

Policy Review Paper

Alice E. Flanagan

Department of Social Work, Longwood University

SOWK 337: Family and Child Services

Professor Daniels

June 14, 2022

Identifying Policy

The Family and Medical Leave Act (FMLA) of 1993 is a law that was approved, primarily for women employees, by Congress in February of 1993. Before the FMLA was passed in 1993, women used to risk losing their employment for having a family or if themselves or family member is seriously ill. These serious health conditions can include: requiring an overnight stay at the hospital or any other medical care center; conditions that have disable you or your family member for more than three days and require ongoing medical attention; chronic conditions in which there are periods when you or your family member are handicapped and require professional health care assistance at least twice a year; and pregnancy. The Family and Medical Leave Act supports eligible employees up to 12 workweeks of unpaid leave a year, and is responsible for the group health benefits to be managed during the leave as if the employees resumed to work instead of taking leave. Those who are in the military are entitled to have up to 26 workweeks of leave. Workers are also compensated to continue their same or equivalent job by the end of their family and medical leave.

Policy's Purpose and Results

The purpose of the Family and Medical Leave Act is “to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity” (U.S. Department of Labor, 2019a). The Family and Medical Leave Act targets women more, because of the recognition of the nurturing role that they are assigned as the default caregiver for their children. This allows men and women to take a leave to take care of their newborn or an adopted child. Results showed that the FMLA was beneficial for mothers to take off to take care of their children, but they would prefer that there was an income when they were on their leave. In 2000, the outcome

of a study about the Family and Medical Leave Act stated, “The survey found that more than one-third of employees received no pay during their longest leave and that nearly two out of every five leave takers had to cut their leave short due to lost pay” (Herman, 2001, Preface p. 6). According to Herman (2001), “The importance of pay cannot be overstated -- almost 88 percent of those who needed leave said they would have taken leave if they had received some or additional pay” (Preface p. 6).

Client Population

To be eligible to qualify for the Family and Medical Leave Act, an employee must: work for a covered employer; have worked for at least 1,250 hours during the 12 months prior to the start of the leave; and work at the location where the employer has 50 or more employees within a 75 miles of a radius within the workplace. The Family Medical Leave Act applies to those who are: public agencies, including local, private, State, and Federal employers, and local education agencies.

Outcomes of Policy

Advantages and Benefits

A benefit of the Family Medical Leave Act is that there is guaranteed to be “job security for all income groups” (Crosson-Tower, 2018, p. 75). Another advantage is that the employer is allowed to have the freedom to deal with any serious illness or to take care of another family member who is in need, without the stress and anxieties of potentially losing their employment. Another benefit for the employee is that if they use the Family and Medical Leave Act, that their absence would not be counted against them, in terms of job performance. A benefit of the Family and Medical Leave Act is that health insurance does help cover the birth of the infant. The Family and Medical Leave Act is not only limited to mothers and women, but it is extended to

fathers and men as well, which poses a great benefit for the child to have both parents active and involved in their newborn's first at least 12 weeks of life.

Disadvantages and Risks

A disadvantage could be that the employer would have no source of income for those 12 weeks, which could be a risk if emergencies in the employer's family were to occur. In addition to another disadvantage, it could be difficult for administration or human resources to be able to find someone who is looking for a part-time career who is able to handle as many responsibilities as the employer is able to do. Since the FMLA requires the employee to send in a 30-day notice to their employer, there is the potential risk that the employee may forget to send in a request for their eligibility. Another risk to keep in mind is that, when returning back to work from leave, the pay and benefits may not be the same as how it was before or the benefits could be lost. Another risk that employees possibly face is that there are some establishments that are covered by the Family and Medical Leave Act, but the employees are unaware about the FMLA, which can propose an issue where a worker could use up all of their paid time off or vacation time to use what can be covered underneath the FMLA of 1993. Therefore, Herman (2001) emphasizes:

Although most establishments who are covered by the Family Medical and Leave Act (84.0%) are aware of the Act, about one sixth (16%) are not, and this share has not changed since 1995. Awareness is lower among those who are not covered; more than half (55%) report not knowing whether they are covered or not. (Section 8-3).

Ethical Dilemma

As previously stated, to become eligible for the Family and Medical Leave Act policy, the employer must have at least 50 employees in the workplace. There could be a dilemma where a single mother who just had a newborn is working at an office where there are less than the

required 50 employees. The single mother is unable to take time off, unless she uses her saved up paid time off, to spend time and take care of her newborn. Most daycares are not willing to accept infants until they are at least six weeks old. This poses a dilemma of what the mother should do whether she should use her paid time off to take care of her newborn or if she runs the potential risk of losing her job by taking time off to take care of her newborn child. This can pose an ethical dilemma because discouraging an employee from using FMLA leave is not tolerated, as well as counting FMLA leave as a “no fault” attendance policy.

Improvements for the Policy

Employees who have used the Family and Medical Leave Act have suggested that there should be improvements in the policy. Employees have suggested that the FMLA should cover the common flu and cold. The FMLA does not cover the annual flu and cold since it is considered as minor, which employers prefer that their employees use paid time off or sick leave if there is the case of a cold and/or flu. The common cold and flu can last from several days up to a week, which employees who do not have that much paid time off would be risking other people’s health by coming into work since they would still need money. An additional improvement for the Family and Medical Leave Act is that employers should have better solutions for employees that have unpredictable absences from work. There are some illnesses that are considered as “silent illnesses” where it does not look visible to the naked eye from the exterior, but internally the body is suffering. When an employee has a flare up from their chronic illness, it is difficult to know when they will be happening since it does occur at random times and that it is not seen on the outside of the body. For an employee who suffers with irritable bowel syndrome, it is a chronic condition where it affects the large intestines, which could cause troubles when the employee would be attending work. The options of what to do with these

occurrences are typically having to be absent, which can lead to being fired from the workplace, or that the employee will have to temporarily reassign.

Conclusion

In conclusion, since the passing of the Family and Medical Leave Act, it has been used more than 100 million times by American employees to assist with the balance of the demanding attention of having a family and the workplace. There have been mixed views between the advantages and disadvantages, but overall the main argument has been that since the Family and Medical Leave Act has been implemented, it has been used by an overwhelming number of families. Even though there have been financial challenges of not having enough money to pay for bills, future research is exploring better options for families who are not even covered by the Family and Medical Leave Act.

References

Crosson-Tower, C. (2018). *Exploring child welfare : a practice perspective* (7th ed.). Pearson.

Herman, A. (2001). *Balancing The Needs of Balancing The Needs of Families and Employers*

Families and Employers Retrieved June 11, 2022, from

<https://www.dol.gov/sites/dolgov/files/WHD/legacy/files/FMLASurvey2000.pdf>

U.S Department of Labor. (2019a). *The Family and Medical Leave Act of 1993* . Dol.gov.

<https://www.dol.gov/agencies/whd/laws-and-regulations/laws/fmla>

U.S. Department of Labor. (2019b). *Family and Medical Leave Act* | *U.S. Department of Labor*.

Dol.gov. <https://www.dol.gov/agencies/whd/fmla>