



HB17-1307: Family and Medical Leave Insurance

Everyone has family care responsibilities at some point, yet most Coloradans don't have paid leave to recover from a serious illness, care for a seriously ill family member or welcome a new baby. The Family and Medical Insurance Leave Act (FAMLI) would guarantee all Colorado workers up to 12 weeks of paid leave to care for themselves and their families. The federal Family and Medical Leave Act (FMLA), which provides unpaid family and medical leave, excludes roughly 40% of Americans. Among those who do qualify for FMLA leave, nearly half cannot afford to take time off without pay.

How It Works

- HB17-1307 creates a Family and Medical Leave Insurance division within the Colorado Department of Labor and Employment.
- The program is entirely funded and sustained through employee contributions. All employees in Colorado will contribute a small premium to the Family and Medical Leave Insurance program, about \$2-5 per week.
- Employees who have worked at least 680 hours in the previous year will receive wage replacement when they take leave for their own serious illness or temporary disability, to take care of an ill family member, for the birth or adoption of a new child, and for approved military family needs.
- Employees in Colorado will be able to receive wage replacement for up to 12 weeks per year. FAMLI replaces 66% to 95% of a worker's wages, with lower-income workers receiving a larger percentage of their wages. Wage replacement is capped at \$1,000 per week.
- Employees will be guaranteed their same or equivalent job when returning from leave, and will be protected from discrimination or retaliation from their employer.

FAMLI is Good for Working Families and the Economy

- Working families in the U.S. lose \$20.6 billion in wages annually due to a lack of access to paid family and medical leave.
- Studies show that 7% of people who filed for bankruptcy cited the birth of a child as the cause. A significant number of bankruptcies also happen after a worker misses two or more weeks of work due to illness.
- Parents who took leave report lower levels of public assistance in the year following their child's birth, when compared to those without paid leave.
- Allowing seniors to age in their homes with family caretakers instead of long-term care facilities saves the state money.
- When cared for by family members, patients in the hospital recover from illness and injury faster, leading to shorter hospital stays, improved health outcomes, and decreased health costs.
- Women, who are the primary or co-breadwinners for nearly 2/3 of the nation's families, are more likely to be employed the following year and report increased wages if they take paid leave after a child's birth.
- Family and medical leave insurance increases men's role in caregiving by making it possible for them to be involved without the family taking a big financial hit. In Rhode Island, during the first year that paid time off for caregiving was available, nearly one-third of all leave takers were men.



"When my daughter needed surgery and my elderly father needed immediate medical attention at the same time, times were tough. FMLA gave me the time off to take care of them, but without paid time off, I had to choose between paying rent and caring for my family." – Shelby Ramirez Martinez, 9to5

FAMLI is Business-Friendly

- Businesses will not pay an employee's salary during leave and can use savings for profit, to hire replacement workers, to expand the length of paid leave or to supplement worker wages.
- Businesses will benefit from higher productivity and worker retention/loyalty.
- Small businesses will be able to better compete with larger companies since paid family leave will be universally available.
- A 2017 poll released by Small Business Majority found that 81% of small businesses support FMLA and 70% support a **paid** family and medical leave insurance program.
- A 2013 study found that 87% of California employers said the state's paid family leave program had either positive or neutral effects on business. A recent Rutgers study shows that New Jersey's FMLI program has saved businesses money by improving employee retention, decreasing turnover costs, and improving productivity.

FAMLI is Good for the Health of Coloradans

- Nearly 1 in 4 new mothers return to work within 2 weeks because they cannot afford to go without pay.
- Women with paid family leave are much more successful in breastfeeding which has numerous benefits for both the mother and the baby.
- 12 weeks of paid leave increases childhood checkups and immunizations and has a positive impact on birth weight and infant mortality. Additionally, sick children recover faster when cared for by a parent.
- Nearly 3 out of 4 workers in the U.S. will spend at least part of their adult lives living with a disability, yet only 37% of the workforce is covered by private temporary disability insurance policies.
- Unpaid caregivers enable 2/3 of older adults to remain in their homes and communities, rather than in long-term care facilities. Adults in need of long-term care have better mental and physical health when cared for in the home.

Voters Support FAMLI

- 2016 polling in 15 states including Colorado showed that voters would be more likely to vote for an elected official or candidate who supports creating a paid family and medical leave fund.
- A recent Washington Post poll found that more than four-fifths of voters – including 94 percent of Democrats, 80 percent of Independents and 65 percent of Republicans – agree that workplace rules to ensure paid time off to care for family members “is good for our nation.”
- A strong majority of voters say they face challenges when managing job, family and personal responsibilities: 63% of full-time workers and 67% of part-time workers say they would likely face significant economic hardship if they had to take time from their jobs without pay.

Colorado Should Lead the Way

- California, Rhode Island and New Jersey have implemented paid family leave insurance programs.
- New York and Washington DC have passed paid leave programs and are in the process of implementation.
- Colorado is one of 16 states working to pass family and medical leave insurance in 2017.
- The United States is the only developed nation in the world that does not guarantee paid maternity leave.

For research references or more information, visit www.cofamily.com or contact Neha Mahajan, 9to5 Colorado Director, at neha@9to5.org and Meghan Raynes, Siegel Public Affairs, at meghan@siegelpa.com



CO FAMLI Act Coalition

9to5 Colorado
All Families Deserve a Chance Coalition
American Federation of Teachers—Colorado Chapter
American Association of University Women
American Sustainable Business Council
AppleJack Wine & Liquor (Business)
Asian Pacific Development Center
Association of Women's Health and Neonatal Nurses (AWHONN)
Bell Policy Center
Boulder Transport (Business)
Center for Health Progress (formerly CCMU)
Center for Work Education & Employment
Colorado AFL-CIO
Colorado Center on Law and Policy
Colorado Children's Campaign
Colorado Coalition Against Domestic Violence
Colorado Coalition for the Homeless
Colorado Consumer Health Initiative
Colorado Cross-Disability Coalition
Colorado Education Association
Colorado Fiscal Institute
Colorado Immigrant Rights Coalition
Colorado Jobs with Justice
Colorado Organization for Latina Opportunity and Reproductive Rights
Colorado People's Alliance
Colorado WINS
Colorado Women's Bar Association
Denver Urban Ministries
El Centro Humanitario para los Trabajadores
Elephant Circle
FRESC: Good Jobs, Strong Communities
Generation Latino
Goodbee & Associates (Business)
Interfaith Alliance
Lutheran Advocacy Ministry
Mi Familia Vota
Mobilize Us (Business)
NAACP State Conference
NARAL Pro-Choice Colorado
One Colorado
Padres & Jóvenes Unidos
Plaintiff Employment Lawyers Association
Polar Bottle (Business)
Progressive Promotions
SEIU Local 105
Saridea Engineering (Business)
Simple Energy (Business)
Small Business Majority
Soul Salve (Business)
State Innovation Exchange (SiX)
Together Colorado
UFCW Local 7
The Women's Foundation of Colorado
Women's Lobby of Colorado
Young Invincibles



Business Questions

Won't this hurt small businesses who can't afford to have their employees out for 12 weeks?

The FAMLI Act doesn't change the fact that employees are already having babies, getting sick, and needing to care for family members. Small business owners have told us that their employees are already facing these situations, and businesses are doing their best to support and retain their employees. But most small business can't afford to provide 12 weeks of paid family leave. The FAMLI Act allows employees to have the benefit of paid family and medical leave without costing employers anything. In addition, businesses can use savings from not paying their employee's salary while they're out to hire temporary staff or increase hours of other staff. A new 2017 poll released by the Small Business Majority found that 81% of businesses surveyed support FMLA and 70% support a *paid* family medical leave insurance program.

Don't most companies already provide some kind of paid or unpaid leave to employees?

Only 13% of employees have access to employer-provided paid family leave, and only 37% of employees have access to employer-provided paid medical leave in our nation. And the Family and Medical Leave Act, which provides up to 12 weeks per year of unpaid leave for employees to care for themselves, a family member, or a new baby, leaves out 40% of the workforce. This means that far too many employees are left without access to paid or unpaid leave, forcing them to risk their financial stability to provide critical care for their families. In addition, the United States is the only industrialized country in the world that doesn't guarantee paid maternity leave for all employees.

What about people who take leave and then don't come back to work? Businesses will be holding jobs for no reason.

Research has shown that in places where employees have access to job-protected, paid family and medical leave – businesses see lower worker replacement costs and higher productivity from employees, while employees have greater job security. Women who are given paid maternity leave are more likely to be back at work 9-12 months after their leave. Rutgers also found that in the year following a birth, new mothers who take paid leave are 54 percent more likely to return to their original employer and report wage increases. When they don't have access to paid family leave, women are more likely to leave the workforce. The percentage of mothers not in the workforce grew to 29 percent in 2012 according to Pew Research Center. A majority of unemployed women reported they were home to care for a family member, while only 6 percent said they were home because they couldn't find work.

Won't it be hard for businesses to administer the payroll deductions for employees?

Most businesses use a company or software to manage their company's payroll. Adding a line for deducting the FAMLI insurance premium from employees' paychecks is no different than deducting health insurance premiums or other simple deductions. Business members in our coalition reported that it wouldn't be an inconvenience to add the FAMLI insurance premium to their payroll. The bill includes a provision to provide assistance for businesses for whom this may be an added expense.

What about employers who already provide paid family leave – what happens to them?

The small percentage of employers who already provide paid family leave have a choice about how to interact with their law. They can keep their paid leave in place as an added benefit to the FAMLI program, or they can use the FAMLI program as a business savings or to hire temporary employees. Rather than paying 100% of leave for an employee, they could offer to pay the gap (34% of wages for most employees) while employees are accessing the FAMLI benefit. This means that employees would get their full salary paid, and employees would save the 66% of the salary coming from the FAMLI program. But ultimately, it's up to the employer to decide what works best for their business.

Won't it be hard for businesses to determine whether or not employees are misusing FAMLI?

Businesses will not have the burden of verifying employee claims for FAMLI. The Colorado Department of Labor and Employment will administer the program and implement a thorough and rigorous process for approving claims and verifying health conditions. Additionally, there are fraud protections built into the bill (see below).

Employee Questions

Isn't this just a tax on every worker, whether or not they want or need the program?

Employees contribute small insurance premiums into the Family and Medical Leave Insurance Fund, much like health insurance premiums. The estimated premiums are \$3/week for the average full-time employee (with minimum wage earners paying around \$1.85/week). And voters across the state support the program and believe that the benefit far outweighs the cost. In fact, in a recent poll - 2/3 of voters in Colorado support the creation of the FAMLI program, and 73% of voters believe that the cost of the insurance premiums is reasonable.

How is this similar to FMLA (Family and Medical Leave Act) and how does it differ?

The Family and Medical Leave Act provides up to 12 weeks per year of unpaid leave for employees to care for themselves, an ill family member, or a new baby. Family members covered include parents, spouses, and children. FMLA only applies to employees at businesses with 50 or more employees and to employees who work at least 1250 hours in a year. Only about 60% of the workforce is eligible to receive FMLA. The FAMLI Act mirrors FMLA by 1) allowing employees to take leave for the same reasons in FMLA and 2) giving employees access to the same job protection as in FMLA – employees are guaranteed their same or an equivalent position when returning to work after their leave. The FAMLI Act differs from FMLA in the following ways: 1) all employees in Colorado will have access to the FAMLI Act regardless of business size; 2) FAMLI leave is *paid* whereas FMLA is unpaid; 3) employees qualify for benefits as long as they've worked 680 hours in the previous 12 months; and 4) since the program is employee-funded, it is portable. This means that once employees have paid into the Fund for 1 year, they are eligible to receive benefits, even when changing jobs or employers. 5) FAMLI updates family definition to reflect modern families, including immediate family members related by blood, adoption, civil union or domestic partnership.

How many employees will even access the program?

Based on an analysis done by the IWPR and economists at the University of Massachusetts, the Colorado FAMLI program would replace the wages of about 118,000 Colorado workers in the first year, about 3.5 percent of the total workforce. The majority of these workers, 69,000, would take leave for their own serious medical illness. Another 23,000 are projected to take parental leave to bond with a new child, and nearly 9,000 would take time off from work to care for a family member with a serious medical condition. We estimate the program would replace about \$510 million in wages the first year, ensuring that these workers remained self-sufficient during a period of leave.

Governance Questions:

This program is far too expensive for the state to implement. And what happens if there's not enough money in the fund to pay benefits? The state will go broke!

Once the program is setup and insurance premiums are being collected, all administrative costs will be covered by the employee-paid insurance premiums. The only cost to the state is in the initial creation and setup of the program, which will be paid for by bonding. The CO Department of Labor and Employment has the ability to add a solvency surcharge to the premiums being paid by employees in the solvency of the Fund is ever in danger.

Will there be adequate fraud protection so that no one takes advantage of the program?

There has been virtually no documented evidence of fraud in the states that have already passed paid family leave, but the FAMLI Act does contain the following fraud protections:

- (1) If a covered individual, in connection with an application for benefits under the program, willfully makes a false statement or misrepresentation regarding a material fact or willfully fails to report a material fact, the covered individual commits a misdemeanor, shall be punished by a fine of one thousand dollars and is disqualified from family leave insurance benefits for one year.
- (2) If Family and Medical Leave Insurance benefits are paid erroneously or as a result of willful misrepresentation, or if a claim for a family and medical leave benefits is rejected after benefits are paid, the division may seek repayment of benefits from the recipient. The Director shall exercise his or her discretion to waive, in whole or in part, the amount of any repayments where the recovery would be against equity and good conscience. The Director may adopt rules to develop a procedure for recovering erroneous payments of benefits.