

Key Facts: The Family and Medical Leave Act

JANUARY 2021

The Family and Medical Leave Act (FMLA) was signed into law almost 28 years ago.

The FMLA provides eligible workers with up to 12 weeks of unpaid, job-protected leave to:

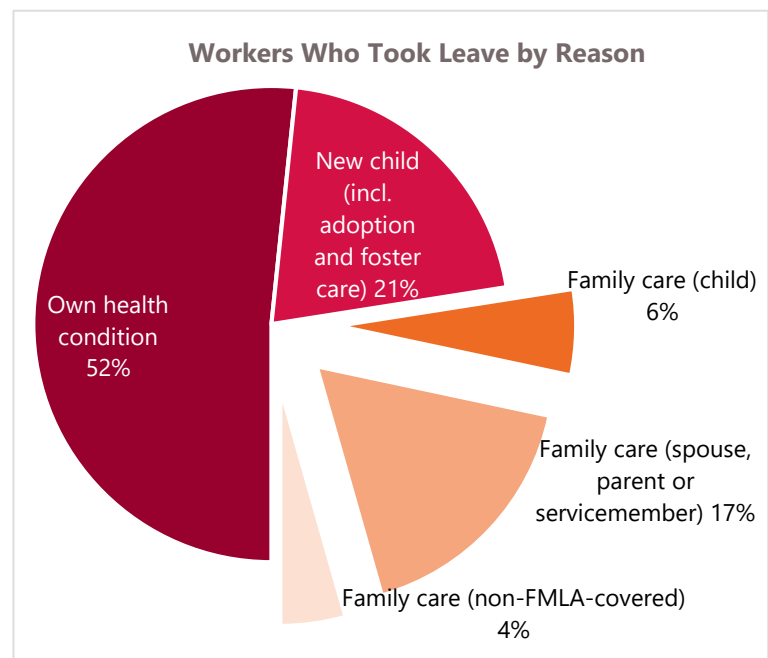
- Bond with a new child;
- Care for a seriously ill or injured spouse, parent or child;
- Address their own health condition;
- Or up to 26 weeks to care for a servicemember or address needs related to a family member's deployment.

The FMLA has been used more than 300 million times by working people who needed to care for their own health or the health of their families.¹

- Almost 15 million workers take FMLA leaves each year.²

The most common reason for taking leave is to address a serious personal health condition.³

- More than one-quarter of leave-takers (27 percent) needed to care for a family member with a serious health condition.
- About one in six family caregiving leaves was for an individual not included in the FMLA's narrow definition of "family."⁴
- Most leaves are modest in length, with about forty percent lasting two weeks or less, and more than three-quarters lasting eight weeks or less.⁵

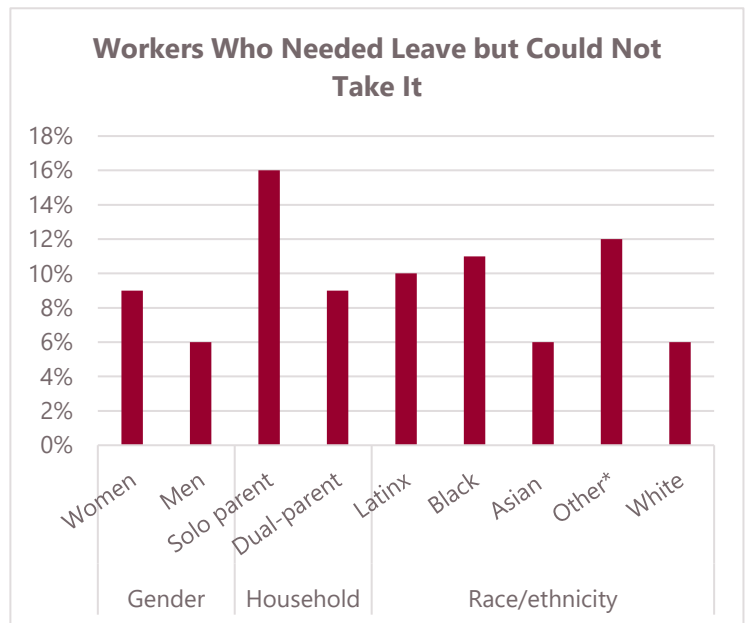


The FMLA has helped to transform workplaces, but too many people are still left behind.

- About 44 percent of workers – including 48 percent of Latinx, 47 percent of Asian American, 43 percent of Black and 42 percent of white workers – are not covered by the FMLA because they work for small employers, do not work enough hours or have not worked for their employer for long enough.⁶ Among workers who are not protected by FMLA, almost 2.7 million each year need leave but do not take it because they fear losing their job.⁷
- Millions of workers cannot afford to take unpaid leave. About 10.9 million workers each year need leave but do not take it, and two-thirds – almost 7.2 million – say it is because they could not afford unpaid leave.⁸
- The FMLA’s limited definition of family – a spouse, parent or child – does not reflect the caregiving needs of many people. An estimated 8.4 million people each year (5.3 percent of all workers) take leave for a non-FMLA-covered individual – meaning their jobs are not protected during leave – and among workers who did not take leave when they needed it, 14 percent said the person they needed to care for was not covered.⁹
- There are significant inequities by race, gender and family structure among workers who needed family or medical leave but could not take it.

Most employers report neutral or positive effects when employees take FMLA leave.

- The majority of worksites (90 percent) report no difficulty complying with FMLA. Most (65 percent) report little overall effect of complying with FMLA, while more than one-third (31 percent) experienced positive effects.¹⁰
- The most common way worksites manage work during an employee’s absence is to temporarily assign it to another worker (58 percent of worksites). Just 6 percent of worksites report needing to hire a temporary replacement.¹¹
- There is little evidence that employees misuse leave – less than 2 percent of worksites report any misuse of FMLA.¹²



*Includes workers identifying as Native American, Pacific Islander and multi-racial.

¹ Calculation is based on the number of covered and eligible workers multiplied by the rates of leave taking (the percentage of the people who were eligible for FMLA leave who actually took it) for each period covered by an FMLA survey to determine total leave takers for each period and then summed to determine total uses. The number of covered and eligible workers for each period is based on the average civilian noninstitutionalized, employed workforce calculated using 1994-2020 Current Population Survey monthly workforce statistics multiplied by a percentage of covered and eligible workers reported in the 1995 (pg. xvi), 2000 (Table A2-3.1), 2012 (Exhibit 2.2.1) and 2018 DOL surveys (p. 6). For rates of leave taking among eligible workers, see Klerman, J. A., Daley, K., & Pozniak, A. (2012, September 7). *Family and Medical Leave in 2012: Technical Report* (p. 62). Abt Associates publication. Retrieved 18 December 2020, from Department of Labor website: <https://www.dol.gov/sites/dolgov/files/OASP/legacy/files/FMLA-2012-Technical-Report.pdf>; and Brown, S., Herr, J., Roy, R., & Klerman, J. A.. (2020, July) *Employee and Worksite Perspectives of the Family and Medical Leave Act: Supplemental Results from the 2018 Surveys* (p. 23). Retrieved 18 December 2020, from https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHF_FMLA2018SurveyResults_Appendices_Aug2020.pdf

² Ibid, Brown et al. (2020). Estimate based on percentage of FMLA-eligible employees who reporting taking leave for a qualifying FMLA reason multiplied by the average civilian noninstitutionalized, employed workforce in 2019 of 157,529,000.

³ Department of Labor. (2020, July) *Employee and Worksite Perspectives of the Family and Medical Leave Act: Supplemental Results from the 2018 Surveys*. (Appendix Exhibit B4-3. Reasons for taking most recent leave in past 12 months). Retrieved 18 December 2020, from https://www.dol.gov/sites/dolgov/files/OASP/evaluation/pdf/WHF_FMLA2018SurveyResults_Appendices_Aug2020.pdf

⁴ Ibid. Note that these were FMLA-type leaves reported by employees who were eligible for FMLA; leaves to care for individuals not included in the FMLA's definition of "family" would not have been eligible for FMLA protections.

⁵ Ibid, Appendix Exhibit B4-4, Length of most recent and longest leave for a qualifying FMLA reason in past 12 months, by select subgroups.

⁶ See note 2, Exhibit 2-2. Estimates based on the average civilian noninstitutionalized, employed workforce in 2019 of 157,529,000.

⁷ Ibid. Appendix Exhibit B6-2, Rate of Unmet Need for Leave for a Qualifying FMLA Reason in the Past 12 Months, by Demographic Characteristics and Appendix B6-4, Reasons That Needed Leave Was Not Taken.

⁸ See note 3, Appendix Exhibit B6-4. Reasons That Needed Leave Was Not Taken.

⁹ See note 3, Appendix B4-3

¹⁰ See note 2, pp. 51 and 53.

¹¹ Ibid, p. 50.

¹² Klerman, J. A., Daley, K., & Pozniak, A. (2012, September 7). *Family and Medical Leave in 2012: Technical Report*, p. 156; a comparable analysis was not included in the most recent FMLA survey report.

The National Partnership for Women & Families is a nonprofit, nonpartisan advocacy group dedicated to promoting fairness in the workplace, reproductive health and rights, access to quality, affordable health care and policies that help all people meet the dual demands of work and family. More information is available at NationalPartnership.org.

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