increasing problem of providing care to aging relatives. So here is our policy goal:

*The goal: Support paid and unpaid caregivers through increased government funding, job-protected paid family leave, and workplace flexibility*

How our society will provide care to an ever-growing population of elders is one that has received limited policy attention. We believe the problem will continue to grow in magnitude in the years ahead and thus offer some policy solutions for eldercare as well in this section of the report.

#### Supporting caregiving for our aging relatives

The need for family or home-based care for elders is more acute today than ever before. Americans are living longer and longer. According to a 2007 Center for American Progress report, the number of elderly will jump to 80 million by 2050, up from 34 million in 2007.<sup>125</sup> More Americans desire the ability to age in place—to stay in their homes and communities and receive support to maintain their independence—yet families and communities are not set up to provide this support.<sup>126</sup> Even worse, over the past 10 years federal and state governments worked to rein in the high costs of institutionalized, nursing home care, shifting expenses to paid home-based care but also onto the unpaid support provided by families.<sup>127</sup>

The vast majority of unpaid caregivers and the paid caregiving workforce are women. Surveys of caregivers in California, for example, show that 75 percent to 80 percent of the unpaid caregiving is provided by women.<sup>128</sup> And among the paid care providers—consisting of nursing aides, orderlies, and home health aides—approximately 90 percent are women, half of whom are members of racial and ethnic minority groups.<sup>129</sup>

The economic rationale for providing greater support for both unpaid and paid caregivers is clear. For unpaid workers, the support is critical to keep them attached to the



workforce in the short and long run so that they can contribute over their lives to their family's income and contribute to their own retirement savings. For paid workers, the workforce is one of the few growing sectors in our economy—and is projected to be among the fastest growing in the years to come.<sup>130</sup> These workers will contribute to their own family incomes and be the engine behind our larger economy if we keep them working at a livable wage.

## Unpaid family caregiving for our elderly and disabled relatives

Today, there are 44 million family caregivers in the United States providing unpaid care to their aging relatives and to their relatives with disabilities.<sup>131</sup> Yet family caregivers have few tools provided by the government to aid them in taking time away from work or affording the expenses associated with caregiving.

For time away from work, family caregivers must rely on the Family and Medical Leave Act, which provides 12 weeks of unpaid, job-protected leave to care for seriously ill family members. But, as we've noted previously, FMLA covers only half the workforce. Even for those the law does cover, the definition of serious illness often excludes the day-to-day care needs of our aging relatives, and the recent regulatory restrictions on the use of intermittent leave may make FMLA even more difficult to access.

Families also receive little to no financial assistance when it comes to providing unpaid care to aging or disabled relatives. A full 80 percent of individuals needing long-term care receive their care solely from families and friends,<sup>132</sup> which means families providing this care incur tremendous expenses—both in lost income and benefits—as well as expenses paid for caregiving. In fact, the AARP estimates that families provide approximately \$375 billion in unpaid care each year to care for their elders.<sup>133</sup>

Unless a family member needing care is a dependent, the federal government provides no direct financial support for families providing unpaid care.<sup>134</sup> The federal government does provide some minimal support to family caregivers in need of information, assistance, caregiver training and respite care (temporary relief provided to family caregivers whereby the caregiver is provided with a break or respite from caring for the ill family member) through two programs: the National Family Caregiver Support Program and the Lifespan Respite Care Program. But the reach of these programs is limited due to the very low federal investment in these programs (\$154 million for the National Family Caregiver programs and \$2.5 million in the Lifespan Respite Care program for each of the last two fiscal years).<sup>135</sup> A step forward is that President Obama announced an increase of more than \$100 million to help people care for their elderly parents and get support for themselves as a part of his agenda for the middle class.

Today, there are 44 million family caregivers in the United States providing unpaid care to their aging relatives and to their relatives with disabilities.

## Paid care for elders and relatives with disabilities

The federal government provides limited, but important, financial support for home and community-based paid caregiving. Under Medicare, the universal health insurance provided to Americans aged 65 and older, support for long-term care needs is extremely limited. It is provided only for a limited period of time for individuals who need skilled nursing care or rehabilitation care after being discharged from a hospital or nursing home.<sup>136</sup>

The largest form of support for individuals with long-term care needs is provided under Medicaid, the health insurance provided to very low-income Americans and jointly funded by state and federal governments. Under Medicaid, states may receive funds under the Home and Community Based Services waiver program to use Medicaid dollars to pay for community-based long-term care services for individuals who would otherwise be cared for in an institutional setting.<sup>137</sup> In 2007, the federal government spent \$17 billion for home and community based-services.<sup>138</sup>

But these programs are threatened by state budget cuts because states contribute funds to the program on top of the federal dollars. In California, for example, the state government in 2009 attempted to slash its in-home support services program, only 60 percent of which is funded by federal Medicaid funds, by reducing the maximum reimbursable wage for paid caregivers by \$2 from \$12.10 to \$10.10 an hour, cutting services to 36,000 people and reducing services to another 97,000.<sup>139</sup>

These cuts in wages for caregivers are significant for the low-wage workers, mostly women and workers of color, who provide these much-needed services. This program allows the disabled and the elderly to receive care in their home by paid caregivers, thus providing relief both to those in need and to family member who may otherwise need to take time away from work to care for their family members.

For the middle class, there is no federal financial support for paid caregiving services to aid the elderly with activities of daily living. Instead, middle-class elders whose families cannot provide unpaid care must rely on their own savings to pay for such services, or they must have purchased long-term care insurance to aid in the payment of such services. Unfortunately, only approximately 10 percent of individuals 55 and older have purchased long-term care insurance.<sup>140</sup>

## Recommendations for concrete action: Congress

### *Support family caregivers*

This report includes a number of recommendations that would aid workers who are providing care to their aging and infirm relatives, including the creation of a national paid family leave program, the provision of a caregiving credit under Social Security, and the expansion of the Family and Medical Leave Act to cover all workers.

Only  
approximately  
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In addition, Congress should expand its investment in the National Family Caregiver Program and the Lifespan Respite Care Program as proposed in President Obama's FY 2011 budget.

Congress should also consider expanding the Child and Dependent Tax Credit, or creating an independent caregiving credit, to allow workers to receive credits for caregiving expenses even where the relative does not live with and is not fully financially dependent upon the taxpayer if the taxpayer is expending resources on the care of a relative. Sen. Amy Klobuchar (D-MN) and Sen. Barbara Mikulski (D-MD) have put forward such a proposal in their bill Americans Giving Care to Elders Act, S. 1604, which would provide a tax credit of up to \$6,000 for eldercare expenses related to the care of their parents.

#### *Increase access and affordability of long-term care insurance*

The inclusion of the Community Living Assistance Services and Support Act, known as the CLASS Act in both health reform bills passed by the House and the Senate, would go a long way toward providing Americans with necessary long-term insurance coverage. This insurance would provide cash assistance, approximately \$50 per day, to participants who are unable to perform two or three "activities of daily living," which generally means individuals with disabilities or the elderly. This would provide relief both to those needing care as well as to unpaid family caregivers who could go back to work knowing that their disabled or elderly relatives had the means to hire a caregiver.

While this proposed program would be voluntary and include no federal subsidies for premium payments by individuals, the voluntary payroll deduction would be automatic for all working adults unless they chose to opt out. Creating a nationwide long-term insurance program should help to drive up the number of insured from the current 10 percent of individuals over 55 with such insurance. The problem with the CLASS Act, however, is that in the end it is a voluntary program that could lead to adverse selection—only the disabled and the most needy elderly buying into the program—which could ultimately drive up the costs of the premium and make the program unsustainable.

#### *Provide greater financial support to states to provide in-home support services*

Congress should move forward with legislation introduced in this Congress by Sen. Maria Cantwell (D-WA) to increase federal financing of home-based care services. Her Home and Community Balanced Incentives Act, S. 1256, would increase the Federal Medical Assistance Percentages for home and community-based services, providing greater incentives for states to offer such programs and providing greater protection against state cuts to such programs, such as California's In-Home Support Services program.

This program, like many other state programs, allows the low-income disabled and elderly to stay in their homes and receive care from a paid caregiver, which relieves family members from having to provide unpaid care and forgo paid opportunities in the labor market.

## Recommendations for concrete action: The executive branch

### *Commission a major study on our aging population and caregiving needs*

The National Family Caregivers alliance, a community-based nonprofit organization working to address the needs of families and friends providing long-term care at home, recommends that the Institute of Medicine develop a study and policy blueprint on family caregiving in the United States. There has never been a nationwide government study of the provision of unpaid, family care in the United States. This study should consider the impact of this care on the economy and on the health and well-being of those providing care and those receiving the care.

A study by the IOM, the health care arm of the National Academy of Sciences, should not be limited to family caregivers. Instead, it should be a comprehensive assessment of how at-home care is currently provided, the supports needed for both unpaid and paid caregivers, and policy recommendations for improving national, state, and local supports for caregivers.

# Improving information on family-friendly workplace policies

Work-family conflict is widespread and threatens our nation's economic competitiveness. Yet, even though Americans of all incomes struggle with these issues every day, the challenges that employers and families face are little understood by policymakers. Case in point:

- We do not know how many people are currently eligible to use the Family and Medical Leave Act, the only legislation that provides any mandate on employers to provide workers with job-protected leave, nor do we know the law has affected employers and employees over the 2000s.
- We know little about how family leave insurance in California—the first state with such a program and the only one which has been up and running for five years—works or has not worked for employers and employees.
- We know less about the overall performance of the U.S. labor market due to cutbacks in a number of surveys that address issues more common among women workers and workers with care-giving responsibilities.

Policymakers rely on government surveys to help them understand policy issues. There are a number of key surveys, conducted by the U.S. Department of Labor's Bureau of Labor Statistics and the Department of Commerce's U.S. Census Bureau, that provide the foundation of our understanding of U.S. labor markets and family economic well-being. The federal government should ensure that these surveys are identifying the challenges of today's workforce. Therefore, here is our goal:

*The goal: Improve our data infrastructure to encompass the issues around work-family conflict and its effects on the economy*

Here, we provide a starting place for understanding the range of issues that the federal government should focus on in data collection and analysis. Our recommendations are four-fold:

- Undertake a review of our data infrastructure to evaluate how to better include a focus on work-family issues
- Update our key federal labor market and household surveys to provide better data on work-family issues

- Maintain funding for currently existing surveys that focus on work-family issues
- Conduct new surveys to address specific work-family issues

Here's how the federal government could begin all four tasks.

## Recommendations for concrete action: The executive branch

### *Evaluate our nation's data infrastructure to ensure inclusion of work-life issues*

The Obama administration should undertake a full review, spanning involved agencies including the Department of Labor's Bureau of Labor Statistics and the Commerce Department's Bureau of Economic Analysis, and the U.S. Census Bureau to ensure that our data systems reflect current realities. In particular, the Bureau of Labor Statistics should establish a women's advisory committee to study and monitor the research and surveys to ensure that they include work-family issues.

The president has already taken an important step in this direction. He's requesting funding in his FY 2011 budget to allow the U.S. Department of Labor's Women's Bureau in partnership with the Bureau of Labor Statistics to improve the collection of data on work and family responsibilities.<sup>141</sup>

### *Improve our regularly conducted surveys to provide data on work-family issues*

Many of the data series that we rely on for understanding our economy our labor markets have not been updated to include issues surrounding work-family conflict. The current survey methods and survey questions often do not take into account the transformation in family-work relationships or the changes in policy that have followed this transformation. Our key policy recommendations in this arena are:

- **Add a small battery of key questions about use of family and medical leave insurance and paid sick days to the core Bureau of Labor Statistics and Census Bureau surveys.**

Each month, the BLS conducts the Current Population Survey, or CPS, asking workers what they were doing last week. This survey has not been updated to include sufficient information to know whether employees are on paid or unpaid family and medical leave or whether workers are using paid or unpaid sick days, vacation or personal days for the purposes of family leave. Revising the survey to include this information would update the CPS for the 21st century, recognizing that access to leave is a basic labor standard that we still know very little about.

These questions also could be applied to other surveys conducted by the Census Bureau, such as the American Community Survey and all other surveys that ask about Americans' work experience in the prior week. The Department of Labor should coordinate with the Census Bureau on this process since these questions would appear on surveys done for both agencies.

- **Improve information on paid sick days from the National Compensation Survey conducted by the BLS.**

The National Compensation Survey provides data on employer-provided benefits, including paid sick days. However, that data is not broken out by race and gender. Thus, it is impossible to know whether access to paid sick days or other workplace flexibility policies are different based on the employee's race or gender.

Devastating budget cuts in recent years have handicapped a number of key surveys that explicitly focus on work-family issues. These cuts should be reversed.

- **Maintain and continue to update the Survey of Income and Program Participation, conducted by the Census Bureau.**

The Survey of Income and Program Participation, or SIPP, is the only regularly fielded survey that includes questions on paid family and medical leave, work schedules, child-care usage, and access to workplace flexibility. These topical modules must be included in the future iterations of the SIPP and must be expanded to recognize that both men and women take family leave,<sup>142</sup> as well as to address a wider variety of work-family issues.

- **Fully fund the American Time Use Survey, conducted by the Bureau of Labor Statistics.**

The American Time Use Survey is a relatively small annual survey of 14,000 respondents, first fielded in 2003, that focuses on how people spend their time. This survey includes a breakdown of the activities that respondents engage in every hour over the course of a week in order to understand how much time families spend working, caring for one another, doing housework, in recreational activities, or sleeping. These data are critical for understanding how families cope with work-life balance issues and how care-work is allocated among family members.

- **Fully fund the Current Population Survey and ensure that the CPS Supplements, which provide in-depth analysis of a variety of issues including contingent work, income and poverty, and job tenure, are all regularly conducted.**

The Current Population Survey faced severe budget crunches in recent years and the BLS claims that unless it get increased funding, the agency will be forced to reduce the sample size of the monthly CPS, which is the survey that provides us with monthly information on unemployment, employment, and wages. This reduction would curtail our ability to understand labor market trends for particular subgroups, which will undoubtedly affect the ability of researchers to study work-family conflict.

The same problem looms for sufficient funding to conduct the CPS Supplements. The Contingent Worker Survey, for example, which examines the extent of contracting, temporary or part-time work, is supposed to be conducted biannually but has not been done since 2005. This is only one example of how the CPS Supplements have been starved over the past few years.

- **Continue to collect data for the Women Worker Series of the Current Employment Statistics.** In 2005, the department cut this survey before restoring it again later that year after Sen. Tom Harkin (D-IA), Sen. Frank Lautenberg (D-NJ), and former Sen. Hillary Clinton (D-NY), introduced an amendment to the FY 2006 Senate Labor-HHS appropriations bill that required the BLS to reinstate it. These data allow us to understand how the business cycle affects men and women differently based on where they are employed. It is the only survey that provides breakdowns of employment by gender from the universe of employers.

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## New in-depth analysis of work-life policy issues

The Department of Labor needs to conduct a new, comprehensive analysis about the implementation, coverage, and usage of the Family and Medical Leave Act. This analysis should include an employer and employee survey and be conducted every five years. With new data, policymakers would have a real understanding of the effects of this policy on employers and employees, rather than relying only on anecdotal evidence. The last such analysis was conducted in 1995 and 2000, but these surveys have not been regularly replicated, thus when the Bush administration looked to revise the regulations covering the FMLA, they were forced to rely on anecdotal evidence and outdated analysis since they had not commissioned a new survey.

The federal government should develop and field a survey to analyze the state-level family leave insurance programs. In the 2000s, California, Washington, and New Jersey each passed legislation implementing family leave insurance programs. With many more states considering these policies, and Congress putting forward proposals, a comprehensive survey of how these policies are affecting both employers and employees is necessary.

Finally, the Office of Federal Contract Compliance Programs at the Department of Labor needs to develop and field a survey to analyze the family-friendly benefits offered by federal contractors. Our country invests billions of dollars each year in federal contracting yet we know very little about the type of work environment federal contractors offer their employees. A comprehensive study of work-family policies of federal contractors would aid in enforcing our existing federal contractor requirements and would provide a snapshot of the private sector workforce.



# Conclusion

One of the most profound changes of the past half century is how we work and live. Girls and boys today have very different expectations of what their lives will be like—girls no longer assume they’ll be a stay-at-home mother for most of their adult life and boys no longer assume they’ll be the only breadwinner. As we documented in *The Shriver Report*, even though this cultural transformation is evident everywhere in our society, many of the private sector and government institutions around us have not kept pace.

The good news is the public is aware of this gap and wants to see policymakers move forward. The poll conducted as a part of *The Shriver Report* found that an overwhelming majority of both men and women agree that “businesses that fail to adapt to the needs of modern families risk losing good workers.”<sup>143</sup> Men and women understand that we are not going back to the fictional days of Ozzie and Harriet—and most agree that women working outside the home is good for society and the economy.<sup>144</sup>

But there is a lingering concern about how we are caring for families. With inflexible jobs, a lack of paid leave, and the potential for discrimination on the basis of pregnancy or family responsibilities, those with care responsibilities (which is now the norm) are stuck in a terrible dilemma between their economic security and their family’s well-being. This is not the way it should be.

The United States, even after the Great Recession, remains one of the wealthiest nations in the world. We simply cannot afford to squander the opportunity before us today to rework our labor laws and social insurance programs to ensure the skills and talents of a new generation of workers improves our nation’s economic competitiveness and common well-being.

Adapting government policies to the realities facing today’s workers and their families is the next big policy agenda of the 21st century. Moving our businesses and government institutions toward laws and programs that match our lived reality requires rethinking what we mean by basic labor standards, updating and modernizing our social insurance system, defining discrimination in ways that reflects what happens in today’s workplaces, and ensuring that when caregivers are at work, they know that their loved ones are being cared for. In doing so, we will be able to make use of the talents of all our workers, while ensuring that we continue to uphold our core values about the importance of family.

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- 139 The California budget included these cuts, but a federal judge enjoined the state from making the cuts in two different rulings, citing the likelihood that the cuts ran afoul of the Americans with Disabilities Act and other federal laws. Nancy Folbre, "Care and Trembling in California," *The New York Times*, June 8, 2009.
- 140 Scharlack and Lehning, "Government's Role in Aging and Long-Term Care," citing Leonard E. Burman and Richard W. Johnson, "A Proposal to Finance Long-Term Care Services through Medicare with an Income Tax Surcharge." In Tax Policy Center (Washington: The Urban Institute, 2007).
- 141 U.S. Department of Labor, *Congressional Budget Justification, Departmental Management, Women's Bureau* (Washington, FY 2011).
- 142 Currently, only women are asked about their use of maternity leave, even though the Family and Medical Leave Act, as well as new state-level family leave insurance programs, all allow both men and women to take leave upon the birth or adoption of a child.
- 143 Halpin and others, "Battle of the Sexes Gives Way to Negotiations."
- 144 *Ibid.*



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## About the authors

**Heather Boushey** is Senior Economist at the Center for American Progress. Her research focuses on employment, social policy, and family economic well-being. Much of her current work focuses on the Great Recession's impact on workers and their families, as well as policies to promote job creation. She co-edited *The Shriver Report: A Woman's Nation Changes Everything* (Simon & Schuster ebook, 2009) and was a lead author of "Bridging the Gaps," a 10-state study about how low- and -moderate-income working families are left out of work support programs. Her research has been published in academic journals and has been covered in *The Washington Post*, *Newsweek*, and a variety of other media outlets, including *The New York Times*, where she was called one of the "most vibrant voices in the field." She also spearheaded a successful campaign to save the Census Bureau's Survey of Income and Program Participation from devastating budget cuts.

Boushey received her Ph.D. in economics from the New School for Social Research and her B.A. from Hampshire College. She has held an economist position with the Joint Economic Committee of the U.S. Congress, the Center for Economic and Policy Research, and the Economic Policy Institute, where she was a co-author of their flagship publication, *The State of Working America 2002/3*. She grew up in a union family in Mukilteo, Washington, and now lives with her husband, Todd Tucker, in Washington, D.C.

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