U. S. Department of Labor
Women's Bureau
Paid Leave Analysis Grant

Final Report for:
Montgomery County, Maryland

submitted by:

Office of Legislative Oversight, Montgomery County, MD
in partnership with:
The Institute for Women's Policy Research and
The Center for American Progress

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Montgomery County is the largest county in the state of Maryland and home to more than one million residents. It is one of the most highly educated and affluent counties in the United States. Located within the Washington D.C metropolitan region, the County is home to numerous government offices and agencies including the National Institute of Health (NIH) and Walter Reed Medical Center. The County is known as a hub of biotech research and is also home to four Fortune 500 companies: Lockheed Martin, Marriot International, Discovery Communications and Host Hotels. The County has a thriving economy with thousands of small, mid-sized and large companies operating within its borders.

Montgomery County is also one of the most diverse in the nation. Less than half of the County's population is non-Hispanic white, and, while there are large urban centers in the County, almost one third of the County's land is in a designated agricultural zone. A progressive government has long encouraged this diversity, and Montgomery County government programs and initiatives are often used as models by other local, state and even federal government agencies.

Policymakers in Montgomery County are interested in better understanding the nature of innovative paid family leave and medical programs and believe these types of programs could benefit County residents. As a recipient of a 2015 US Department of Labor, Women's Bureau Paid Leave Analysis Grant, the County's Office of Legislative Oversight partnered with the Institute for Women's Policy Research and the Center for American Progress to investigate what a paid family and medical leave program in Montgomery County would look like. The following papers, produced by Sarah Jane Glynn with the Center for American Progress as well as Jeffrey A. Hayes, PhD and Meika R. Berlan, describe how a family and medical leave program might be implemented in the County. In compiling these reports Ms. Glynn and Dr. Hayes met with and interviewed numerous County officials, and used the FML2 simulation model to develop program designs that are tailored towards Montgomery County's unique characteristics. It is hoped these reports will spur meaningful policy discussions on this important topic.

Implementing Paid Family and Medical Leave Insurance:
Montgomery County, Maryland
Report by Sarah Jane Glynn

Introduction

Every worker, regardless of their age, health, or family status, has the potential to need time away from work but the majority do not have access to paid leave. Most people will have a child, experience a serious health concern, or have a family member they need to provide care to at some point during their working years. Yet the United States remains the only advanced economy that does not provide paid maternity leave, and is one of only a few to not offer paid parental leave to fathers.[i] And unlike most other wealthy countries, the U.S. also does not guarantee workers the right to paid temporary disability leave, [ii] paid family caregiving leave, or any form of paid leave at all.

As a result, in most cases access to paid leave is left to the whim of employers, resulting in highly unequal access. Only 14 percent of all workers nationally have paid family leave provided by their employers, and only 38 percent have access to paid short-term disability leave.[iii] While the majority of workers lack access to these benefits, they are far more likely to be offered to workers at the top of the income spectrum. Among workers in the lowest earnings quartile only 6 percent have access to paid family leave and only 18 percent have access to short-term disability insurance. Meanwhile 22 percent of workers in the highest earnings quartile have access to paid family leave, while 53 percent are offered short-term disability.[iv]

This lack of access to paid leave can have very serious impacts on the health and wellbeing of working families. One-third (32.6 percent) of all households in Montgomery County, Maryland have children. In nearly 80 percent (77.93 percent) of families with children all of the available parents are in the labor force, either because a single working parent or a dual-earner couple heads the household. One-in-five births in the County (19.3 percent) are to unmarried women, and the poverty rate for families headed by single mothers are higher compared to all families with children. But children are not the only family members who potentially need care. The population in Montgomery County, like the rest of the nation, is rapidly aging with seniors projected to comprise 20 percent of the population by 2040, and seniors already outnumber school-aged children in roughly a quarter of the County's census tracts.[v]

While there is dramatic and demonstrable need for paid family and medical leave, the only current piece of federal legislation in the United States that exists to provide family caregiving supports is the Family and Medical Leave Act (FMLA), which was implemented in 1993.[vi] The FMLA provides qualifying workers with up to 12 weeks of job-protected time off to care for a new child or seriously ill family member, to address their own serious health condition, or to address contingencies that arise out of military deployment. However, the FMLA only covers individuals who work for an employer with a minimum of 50 employees within a 75-mile radius. And in order to qualify, workers must have been employed at their job for at least one year and must also have worked at least 1,250 hours during the previous 12 months.[vii]

As a result of these relatively stringent eligibility requirements, roughly 40 percent of all workers are not covered by the federal FMLA, either because they work for small businesses, work part-time, or have not been at their job long enough to qualify. [viii] Yet even when an individual does qualify for job-protected leave, there is no guarantee that the leave will be paid. Only 48 percent of workers who take FMLA-type leaves receive full pay while they are out, while another 17 percent receive partial pay.[ix] As previously noted, higher wage workers are the most likely to have access to paid leave through their employers, which means that the workers who can least afford to take unpaid leave are the most likely to have no other options. Nearly half of workers who reported needing to take family or medical leave but who did not said they continued going to work because they could not afford to lose their income.[x] Among individuals who did take leave without full pay, which likely includes workers whose need for time off was so great that they could not continue working, 60 percent reported difficulties making ends meet, and 84 percent reported limited spending.[xi] When this happens, it not only affects individual families—it also has a negative impact on local communities and the economy.

Maryland has expanded upon the protections under the federal FMLA with the Maryland Parental Leave Act of 2014.[xii] Under the MPLA, Employers with 15 to 49 employees must offer job protected leave for parents after the birth, adoption, or foster placement of a new child. While the employer size threshold is smaller under the MPLA, the job tenure and work hours requirements are the same as under federal law. Maryland also passed the Maryland Flexible Leave Act in 2008, which was updated in 2010 and 2015.[xiii] This legislation requires employers with 15 or more employees that already provide paid leave for a worker's own illness to also allow this paid time off to be used to care for a family member. The law does not require companies that do not already have paid or unpaid leave policies in place to implement them, it simply requires those with policies to cover family members' as well as workers' own health conditions. The 2015 update amended the law so that employers cannot retaliate against employees for taking leave.

Since the passage of the FMLA in 1993 three states – California, New Jersey, and Rhode Island - have created fully operational paid family leave systems by building off of their existing temporary disability insurance programs, and New York has passed legislation to create a program that will go into effect in 2018.[xiv] Looking at the effects of paid family leave policies in these states and in other countries, the positive benefits for families are clear.

Access to paid maternity leave helps mothers return to paid employment after giving birth, and is associated with higher wages, and a lower gender wage gap.[xv] While wages for men and women are higher and the gender wage gap is lower in Montgomery County than the national average (84 percent compared to 80 percent nationally), there remains room for improvement that could be achieved through paid leave. When leave is paid, fathers are more likely to take it, because it is more financial feasible and/or because it lowers the stigma of taking leave. [xvi] Greater leave uptake among fathers leads to higher parental involvement, and these effects persist as children age.[xvii] And because most workers who must take unpaid leave or exit the labor force when medical or caregiving need arise often see their incomes drop, new parents with access to paid leave are significantly less likely to need to rely on public benefits such as Temporary Assistance to Needy Families, or TANF—also known as welfare—and the Supplemental Nutrition Assistance Program, or SNAP—also known as food stamps.[xviii] Paid leave also increases the likelihood that babies will be breastfed and receive vaccinations at recommended times, and is associated with lower infant mortality rates.[xix]

Parents are not the only workers who benefit directly from access to paid leave; it is also associated with a host of benefits for temporary disability leave takers. Nearly three-quarters of workers—72 percent—will spend at least part of their adult lives living with a disability.[xx] Only five states have enacted temporary disability insurance programs – California, New Jersey, Rhode Island, New York, and Hawaii - and only 38 percent of workers have access to private temporary insurance policies through their employers.[xxi] The Americans with Disabilities Act has helped adults with disabilities remain employed by, among other provisions, requiring employers to provide "reasonable accommodations" for workers with disabilities, which can include unpaid leave.[xxii] Yet the lack of paid time off to handle medical issues has significant consequences for the earning potential of individuals with disabilities. Even workers who are able to keep working at the onset of a disability see their earnings drop, likely because medically necessary leave can legally remain unpaid.[xxiii]

Further evidence shows that paid leave for workers with medical conditions helps them continue to work or return to work sooner if they need to take time off to recover. A study of cancer patients in the United Kingdom found that there were positive correlations between workplace accommodations—including flexibility and paid leave—and continuing working during treatment and returning to work after treatment.[xxiv] Another study found that women with access to paid leave were more likely to return to work after suffering from a myocardial infarction or angina than women who did not have paid leave.[xxv] Promisingly, survey data on leave takers in the United States also show that most people who take leave return to work rather than exiting the labor force.[xxvi]

In the United States:

- Just more than half of leave takers cite their own illness as the reason for taking leave. Another quarter take leave for reasons related to a new child, including pregnancy, adoption, or fostering. Eighteen percent take leave to care for a parent, spouse, or child.
- About half of medical leaves—excluding pregnancies—are for a one-time illness, while roughly 40 percent are due to either an ongoing health condition or an illness or injury requiring routine care. Regardless of the type of medical condition, the majority of all medical leaves are for 40 days or less.
- Nearly 92 percent of all family and medical leave takers return to work, and only 7.7 percent do not return to paid employment after their leave.
- Of the 7.7 percent who do not return to work, 21 percent report that it was because their health condition continued, while another 2.1 percent did not pass fitness-for-duty certification. In comparison, about one-quarter did not return to work because they were laid off or fired, while approximately half listed “other” as their reason for not returning.

There is a growing recognition that paid leave is critical for the economic security of working families and the health and wellbeing of local economies. In 2016, more than a dozen states and the District of Columbia introduced paid leave bills. Businesses, both large and small, continue to develop and adopt paid family and medical leave policies in acknowledgement of the economic benefits they provide, including reduced turnover and greater worker productivity.[xxvii] But unfortunately, the companies providing paid leave policies remain the minority and often only do so for their high-skill, high-wage workers, and not the entire workforce - hence the low percentage of workers who are actually covered by these policies.

Existing State Paid Medical and Family Leave Funds[xxviii]

Three states, California, New Jersey and Rhode Island, have paid family and medical leave programs that are currently in place and fully operational. These states have longstanding temporary disability insurance (TDI) programs, created decades ago to ensure that most workers have access to a portion of their usual wages when they need time away from their jobs for a serious medical problem. All three have since passed laws that built paid family leave programs onto the states’ respective TDI programs. California was the first state to implement paid family leave, passing legislation in 2002 that went into effect in 2004. New Jersey followed in 2008, and Rhode Island’s program was passed into law in 2013. The states’ family leave programs provide workers with a share of their wages when they need time to care for a family member with a serious health condition or to care for and bond with a new biological, adoptive or foster child.[xxix]

California's program provides eligible employees up to six weeks for family care[xxx] and up to 52 weeks for their own disability, including pregnancy, annually.[xxxi] To be eligible, workers must have earned at least $300 in wages during the base period.[xxxii] Workers receive a benefit of approximately 55 percent of their weekly salary, with a maximum of $1,129 per week.[xxxiii] The maximum benefit is adjusted annually based on statewide average wages.[xxxiv] The program is funded through employee contributions: the current withholding rate is 0.9 percent, with a taxable wage limit of $106,742 and a maximum withholding for each employee of $960.68.[xxxv] The program covers all private sector employers as well as some public sector employees, and self-employed individuals who opt for elective coverage.[xxxvi] California's program does not include job protection, but an employee's job may be protected under the federal Family and Medical Leave Act (FMLA) or the California Family Rights Act.[xxxvii] Since 2004, when this program went into effect, the vast majority of California employers have reported seeing either a positive impact on employee productivity, profitability, and performance, or no effect.[xxxviii]

New Jersey's program provides covered employees with up to six weeks for family care and up to 26 weeks for their own disability.[xxxix] Employees in New Jersey are eligible if they have either worked in New Jersey for at least 20 calendar weeks and earned at least $168 each week, or if they have earned $8,400 or more in the 52 weeks preceding the leave.[xl] Employees receive a weekly benefit of 66 percent of their average weekly wage, up to $615 per week.[xli] The maximum benefit is adjusted annually based on statewide average wages.[xlii] The state's TDI program is financed by employee and employer payroll contributions.[xliii] As of 2016, each worker contributes 0.20 percent of the taxable wage base (the first $32,600 in covered wages paid during the calendar year), up to $65.20 per year.[xliv] The contribution rate for employers ranges from 0.10 to 0.75 percent of the taxable wage base, between $32.60 and $244.50 in 2016.[xlv] Family care is funded through employee contributions only.[xlvi] In 2016, each worker contributes 0.08 percent of the taxable wage base (same as above), with a maximum deduction of $26.08 per year.[xlvii] Private and public sector employers covered by the New Jersey Unemployment Compensation Law are covered,[xlviii] with some exceptions for government employers.[xlix] Leave taken under New Jersey's program is not job-protected, though some employees may have job protection through the federal or state FMLA.[l] New Jersey's program was implemented in 2009, and studies show that 76.4 percent of workers say they view the program favorably, with support crossing gender, race/ethnicity, age, marital status, union affiliation, employment status, and income lines.[li] Both small and large businesses also say they have adjusted easily to the expansion of the state TDI system to also cover family leave.[lii]

Rhode Island's program provides qualifying employees with up to four weeks of paid family leave[liii] and up to 30 weeks of paid leave for their own disability.[liv] Employees are eligible if they have earned wages in Rhode Island, have contributed to the TDI/temporary caregiver insurance (TCI) fund, and have been paid $11,520 or more during either the first four of their last five completed quarters or their last four quarters of work preceding the claim for leave.[lv] Alternately, employees may qualify even if they have not earned the minimum amount if: they earned at least $1,920 in a quarter of their base period; their total base period taxable wages are at least 150 percent their highest quarter of earnings; and their taxable wages during their base period are $3,840 or more.[lvi] Employees receive a weekly benefit of 4.62 percent of wages paid during the highest quarter of their base period – which amounts to approximately 60 percent of weekly wages – up to $795 per week.[lvii] The benefit cap is adjusted annually based on statewide average wages.[lviii] Both TDI and TCI are financed through employee contributions of 1.2 percent of the first $66,300 earned.[lix] Rhode Island's program covers all private sector employees and employees of public sector employers who have elected coverage.[lx] An employee's leave for family care is job-protected, but leave for his or her own disability is not, though he or she may have job protection through the FMLA or the Rhode Island Parental and Family Medical Leave Act.[lxi] Early indications suggest that Rhode Island's program is functioning well.[lxii]

Existing State Paid Medical Leave Programs

In addition to the three states with paid family and medical leave programs, New York and Hawaii have TDI laws that guarantee workers access to paid time off for their own disability, which may include pregnancy or childbirth, and New York recently created a paid family leave program that will go into effect in 2018. New York's TDI program provides eligible workers who are temporarily disabled, including women with pregnancy- or childbirth-related disabilities, with up to 26 weeks of paid leave.[lxiii] Employees are eligible if they have worked at least four consecutive weeks for a covered employer.[lxiv] Eligible employees receive 50 percent of their average weekly wage, up to $170 per week, during leave.[lxv] The TDI program extends only to private sector workers unless the public employer opts in[lxvi] and is funded through joint employer/employee contributions; contributions from employees cannot exceed $0.60 per week.[lxvii] Leave under New York's TDI program is not job-protected, but some workers may qualify for FMLA protections during some or all of their leave.[lxviii]

The pending New York paid family leave program will begin by offering up to 8 weeks of family caregiving leave paid at 50 percent of a worker's normal wage up to 50 percent of the state average weekly wage in 2018, In 2019 the maximum length of leave will increase to 10 weeks paid at 55 percent of normal wages up to 55 percent of the state average weekly wage. In 2020 the level of wage replacement will increase to 60 percent of normal wages up to 60 percent of the state average weekly wage, and in 2021 when the program is fully operational it will offer up to 12 weeks of family leave paid at 67 percent of normal wages up to a cap of 67 percent of the state average weekly wage. Workers will be eligible for the program if they are currently employed by a covered employer and worked at least 26 consecutive weeks for a covered employer, or worked at least 175 days for a covered employer part-time.

Hawaii's system differs from other states by requiring temporary disability insurance as an employer mandate rather than running a state program to provide wage replacement to qualifying workers as in California, New Jersey, Rhode Island, and New York. Under Hawaii's TDI law, covered workers are entitled to up to 26 weeks of partial wage replacement each year.[lxix] Employees are eligible if they have worked at least 20 hours per week for 14 weeks and have earned at least $400 in the previous 52 weeks.[lxx] Eligible employees receive 58 percent of their average weekly wages,[lxxi] up to a maximum of $570 per week.[lxxii] The maximum benefit is adjusted annually based on statewide average wages.[lxxiii] Public and private sector employers of all sizes are required to provide TDI for their employees.[lxxiv] Employers may ask their workers to contribute up to half of the premium cost, provided that amount does not exceed 0.5 percent of the employee's weekly wages.[lxxv] Leave under Hawaii's TDI law is not job-protected,[lxxvi] but some workers may qualify for protection under FMLA or the Hawaii Family Leave Law.[lxxvii]

Designing a Paid Family and Medical Leave Program

Based on domestic and international examples and experiences, the form and structure of a paid family and medical leave (PFML) program can vary greatly. Design decisions are based, at least in part, upon what the intended goals and outcomes of a program are. Which conditions will be covered? How long will workers be able to take leave? What level of wage replacement will be available to leave-takers? How does an individual qualify for the program? How will the program be funded? What is the ultimate role of the government, employers, and workers? While the answers to each of these questions may differ from location to location, thus altering the ultimate type of program enacted, there are a number of commonalities and issues that must be addressed for any PFML program.

In order to function efficiently, any PFML program must have the ability to:

- Determine if a worker is experiencing a leave-qualifying condition
- Determine if a worker is eligible for program participation
- Calculate the amount of benefit that a worker is eligible for
- Process the leave benefit and disperse funds to the worker

Unlike in states with TDI programs, there is no perfect fit for a PFML program within already existing programs in Montgomery County. As a result, the creation of a new PFML program is not as simple as it has previously been in other states that were able to expand another program to also cover family and medical leave. However, this does not mean that there are not lessons to be learned from and resources that can be shared with already established programs.

Potential program structures

Employer mandates

Employer mandates are the least common way to structure paid leave internationally, and while other short-term paid leave benefits such as paid sick days are often proposed as an entirely employer provided and funded benefit, there is no precedent for offering paid family and medical leave in this format in the United States. This is also a relatively uncommon way of providing maternity leave internationally, though a handful of countries—primarily in Africa and Asia—have structured their programs in this way.[lxxviii] Under this program format employers, rather that the government, are required to provide wage replacement to their workers on leave, either by directly self-financing for a leave program or by purchasing private market insurance products.

In its purest form, this organizing structure consists of the government imposing a mandate on businesses to provide paid leave to workers, but it does not include a transfer of government funds to businesses in order to offset costs.[lxxix] Instead, employers are expected to finance their employees' paid leave themselves. A handful of countries—including Singapore, Thailand, and South Korea—have developed programs where the government funds a portion of the leave while employers finance another portion.[lxxx] In both instances, however, businesses are required to provide paid leave to workers themselves, which is in direct contrast to the current scenario in the United States.

Mandating that employers provide and self-fund paid leave is the most problematic way to structure a PFML program. Because this format requires individual businesses to fund the entirety, or at least majority, of a worker's paid leave benefit it can disproportionately impact organizations where a significant portion of the workforce are women of childbearing age or older workers who are more likely to need leave for their own health needs. Small businesses that are more likely than larger firms to need to hire replacement workers while an individual is out on leave may also face greater hardships under an employer mandated PFML program compared to organizations with larger workforces where duties can be more easily spread among coworkers.

In addition to unduly burdening some business with disproportionate costs, there is reason to suspect that employer mandates for PFML may result in negative employment outcomes for workers who are, rightly or wrongly, assumed to be more likely to need to take leaves. For example, in other countries where employers are required to provide paid maternity leave to their workers without government supports, women are more likely to experience a host of negative outcomes including employment discrimination and large gender wage gaps.[lxxxi]

It is theoretically possible that employer mandates for PFML would result in the development of private market insurance products in order to provide the benefit. There are current insurance products to provide temporary disability insurance coverage to workers, although similar products do not currently exist to provide parental or family caregiving leave. Even if such products are created, they are not likely to be the most cost-effective or efficient way to ensure access to leave. Any private insurance product is likely to be experience rated, which would result in higher costs for firms where many workers are expected to take leave and would still potentially result in employment discrimination against these populations. There is also ample reason to believe that a PFML private insurance product would be subject to many of the same problems seen in the private for-profit health insurance market, including the financial incentive for insurance companies to deny claims. [lxxxii]

Therefore, structuring a PFML program as an employer mandate is likely to result in negative outcomes for women, older workers, workers with disabilities, other workers who are the most likely to need leave, and the businesses that employ them. This is also the least common model for structuring paid family and medical leave internationally and has no precedent domestically. As a result of these drawbacks, this program structure is not explored in greater detail throughout this report.

Social insurance

The most common international PFML structure, including the programs in the majority of other advanced economies, is social insurance. Similar to other forms of insurance, under the social insurance model all or nearly all workers pay "premiums", often through payroll contributions, into a dedicated insurance fund. When a worker qualifies for leave they receive wage replacement as a paid government benefit, rather than through their employer. Because risk and resources are pooled under social insurance models, and because the events that trigger paid family and medical leave are relatively infrequent events over the life course for most workers, paid leave can be provided universally at a low per-person cost.

Social insurance programs also have longstanding and positive precedents in the United States. Social Security and Medicare are perhaps the best-known examples, with workers contributing to the programs through payroll tax deductions during their working years and then receiving government benefits when they become eligible for the programs. Four states – California, New Jersey, Rhode Island, and New York – have temporary disability insurance programs that have operated similarly for decades, all of which have been expanded to also cover paid parental and caregiving leave. Under these state programs social insurance functions in ways that are very similar to private insurance: Workers pay a small premium through their payroll taxes that goes into a dedicated trust fund, and when they need to utilize the program, they are provided with wage replacement drawn from that fund. While the exact rules for eligibility and coverage differ by state, under each program workers are able to access partial wage replacement when they cannot work due to their own serious health condition, or because they need to provide care to a new child or seriously ill family member.

Noncontributory programs

Other countries operate PFML through noncontributory programs, although this is a less common approach than the social insurance model. Under this program structure leave-takers still receive wage replacement through a government program, but they are financed through general funds rather than dedicated "premiums" submitted through payroll contributions. The most recent country to take this approach to paid leave is Australia, which implemented paid parental leave in 2011.[lxxxiii] Because their program operates slightly differently than the more common social insurance model and was the most recently created national paid parental leave program in the world, further detail is provided here.

Under the Australian paid parental leave scheme, which is funded through general revenue, all leave-takers are eligible for the same flat benefit, paid at the national minimum wage. This is consistent with the pre-existing "Baby Bonus" which provided a lump sum benefit to parents after the birth of a child, but differs from the wage replacement offered under most social insurance programs.[lxxxiv] When workers fund the program directly through payroll taxes, it is logically consistent to base benefit payments on their taxed earnings. For example, high wage earners who pay the most into the Social Security system also receive the largest benefits in absolute dollars when they reach retirement age, although low wage earners may receive a higher percentage of their working income. However, because Australia funds their program through general revenue rather than a dedicated tax, it is consistent to provide a flat paid leave benefit rather than basing payments on an individual's earnings.

Additionally, while the Australian paid parental leave benefit is paid at the minimum wage, their hourly minimum wage is $17.70 in 2016, compared to a minimum wage of $8.75 in Maryland. Because the Australian payment structure assumes full-time work some workers, primarily those working part-time, receive more income while on parental leave than they did while reporting to their jobs. This is consistent with the previous Australian "Baby Bonus" model that existed prior to the implementation of the paid parental leave scheme, which did not require a parent to have been previously employed to receive the benefit. However, this is would be an unusual and unprecedented way to provide benefits in the U.S. context.

Australia's program also differs from other paid leave programs domestically and around the world due to the ways benefits are dispersed. Rather than receiving a benefit directly from the government, Australian leave-takers receive their benefits through their employers' payroll systems, meaning that they receive wage replacement through the same mechanism through which they receive their normal earnings. The government makes an advance payment to the employer in order to cover the cost of the leave benefit, paid out of general revenue, which is then doled out to the benefit recipient as if it were their normal earnings.

There are many different ways that a paid family and medical leave program could potentially be structured. Determining the best structure depends on the goals of the program and other existing programs and precedents. For example, employer mandates are inconsistent with programs intended to help reduce employment discrimination, while flat rate benefits may not be appropriate in a context where the minimum wage is not a living wage.

Necessary components of a paid family and medical leave program

Based on both international and domestic examples, there are many ways that a paid family and medical leave program can potentially be structured and administered including: employer mandates, social insurance, or noncontributory programs. But notwithstanding of the administrative form it takes, in order to be fully functional any program must be able to meet the following four requirements:

- Able to determine whether an application for leave is valid. This includes both the ability to make determinations on whether the worker's condition—medical, parental, or caregiving—qualifies them for leave and the ability to process the appropriate application materials
- Able to determine whether the applicant meets the program eligibility requirements
- Able to determine the amount of the paid leave benefit

- Able to process payment information and disperse funds to eligible applicants

Evaluating qualifying events

One necessary first order of business for any Paid Family and Medical leave program is to establish that the individual applicant is experiencing a leave-triggering life event. The four states with operational or soon to be operational paid leave programs in place cover the same life events that trigger job-protected leave under the federal Family and Medical Leave Act. These include: the need to care for a newborn, newly adopted, or newly placed foster child, the need to provide care for a seriously ill family member, or the need to address the applicant's own serious health concern. The remainder of this report proceeds under the assumption that any paid leave program would, at a minimum, cover the same qualifying conditions as the FMLA.

In addition to verifying that a qualifying condition has occurred, a PFML program must also determine the appropriate length of leave for the particular qualifying condition. Making determinations regarding parental leave is relatively uncomplicated because verifying the birth or adoption of a child and parentage is usually very straightforward. In the case of parental leave, qualifying individuals in the existing state programs are automatically eligible for up to 6 weeks of paid leave in California and New Jersey, and 4 weeks of paid leave in Rhode Island. Birth mothers are separately eligible for additional temporary disability leave to cover the physical effects of pregnancy and childbirth. Roughly one-fifth percent of all leaves taken in California and New Jersey are for parental leave, as are 7 percent of leaves in Rhode Island. Temporary disability leaves associated with a pregnancy disability account for approximately one-quarter of all temporary disability leaves taken in California and New Jersey, and 12 percent in Rhode Island. (See Table 1.)

Table 1: Comparison between existing state family and medical leave programs[lxxxv]

	California Usage SFY 2013-2014	**New Jersey Usage 2014**	**Rhode Island Usage 2014**
Number of covered workers	13,100,000	3,782,200 (Family Leave) 2,615,435 (Temporary Disability)	391,130
Total number of leaves	923,012	126,317	39,863
Total percentage of population taking leave	7 percent	3 percent - 5 percent	10 percent
Distribution of leave types (may not sum to 100 percent)			
Own health	75.32 percent	74.33 percent	90.29 percent
Parental	21.72 percent	21.18 percent	7.14 percent
Family Caregiving	2.96 percent	4.49 percent	2.57 percent
Own Health			
Percentage of population taking leave	4.84 percent	3.60 percent	9.20 percent

Percentage of medical leaves related to pregnancy	26.10 percent	25.40 percent	12.42 percent
Average length of leaves (in weeks)	15.66	14.20	9.27
Parental			
Percentage of population taking leave	1.53 percent	0.71 percent	0.73 percent
Men's average length of leave (in weeks)	4.48	5.20	3.36
Women's average length of leave, excluding pregnancy medical leave (in weeks)	5.50	5.60	3.50
Family Caregiving			
Percentage of population taking leave	0.21 percent	0.15 percent	0.26 percent
Average length of leaves (in weeks)	3.59	4.10	3.45

The state programs currently in place in California, New Jersey, and Rhode Island can serve as useful examples of how qualifying life events can be evaluated and verified. These state temporary disability insurance and family caregiving programs evaluate applicants' claims by processing official documentation from licensed medical providers treating individual workers, while paid parental leave claims are verified using state birth records. The procedures in place in these states provide a thorough and straightforward process to verify applicants' needs and the appropriate length of leave.

While the potential for fraud and abuse is frequently cited as a major concern in the development of a PFML program, these existing processes ensure program integrity. Applicants cannot simply request leave for the maximum allotted time allowed by a program. Rather, they mist submit appropriate documentation from qualifying medical practitioners that is crosschecked against federally recognized classification systems and guidelines.

For example, in California applicants must arrange for medical documentation to be submitted directly from their licensed medical provider to the state.[lxxxvi] Medical practitioners must provide proof of licensing along with a detailed diagnosis or statement of the applicant's disabling condition along with the corresponding International Classification of Diseases, or ICD, code. ICD codes are part of an internationally recognized classification system that relays detailed information on medical conditions by U.S. hospitals, health care facilities, and the Centers for Medicare & Medicaid Services. The medical information submitted on behalf of the applicant must also indicate the anticipated return to work date, and this information is crosschecked against the Official Disability Guidelines (ODG), which include information on anticipated recovery times. In the case of family caregiving leave, medical information is submitted pertaining to the family member for whom the applicant will be providing care. Falsely certifying a medical condition is against state law and is punishable by imprisonment, fines, and/or a penalty to repay a portion of any benefits that may have been paid as a result of a fraudulent medical certification. Similar processes are in place in Rhode Island, which maintains licensed nurses on staff to address any discrepancies between the medical documentation submitted by an applicant's medical provider and the ODG. In both states exams can be requested from independent medical examiners in order to verify disability status if needed.

Many concerns related to the potential for fraudulent claims are based in a misunderstanding of the types of information required from applicants in order to approve and process claims. The application overview process is less involved than what is required under Social Security Disability Insurance (SSDI), which is intended to provide benefits to eligible individuals for the entirety of their disabling condition, and where eligibility is dependent upon, among other qualifying criteria, experiencing a work-precluding disability that is expected to last for a minimum of one year or be fatal.[lxxxvii]

At the same time, the medical documentation necessary to qualify for paid PFML leave under the current state programs is also much more detailed than the medical documentation leave-takers must submit under the federal FMLA or the MPLA. Under the FMLA and MPLA, leave-takers must provide official documentation to their employers containing information that their medical provider has provided and signed to verify. The types of information provided may include: the name and contact information for the worker's medical provider; the date that the worker's health condition began and how long it is anticipated to last; relevant and appropriate information about the worker's health condition; information establishing that the worker cannot perform the essential functions of his or her job or a statement establishing that a family member is under the supervision of a medical provider due to a serious health condition and that the worker needs to provide care.[lxxxviii] Because the FMLA and MPLA govern interactions that take place between an individual and their employer, workers are not required to provide their detailed medical history or diagnoses due to legitimate privacy concerns. However, when applicants are applying for government-run programs they can be required to provide more detailed information, which is then subject to strict privacy protocols. This detailed medical information is not shared with an applicant's employer, but it is used internally to support fraud prevention measures.

With the exception of internal processes for county employees, there are no broad county-level programs that currently provide a similar service of making medical determinations for any other programs. The state of Maryland also does not currently operate any state-level programs that perform these functions, with the possible exemption of state workers' compensation.

The majority of states, - with the exception of North Dakota, Ohio, Washington, and Wyoming – involve at least partial privatization of their workers' compensation programs and only 19 states have state-run funds that are competitive with the private market.[lxxxix] Under some circumstances, it may be possible to share resources and expertise with the medical experts in a state workers' compensation office who have experience making medical determination. However, new staff, training, and systems will have to be developed for a PFML program which would operate very differently than workers' compensation. There is potential for lessons from workers' compensation combined with processes and procedures from the existing state TDI programs and FMLA certifications to help inform the development of rules and procedures for a medical certification process that would be streamlined and efficient without encouraging or permitting fraud.

Determining program eligibility and wage replacement

After establishing that an applicant is experiencing a qualifying condition, a PFML program must have enough information about a worker to determine both that they have met the additional program eligibility requirements and what level of wage replacement the applicant is eligible to receive while on leave. Ideally this can be achieved by accessing already existing data on individuals' work histories and earnings rather than being forced to create a new – and most likely prohibitively expensive – new data set on workers.

A county-based PFML program will need two types of information on workers. First, data are needed on workers' labor force attachment preceding the leave-triggering episode in order to make determinations about program eligibility. The existing state programs base program eligibility on previous earnings within the state, while the FMLA and MPLA base job protection eligibility on work hours with a particular employer. Second, data are needed on earnings in order to determine the appropriate level of wage replacement for workers who meet all the program eligibility requirements. The breadth, depth, and recentness of these data will depend on the exact rules for the program.[xc]

The statute for eligibility requirements can be structured in a variety of ways when developing the structure for a PFML program. Because paid family and medical leave is intended to replace a worker's wages when he or she is unable to work due to family care or personal medical responsibilities, eligibility rules tend to require the demonstration of labor force attachment through previous work history. This has historically translated into looking at previous earnings, hours worked, or months employed over a specific look back period. From a strictly administrative perspective, some of these approaches are simpler and more streamlined than others.

Not all states maintain centralized individual-level data on weeks or hours worked for all employees, although some state UI programs do collect and use this information. In the absence of a state database containing this information, in order to use weeks or hours worked as eligibility criteria a PFML program would have to rely on self-reporting from applicants or verify job tenure and hours with each individual employer for every applicant. Because some applicants would be expected to work multiple jobs, this could potentially require even more documentation and crosschecking. Even if this option is chosen, the program would need to be prepared to develop an independent source of data if an applicant or their employer challenge the verified job tenure or work hours.

The currently existing state paid leave programs have chosen to base program eligibility on previous earnings, as this is data that is already collected and is readily available through their state unemployment insurance programs. Due to the difficulty using job tenure or work hours in Montgomery County, in addition to the lack of precedent, this report will continue under the assumption that previous wages will be used to calculate program eligibility.

For example, in order for a worker in Rhode Island to qualify for temporary disability or paid family leave they must have first earned wages in the state and paid dedicated payroll taxes into the social insurance fund for these programs. Second, they must have earned at least $10,800 in either the base period—the first four of the last five completed calendar quarters—or the alternate base period—the last four completed calendar quarters. Alternatively, they can qualify for the program if they have earned at least $1,800 in at least one of the base period quarters, have total base period taxable wages that are at least 1.5 times as high as the highest quarter of earnings, and have total base period earnings of at least $3,600. By way of contrast, the eligibility rules in California are far less stringent, with workers only needing to have earned $300 in taxable wages during the base period. See Table 2 for a comparison of existing program eligibility rules.

Table 2: Comparison between existing national state unpaid and paid leave programs[xci]				
	Length of leave available		**Wage replacement**	**Eligibility requirements**
	Temporary disability, including pregnancy-related medical leave	*Parental and family caregiving leave*		
Family and Medical Leave Act of 1993	Up to 12 weeks	Up to 12 weeks	None	Worked at current job for at least 12 months and logged at least 1,250 hours in the previous year AND Work for an employer with at least 50 employees within a 75 mile radius
California	Up to 52 weeks	Up to 6 weeks	55 percent, with a weekly maximum of $1,129 In 2018 the paid family leave benefit will increase to 70 percent for those earning less than 1/3 of the state average weekly wage, and 60 percent for all others, up to the benefit cap.	Earned at least $300 in base period

New Jersey	Up to 26 weeks	Up to 6 weeks	66 percent, with a weekly maximum of $615	Earned at least $8,300 in base year OR Earned at least $165 per week for a minimum of 20 weeks
Rhode Island	Up to 30 weeks	Up to 4 weeks	60 percent, with a weekly maximum of $795	Earned at least $10,800 in base period or alternate base period OR Earned at least $3,600 in base period and earned at least $1,800 in a quarter and have total base period earnings of at least 150 percent of the highest quarter's earnings

New York	Up to 26 weeks	Up to 8 weeks in 2018, 10 weeks in 2019, and 12 weeks in 2021	For temporary disability: 50 percent, with a weekly maximum of $170 For family leave: 50 percent up to 50 percent of the state average weekly wage in 2018, 55 percent up to a cap of 55 percent of the state average weekly wage in 2019, 60 percent up to a cap of 60 percent of the state average weekly wage in 2020, and 67 percent up to a cap of 67 percent of the state average weekly wage in 2021	For temporary disability: worked at least 4 consecutive weeks for a covered employer OR Work for an employer who provides voluntary coverage OR Work at least 40 hours per week for one employer as a domestic or personal employee For family leave: currently employed by a covered employer and worked at least 26 consecutive weeks for a covered employer OR worked at least 175 days for a covered employer if part-time
Hawaii	Up to 26 weeks	n/a	58 percent, with a weekly maximum of $570	Worked at least 20 hours per week for at least 14 weeks AND Earned at least $400 in the 52 weeks prior to the claim date

While similar individual level data is not collected on every worker at the county level, each State Workforce Agency—sometimes called a State Employment Agency—collects quarterly employment data on all workers employed in the state. This data is primarily collected through information relayed by employers in connection with state unemployment insurance, or UI, programs. These data are held at the state level and are used to determine eligibility for unemployment insurance benefits if a worker becomes unemployed through no fault of their own. It is possible to use this data for purposes beyond making UI decisions, and State Workforce Agencies regularly share data with other agencies provided that the transfer of information does not result in additional uncompensated costs to the UI system. For example, California's Employment Development Department administers unemployment insurance and the state's paid family leave and temporary disability insurance programs using the same data and program eligibility rules.

Additionally, while 19 states expanded their UI eligibility rules to include workers who separate from work due to "compelling family circumstances" under the 2009 UI Modernization program, these benefits are not a substitute for paid family and medical leave and Maryland has not made this expansion.[xcii]

In addition to the data collected through State Workforce Agencies, similar information on quarterly earnings are also submitted to the State Directory of New Hires, which is later shared with the National Directory of New Hires. If for some reason individual level data on workers quarterly earnings could not be accessed through the state UI system similar information could be made available through the State Directory of New Hires. As is the case with the UI system, any data sharing would need to be covered through a memorandum of understanding (MOU) and could not result in uncompensated costs to the state system. There is a greater potential for a lag in reporting worker data to the State Directory of New Hires and thus this data may be less current that than held in the UI system by State Workforce Agencies.

If neither the State Workforce Agency nor the State Directory of New Hires is able to provide quarterly wage records on individual workers, there are additional options for accessing data although they may experience even greater time lags. The state taxing authorities in the 41 states with broad-based income taxes – including Maryland – have data on workers' earnings from the previous calendar year submitted through individual tax files. While employers provide payroll tax information on a more regular basis to the state, this data is submitted in aggregate and does not include detailed information on the earnings of individual workers.

There are, however, drawbacks to using tax filings to make PFML program eligibility determinations. First, low-wage workers who do not have tax liabilities and are not legally required to file their taxes may choose not to do so and thus may not be present in these datasets. This may potentially be less true, however, in Montgomery County where the additional County funded Earned Income Tax Credit (EITC) should incentivize greater filing among low-income households. Second, this data is only submitted annually, and may not reflect an applicant's current employment or wages at the time they experience a leave triggering event. For example, a Montgomery County taxpayer filing income taxes in the state of Maryland claiming wages earned from January 1 through December 31, 2016 would typically not be required to submit their filing until April 17, 2017, or until mid-October 2017 if they file for and are granted an extension. Even after taxes are filed there is a delay while information is processed and input into the system. Therefore, it is possible that an applicant could apply for leave in early October 2017 and the most recent earnings data held by the state taxing authority would be from January through December 2016. This could complicate determining program eligibility for workers who have experienced spells of past unemployment and younger workers who were relatively recent entrants into the labor force, which would include many first-time parents and workers whose family caregiving or medical needs had previously resulted in a fragmented work history.

Therefore there are benefits to using wage records collected through the State Workforce Agency or the State Directory of New Hires. Data accessed through these sources can reviewed and analyzed on a quarterly basis and is much more frequently collected and updated. Theoretically, individual wage records should be available through these sources with no more than a three-month lag from the timing an individual applies for leave, although in practice the timing may be longer depending on the date of application. For example, if a worker submits a leave application in June the State Workforce Agency should have on file his or her wage data from the previous quarter, spanning January through March of that year. Having more recent wage and employment data can be useful not only to determine whether a worker has sufficient labor force attachment to qualify for paid leave but also to ensure that any wage replacement calculations are being made using recent and therefore more relevant data. If states must use tax filings as a source of employment and earnings information, there may more than a one-year gap between the most recently available data and the date a worker applies for leave.

Depending on the source of data used to determine program eligibility, making calculations of the appropriate benefit payment amount is relatively straightforward. However, it is important to keep in mind that because wage replacement is calculated using data on previous earnings, it may not perfectly reflect a worker's current income. For example, any applicant who had recently seen an increase in earnings due to a raise or a new position may not see their new income level reflected in the available state data. Conversely, applicants who have seen a drop in their income may have lower current earnings than are reflected in the available state data.

Notwithstanding this fact, in the absence of collecting information on individual earnings in real-time, which would likely be overly, burdensome to verify, any PFML program must make benefit determinations based on previous earnings. The exact formula will depend on the dataset being used, as well as policy decisions about the appropriate level of wage replacement. The needs of low-wage workers should be taken into account, as this is the population least likely to currently have access to employer provided paid leave benefits. Consensus among many advocates for paid leave is that benefits should be no less than two-thirds of previous wages, while a tiered system would ensure that low-wage workers were able to access the program without overextending the program.

Processing Payments

In addition to determining program eligibility and calculating the appropriate benefit amount, a PFML program must then have the ability to transfer funds to leave-takers through a cost-effective and efficient process. The majority of currently existing government programs no longer process payments through paper checks in favor of the electronic transfer of funds. This largely virtual system has the benefit of being less expensive, faster, and less susceptible to fraud.

At the national level, Social Security and Supplemental Security Income benefits can generally only be received in one of two ways: first by direct deposit into the benefit recipient's bank account, or transferred to a Direct Express account which can be accessed using a Direct Express Debit MasterCard. Electronic Benefits Transfer, or EBT, cards, provided by independent contractors, are similar to debit and credit cards and are used to disperse benefits for the Supplemental Nutrition Assistance Program, or SNAP, formerly known as food stamps; Temporary Assistance for Needy Families, or TANF; and the Special Supplemental Nutrition Program for Women, Infants, and Children, or WIC. Individual states have similar contracts with banks to provide UI benefits, although these benefits are provided using a separate card.

Federal law dictates that individuals cannot be required "to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of … receipt of a government benefit," and that the direct deposit of benefits funds should always be the first choice due to its efficiency and cost -effectiveness.[xciii] As of 2013, the rate of direct deposit for unemployment benefits ranged from 16 percent to 82 percent, with an average of 57 percent, indicating that there is more states could do more to encourage and facilitate the direct transfer of funds into recipients' bank accounts.[xciv] However, because nearly 30 percent of households in Maryland are unbanked or underbanked, it is important and necessary to ensure that individuals have alternate means of receiving their cash benefits.[xcv]

The currently existing state paid family leave and temporary disability programs use preloaded debit cards to disperse benefits to leave-takers. While all allow for direct deposits as the most efficient way to access payments, California and New Jersey have partnered with Bank of America to provide debit cards that allow beneficiaries to access their funds, while Rhode Island provides cards through a contract with Chase Bank for recipients who do not sign up for direct deposits. In all three states, these are also the same cards that are also used to disperse UI benefits to eligible workers.

The use of such cards is not without its potential downsides, including fees for common actions such as checking the account balance or withdrawing funds. While cards that are associated with banks usually have free withdrawals when using an in-network ATM, recipients may not live in an area where they are readily accessible.[xcvi] However, paper checks also can present problems for people who may have difficulty cashing them, and they are expensive to process and mail. The state of California estimated that it would save $4 million as a result of its switch from mailing checks to the use of debit cards.[xcvii] As a result, direct deposit should always be the first option, in keeping with federal law and in order to minimize delays in receiving payments and costs for benefit recipients.

Paid Family and Medical Leave in Montgomery County, Maryland

In order to be fully functional, effective, and cost-efficient, any newly developed paid family and medical leave program must have: the ability to made determinations to verify that a leave-triggering event has taken place, the ability access to data about workers' employment history to determine program eligibility, and the ability to access data on workers' previous earnings in order to determine eligibility and the appropriate level of wage replacement.

A PFML program has a fundamental need for individual level data same regardless of the qualifying conditions covered under the leave program, the length of leave, or the level of wage replacement offered. Because Montgomery County does not currently collect its own data on individual workers, and because it would be unreasonably onerous and expensive for the County to collect this data itself, the development of any new PFML program will require coordination with existing state agencies and the development of MOUs and a data sharing agreement.

Unlike in the four states that have been able to develop paid family leave programs by adding on to their already existing administrative structure of their temporary disability insurance programs, there is no such program already in existence in Montgomery County. As a result, the creation of a new paid family and medical leave program will not be as simple for Montgomery County as it has been in those states. In addition, there are no current county-level paid leave programs that could be used as an already existing model. This presents challenges, but also would allow Montgomery County to be at the forefront of paid leave program implementation and administration, serving as a vanguard for other counties and states that seek to develop their own programs. It also means that Montgomery County will have the ability to create an well-organized new program that makes the most of current technologies, rather that having to rely on already existing systems that may be outdated or inefficient.

Administering Department

This section outlines three options for where a family and medical leave insurance program could be housed and administered within Montgomery County: in the Department of Health and Human Services, in the Department of Finance, or in the Office of Human Rights. Because none of these departments currently offer analogous benefits to paid family and medical leave a new unit would need to be created and new staff hired in order to oversee the program. However, there are structures in place within each of these departments that could be used as resources for training with the potential for cross-staff collaboration.

Department of Health and Human Services

The Montgomery County Department of Health and Human Services (HHS) is the largest department in County government, employing more than 1,300 full-time staff and more than 300 part-time staff, and offering more than 120 programs to deliver services to County residents. HHS is one logical home for a paid family and medical leave program because they have a proven track record of providing services and because their mission is to support children and vulnerable adults – two populations who would benefit most from the creation of a PFML program.

Current staff within Montgomery County HHS already perform functions that are similar to at least some of the work that would need to be completed under a new PFML program. For example members of the Aging and Disability Resource Unit have extensive experience providing assistance and referrals to people with disabilities, seniors, and their caregivers. While these staff, along with HHS Resource Coordinators who serve recipients of funding through the state Developmental Disabilities Administration, do not have experiencing processing applications they do have experience helping people navigate government systems and could be sources of useful information and training procedures when implementing a new benefit program. In addition, members of the Aging and Disability Resource Unit also have familiarity with populations, such as family caregivers, that would require outreach and education after the implementation of a PFML program. Their experience meeting with clients and educating the public about their services would provide useful guidelines on the most efficient outreach strategies.

Similarly while Maryland's Child Care Subsidy Program is centralized through the Maryland State Department of Education, Montgomery County HHS staff administers the Working Parents Assistance (WPA) Program through the Office of Child Care Subsidy Program (CCSP). Staff within the CCSP have experience processing applications, which include verification of family income in order to determine program eligibility. In order to apply for the WPA program, parents must submit an application that includes (among other documents): verification of wages, proof of identification for family members and birth certificates for children, and their most recent tax return. These are the types of documents that would likely also be used to verify family caregiving relationships under a paid family leave program. Therefore, it is highly likely that even though child care is not directly akin to paid family and medical leave, there are systems and processes in place with the CCSP that could be built upon and expanded if a PFML program unit was developed under the auspices of Montgomery County HHS. Housing a PFML program with HHS would also allow provide opportunities for systems integration – for example applicants for PFML could be simultaneously screened for eligibility in the Child Care Subsidy Program, ensuring that county residents are better able to access the resources available to them.

Department of Finance

The Montgomery County Department of Finance plays a variety of financial roles for the County, including most importantly for these purposes revenue collection and tax billing as well as overseeing the

Montgomery County Self-Insurance Program. Because the Finance Department is founded upon a mission of prudent management, it is a natural potential home of any new program intended to manage a trust fund and disperse payments even when those functions go beyond its current responsibilities.

Similar to HHS, Finance does not operate any direct programs that are parallel to a paid family and medical leave program, but it does provide current functions that could be used as steppingstones to the development of a PFML infrastructure. First, while the majority of tax liability is handled at the state level, Finance is responsible for collecting semi-annual property tax payments from property owners in Montgomery County in addition to overseeing a variety of tax credits and excise taxes. Although PFML benefit payments are not envisioned in this report as being processed through the tax code as refundable tax credits, the experience and expertise of the Department of Finance would be useful tools in the development of appropriate procedures and protocols.

The Montgomery County Department of Finance, Division of Risk Management also currently provides services that would be useful sources of information for PFML implementation strategies. The County self-funds its workers' compensation program, the Montgomery County Government Self-Insurance Program (MCSIP) to which the Finance Department provides services. While the MCSIP only covers county workers, it has experience in processing medical claims and making temporary disability determinations. Regardless of where a PFML program was housed, this expertise should be utilized and built upon, including systems for program application, medical verification, and appeals processes.

Department of Human Rights

The Montgomery County Office of Human Rights (OHR) was created in order to foster equal opportunity for all Country residents. While it serves a variety of functions that are unrelated to paid family and medical leave such as investigating hate crimes and discrimination complaints and enforcing fair housing regulations, it is has jurisdiction over private employers in the County through its Compliance Section. The Compliance Section is responsible for investigating and resolving formal discrimination employment complaints including (but not limited to) complaints of discrimination based on age, sex, disability, and family responsibilities – all of which have considerable overlap with the issue of paid family and medical leave. As a result, it is highly likely that members of the Compliance Section are already well-versed in issues relevant to PFML and like members of Aging and Disability Resource Unit are already in contact with target populations for a PFML program.

Developing a New Unit within the Administering Department

Regardless of which Department houses a newly developed paid family and medical leave program, because Montgomery County does not have an already existing paid leave benefits infrastructure a new unit will need to be developed in order to administer the program. This unit will be responsible for the intake and processing of applications, verifying leave-triggering events, determining program eligibility and benefit levels, paying benefits to qualifying leave-takers, detecting and deterring fraud, and conducting outreach and education to the community.

Processing applications

When a potential leave-taker submits an application for paid family or medical leave they will need to submit detailed information about themselves and their need for leave alongside identifying information such as a Social Security Number or Individual Taxpayer Identification Number that can be checked against official wage data and records.

The application process will need to balance user-friendliness with program integrity. As a result applicants should have the option to submit their information online rather than through a call-center or paper application, and virtual applications should be utilized as often as possible. A virtual, paperless application process is not only more efficient for the applicant, but can also reduce the need for additional staffing thus resulting in program cost savings. All aspects of the application process, including the submission of birth records, medical diagnoses from licensed professionals, and employer verification of leave taking, should be able to be submitted through an online portal. The more information and documentation an applicant is required to supply themselves, the higher the likelihood they will not be able to complete the process, and online systems are one way to help streamline and simplify the process. The online portal could be easily equipped to provide easy to access, detailed information to applications regarding necessary documentation, timelines, eligibility rules, and submission processes.

There are many options for precisely how the online application process could take place, but most are modifications on the same general processes in place for workers applying for leave under the other existing state paid leave programs and applying for job protected leave under the FMLA and MPLA. Generally speaking, we would expect that first the application would initiate a claim to receive wage replacement during this time off by applying to the PFML Unit through the online portal. While exact timelines would vary, in most instances it would be reasonable to request parental leave forms be submitted prior to the anticipated birth, adoption, or foster placement date, while family care and medical leave forms would need to be submitted as soon as is reasonably possible given the individual circumstances. In the case of medical or caregiving leave, the worker's medical provider (or the medical provider for the worker's family member) would submit additional information containing detailed diagnoses to verify the need for leave as well as the length of leave required. In the case of parental leaves the parent would be able submit an official birth certificate or the agency (state or private) arranging the adoption would be required to submit proof of the adoption.

An applicant would also indicate to their employer, through the submission of a Montgomery County PFML Unit-developed form, the intent to take leave for a specified amount of time. One useful starting point for developing this form would be the DOL forms that are used for requesting unpaid leave under the FMLA and the MPLA.

Verifying leave-triggering events

Birth and adoption are relatively easy conditions to verify, while making medical determinations is more complex and requires more specialized information. Individuals could have the option of providing a valid birth certificate or foster or adoption verification in the case of parental leave, while medical certification would be required in order to claim temporary disability or family caregiving benefits. Following the example of the existing state programs, medical certification could be accepted from licensed medical or osteopathic physician/practitioners, authorized medical officers of a U.S. Government facility, chiropractors, podiatrists, optometrists, dentists, psychologists, nurse practitioners after examination and collaboration with physician and/or surgeon, licensed midwives, nurse-midwives, or nurse-practitioners for normal pregnancy or childbirth, and/or accredited religious practitioners. The already existing state TDI programs can also serve as examples from which to learn fraud detection and application review processes.

While checks and balances must be put in place to ensure that workers cannot simply claim they need extended medical or caregiving leave without documenting the need for leave, the application process and information required should also not be overly burdensome or intrusive. The level of documentation required in the existing state programs, reviewed against existing classification systems and guidelines, can be used to successfully ensure that the appropriate number and lengths of leave are permitted while minimizing the potential for unnecessary leaves.

For example, as previously discussed when a worker applies for temporary disability leave in Rhode Island their medical provider must submit medical documentation, which contains an International Statistical Classification of Diseases and Related Health Problems (ICD) code and an anticipated return to work date. The ICD is a classification system that provides detailed information on medical conditions, including the severity of the illness, which are used internationally and by U.S. hospitals, health care facilities, and the Centers for Medicare & Medicaid Services to better track and understand the clinical needs of patients. The information provided by an applicant's medical provider is then crosschecked against the Official Disability Guideline (ODG), which includes information on anticipated recovery times. The same process is in place for claimants applying to take family caregiving leave, who must provide medical documentation for the family member for whom they will be caring. Should any discrepancies exist, for example, if the return to work date indicated by the medical provider is later than what would be anticipated based on the ICD or ODG codes, licensed nurses are on staff who are capable of requesting and reviewing additional medical notes and documentation in order to ensure that the length of leave requested is medically justified.

Similar processes are in place in California, where medical certification is also provided directly to the state from licensed medical professionals. In addition to providing proof of licensing, medical practitioners must provide the state with either a diagnosis or detailed statement of disabling symptoms and an ICD code. Medical professionals who submit documentation to the state must also provide an anticipated date when the individual is likely to be able to return to work. Falsely certifying a medical condition is punishable by imprisonment, fines, and/or a penalty to repay a portion of any benefits that may have been paid as a result of a fraudulent medical certification. In both Rhode Island and California the state also has the ability to request an exam from a member of its panel of independent medical examiners in order to verify disability status.

The medical documentation necessary to receive paid temporary disability leave or family caregiving leave under the existing state programs is far more detailed than the medical documentation required under both the federal FMLA and MPLA. Although this detailed medical information is not shared with the leave-taker's employer in order to ensure workers' right to privacy, these more rigorous program requirements helps reduce even further the already low risk of abuse and potential misuse.

Program eligibility

As previously mentioned, Montgomery County does not currently collect data on individual workers' wage histories or labor force attachment. Two options that have been presented are to determine eligibility based on previous wages with an applicant qualifying if they have earned a minimum of $1,800 in the base period, or on weeks and hours worked with an applicant qualifying if they have been employed for at least 26 weeks and worked a minimum of 520 hours in the previous 12 months. Due to the currently available data, basing program eligibility on job tenure and work hours would likely be overly burdensome to determine and verify. At present, no Maryland state government agency tracks work hours, although there is data available on workers' earnings. Therefore it will be most efficient and cost-effective to make program eligibility determinations based on an applicant's prior earnings, similar to the already existing state paid leave programs.

Verifying that an applicant meets the earnings threshold can be easily achieved by cross-referencing the worker's Social Security Number or Individual Taxpayer Identification Number (ITIN) against state-held wage data. The best and most up-to-date information is currently held by the Maryland Department of Labor, Licensing, & Regulation, specifically within the Division of Unemployment Insurance.

Benefit determinations

Several different formulas for calculating benefit levels have been proposed in Montgomery County, including providing 66 percent of usual weekly earnings capped at $1,000 per week, or using a sliding scale that would provide higher levels of wage replacement for low-wage workers. Regardless of which formula is decided upon, calculating the appropriate benefit amount will be uncomplicated if using state unemployment insurance wage data.

However, while the calculations themselves are not complicated, there are issues that should be kept in mind when setting benefit levels. The weekly benefit cap at $1,000 will lose its value if it is not adjusted to reflect wages in the County. For example, in New York the weekly maximum payment for temporary disability insurance is $170, an amount that has not been updated by the legislature in decades. An automatic adjustment tied to the Montgomery County average weekly wage will ensure that the Council does not have to repeatedly pass new legislation to increase benefits in order to keep pace with inflation.

Dispersing benefits

To ensure prompt payments that are efficient and cost-effective to administer, direct deposit should be the default means of paying benefits. However, contracting with a local or national bank should also be explored in order to ensure that unbanked or underbanked leave-takers are still able to access the benefits. While Montgomery County does not currently disperse cash benefits to residents, the state unemployment insurance benefits are provided through the Maryland Unemployment Insurance Benefits Debit Card, a Visa debit care provided by Bank of America. State unemployment insurance benefit recipients are automatically administered Benefits Debit Cards which are the only way to access unemployment benefits - although recipients with a valid email address can transfer funds from their Benefits Debit Card to a bank account. Montgomery County could also choose to partner with Bank of America – or another bank set up to provide similar services – in order to process payments to leave-takers who choose not to utilize direct deposits, although direct deposits without the use of a debit card should be offered as an option. Any contract with an outside entity to disperse benefits should be carefully monitored to ensure that recipients are not subjected to unreasonable or onerous fees and requirements.

Fraud detection and prevention

Any PFML program should include sufficient provisions for fraud detection. While all TDI states have claims units in order to identifying and address fraud, the states report very little fraudulent activity. For example, n 2014 over 923,000 paid leave claims were filed in California, with 130 coming under investigation for fraud and only 25 criminal complaints filed – only 0.48 percent of all claims were paid fraudulently. The most common forms of fraud are: work and earning violations, altered/forged medical certification, and imposter fraud. Rhode Island has also found that fraud is very rare.

The existing fraud detection procedures in Montgomery County Government Self-Insurance Program for workers' compensation could be adopted to ensure appropriate use of the PFML program.

Outreach and education

The development of a Montgomery County PFML program will not only require the ability to process application and payments, but must also include extensive outreach and educational efforts to ensure knowledge of the program in the first place. California can serve as a cautionary tale – initial funding for outreach after the creation of the paid family leave program in 2004 was cut due to budgetary constraints and knowledge of the program remains low across the state. Luckily, because Montgomery County covers a relatively small geographical footprint with a smaller population, outreach efforts will not be as difficult as in other areas.

The PFML unit should actively plan and participate in outreach and education efforts directed at employers, employees, clinicians, and target populations such as low-income workers and family caregivers. This can be achieved through options like public service announcements, billboards and public transit advertisements, traditional and social media, partnering with community organizations, and participation in community events. Educational materials should be created that are clear, concise, and available in multiple languages. The PFML unit should draw upon the resources and experiences of HHS and OHR when developing an outreach plan.

Staffing and IT costs

IWPR has developed simulation models for several different potential proposals for leave in Montgomery County, but beyond these cost estimates the PFML fund will have both one-time costs and on-going administrative costs. Each IWPR model includes a 5 five percent administrative overhead incorporated into the cost estimates in order to ensure the fund's viability with appropriate staffing and support, which reflects the on-going administrative costs in other state programs and the estimates outlined in this report. The estimates for the staffing needs of a Montgomery County PFML program are based on both the anticipated number of claims and the staffing patterns of paid leave programs in other states. IT costs are rough estimates given the unique nature of proposing a PFML program at the County level.

Staffing

Estimates for staffing needs can be determined based on the anticipated number of claims and the staffing patterns of paid leave programs in other states. The IWPR cost models for different types of programs project the highest likelihood of usage ranging from approximately 71,000 to 78,000 leaves. It is important to consider that these numbers reflect the upper expected limits of claims and not year-one usage. Therefore, staffing should start small and increase over time as awareness and use of the program grows. The first year of program development should be focused exclusively on determining the parameters of the program and building out the IT system, which requires fewer permanent staff and more temporary assignments and positions. The bulk of new hires would need to be brought on until later in the process in order to train before the first claims are submitted.

Rhode Island has a staffing ratio of 1 staff to every 683 claims, while California has a staffing ratio of 1 staff to 707 claims. California is able to function with a higher staff to claims ratio because their system relies less on time-consuming paper applications than is the case in Rhode Island, although many of these systems are still outdated relative to what would be possible if a new program were created today. Since any new PFML program should take full advantage of technological advancements, it is the author's estimate that a fully operational paid family and medical leave program in Montgomery County would require approximately 70 staff members to administer.

See Table 3 for a full staffing plan.

Table 3: Full staffing plan

Position	Number of FTEs
Program Director	1
Assistant to Director	1
Labor market statistician	1
Customer service supervisors	2
Customer service representatives	42
Clinical staff	12
Registered nurses	1
Record/Document management	6
Program coordination w/UI & Workers' Comp	1
Communications and outreach	1
Member for Board of Review	1
Staff attorney	1
Physician consultant	1 day per month

IT Costs

The creation and development of the IT infrastructure to support a paid family and medical leave program represents the greatest initial costs to the program, and is crucial to its strength and success. Currently, there is no "off the shelf" IT product that would provide the basis for a publically administered PFML program and Montgomery County does not have an already existing program infrastructure to build off of. While this presents some challenges it also creates a number of opportunities.

The IT system developed for a PFML program should encompass workflow and document management with the ability for all records to be kept electronically. While applicants should retain the ability to submit paper documentation, any physical records should be scanned and added to the electronic files and interactions with applicants, their health care providers, and employers should be recoded in an electronic records management system. An IT system must be able to handle the application process, determine eligibility, process documentation, and manage internal workflow. It should also be able to collect and analyze data that can be used to ensure the program is functioning as intended and serve as a research resource. Reporting functions should include the ability to determine use of the program by many different factors including use of leave, wages, workforce categories, mean and median length of leave, costs, demographic information on employees, fluctuations in premium rates, and reasons for denial of applications.

At the same time that is it able to handle these tasks, the aspects of the system that are customer-facing must also be user-friendly to ensure accessibility to potential applicants. Because online applications are the most efficient way to obtain and process information, a well designed, secure, and easy to navigate website should be developed for potential leave-takers.

This is a significant undertaking, but there are principles and approaches that can be utilized to help manage costs and ensure a usable final product. First, a working group should be developed prior to releasing a Request for Proposals (RFP). The working group should determine the scope of service, develop expected outcomes, identify specific deliverables, create performance measures, and define expected service and communication levels between the state and the contractor in a legally binding contract. The working group should include subject experts on the family medical leave insurance process, along with IT personnel internal knowledgeable of state and County systems who can make recommendations for product requirements. A project manager with formal contract management and oversight skills should lead the working group. The development of any large-scale IT system has the potential to be costly which is why a comprehensive and well-developed RFP combined with contract and project management are vital to the process.

It is strongly recommended that any RFP include explicit attention to the principles of "agile software development." Agile development prioritizes: "individuals and interactions over processes and tools; working software over comprehensive documentation; customer collaboration over contract negotiation; and responding to change over following a plan."[xcviii] The agile process involves ongoing check-ins regarding systems development and encourages contractors to show value over time with allows for changes to the system by creating a dynamic process that is responsive to feedback and needs from the client. Because this approach involves extensive testing throughout the course of development, it ensures that the end product meets the needs of the client and eliminates the need for costly repairs and restructuring that can occur when a system is not viewed or delivered until it is fully finished.

It is also recommended that an RFP prioritize bids that are based on open source software. Open source software is software with accessible code that can be publically viewed, as opposed to closed source software, which is proprietary and privately owned. Open source software is beneficial because it tends to be more secure than closed source software since security is focused on the data rather than the software code. Because the code is made available it also avoids the problem of vendor-lock, which can dramatically reduce future costs for upgrades and ongoing maintenance. Open source software would allow IT staff within County government the ability to oversee, upgrade, and adjust the system when necessary. Staff from California's paid leave program, along with staff from UI systems in a number of other states, have reported that being forced to rely on outside contractors for all changes and maintenance can lead to high costs and suboptimal results.

Finally in addition to generally being less expensive, open source software is preferable because it allows for the possibility of greater collaboration and cost sharing across municipalities. Since open source software development can potentially be modified and implemented by more than one end user, there is the potential for more than one state or local program to jointly fund the project. This would also allow a program that was developed at the County level to be "scaled up" to the state level in the future.

It is difficult to determine exact costs associated with IT until the County releases an RFP, however, reviews of existing upgrade costs may provide a framework for the RFP. In a 2015 fiscal note for the Nebraska legislature regarding its efforts to develop a paid family and medical leave insurance, costs include: $489,440 related to hardware and software and $12.48 million for contracted system development (total of $12,969,440.) The Washington state fiscal note includes $2,955,000 for IT equipment and $3,157,000 for staff salaries to develop an IT system in-house (total of $6,112,000.)

Financing

The health of a PFML program is dependent upon ongoing funding that is sufficient to meet the benefit payment and administrative needs of the program. IWPR estimates for total program costs range from $116 million to $167 million, covering the more than 417,000 workers employed in Montgomery County. Based on the IWPR estimates the total costs of the program to be from 0.44 percent to 0.64 percent of total earnings for workers in the county.

In the existing state paid leave programs benefits and program administration are funded through payroll taxes, primarily levied against employees, on taxable earnings up to a capped amount. However, Montgomery County is unlikely to be able to create a new payroll tax without state-enabling legislation and therefore must explore additional funding options. While options such as an increase in property taxes have been informally suggested, because this is a benefit that is intended to target individuals who are employed in Montgomery County, it is the most logically consistent to fund the program through a source that relates to employment in the county.

One funding option would be to explore an excise tax paid by businesses. Montgomery County's Department of Finance has the authority to levy and collect excise taxes from businesses. The Room Rental Transient Tax, the Electronic Cigarette Tax, and the Fuel Energy Tax are all examples of excise taxes the County currently levies against businesses. These taxes are generally calculated based on a percentage of revenue or sales. For example, the Room Rental Transient Tax is 7 percent of net room rentals collected, while the Electronic Cigarette Tax is 30 percent of the wholesale price for each electronic cigarette product. Revenue from consumptive excise taxes in Montgomery County totaled $278.1 million in fiscal year 2015.[xcix] While the revenue from the Electronic Cigarette tax is relatively modest, the Room Rental Transient Tax contributed $19.0 million in FY 2015 while the Fuel Energy Tax amounted to in an additional $207.2 million.[c]

While the existing state programs derive their funding from employee contributions, taxing employers is consistent with introduced federal legislation for paid family and medical leave. It is also reasonable to assume that any new costs incurred by businesses are ultimately passed on to employees through a reduction in future wages and other means.

While an excise tax could not legally be based on a percentage of payrolls, it could be structured in several different ways. First, the excise tax to fund a PFML program could be calculated as a flat rate per employee. The costs estimates provided by IWPR amounts to a per worker cost of approximately $263 to $400 per worker per year, or from $65.75 to $100 per worker per quarter. Under this approach, an employer with 5 covered employees would pay between $328.75 and $500 per quarter into the fund. This approach would be easy for employers to understand and plan for, since the costs would be static. However, it would not be progressive – employers would pay the same tax on a high-wage employee who would draw a larger benefit from the fund as they would for a low- wage worker who would receive less in benefits while on leave (assuming benefit levels are based on a percentage of normal earnings rather than a flat rate.)

Another alternative option would be to base the excise tax as a percentage of business revenues rather than as a flat per-employee rate. This would be similar to the format of other excise taxes in Montgomery County. Under this approach, a business could still potentially pay a higher tax contribution for low-wage workers who would receive lower benefit amounts, but only if they had higher revenues relative to high-wage employers. This approach would have the potential to ensure that small or struggling businesses are not unduly burdened while still requiring more prosperous firms to submit greater contributions. Further research and analysis is necessary to determine the appropriate level of tax under this model.

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[lxxxviii] Wage and Hour Division, *Fact Sheet #28G: Certification of a Serious Health Condition under the Family and Medical Leave Act* (U.S. Department of Labor, 2013), available at http://www.dol.gov/whd/regs/compliance/whdfs28g.pdf.

[lxxxix] Insurance Information Institute, "Workers Compensation," April 2015, available at http://www.iii.org/issue-update/workers-compensation.

[xc] This is clearly a two-way street. A state may decide acceptable program eligibility rules first and then seek out a data source that provides the necessary information, or it can survey the information available and craft eligibility criteria based on the data that are readily available.

[xci] For Rhode Island benefits, see Rhode Island Department of Labor and Training, "Temporary Disability Insurance/Temporary Caregiver Insurance," available at http://www.dlt.ri.gov/tdi/tdifaqs.htm; For Hawaii benefits, see State of Hawaii Disability Compensation Division, "Frequently Asked Questions – TDI," available at http://labor.hawaii.gov/dcd/frequently-asked-questions/tdi/#How much benefit am I entitled to receive?; For

California benefits, see State of California Employment Development Department, "Disability Insurance (DI) and Paid Family Leave (PFL) Benefit Amounts," available at http://www.edd.ca.gov/disability/State_Disability_Insurance_(SDI)_Benefit_Amounts.htm; For New Jersey benefits, see State of New Jersey Department of Labor and Workforce Development, "Frequently Asked Questions – New Jersey Temporary Disability Insurance," available at http://lwd.dol.state.nj.us/labor/tdi/content/faq.html.

[xcii] http://www.nelp.org/content/uploads/2015/04/Access-to-Unemployment-Insurance-Benefits-for-Family-Caregivers.pdf

[xciii] *Electronic Fund Transfer Act*, H. Rept. 14279, 95 Cong. 2 sess. (Government Printing Office, 1978), available at http://www.federalreserve.gov/boarddocs/caletters/2008/0807/08-07_attachment.pdf.

[xciv] Saunders, Lauren K., and Jillian McLaughlin. "States Save Workers Millions in Fees; Thumbs Down on Restricting Choice." 2013. Available at https://www.nclc.org/images/pdf/pr-reports/report-prepaid-card-2013.pdf

[xcv] Federal Deposit Insurance Corporation. "2013 FDIC National Survey of Unbanked and Underbanked Households" 2014. Available at https://www.fdic.gov/householdsurvey/2013appendix.pdf.

[xcvi] Saunders, Lauren K., and Jillian McLaughlin. "States Save Workers Millions in Fees; Thumbs Down on Restricting Choice."

[xcvii] State of California Employment Development Department, "New Debit Cards Replacing Benefit Checks for Those on Disability." 2011. Available at http://www.edd.ca.gov/about_edd/pdf/nwsrel11-02.pdf.

[xcviii] Manifesto for Agile Software Development (2001) available at http://agilemanifesto.org.

[xcix] Beach, Joseph F. "Comprehensive Annual Financial Report, Fiscal Year 2015" (Rockville, Maryland: Montgomery County Department of Finance) available at http://www.montgomerycountymd.gov/finance/resources/files/data/financial/cafr/FY2015_CAFR.pdf.

[cc] Ibid.

COSTS AND BENEFITS OF FAMILY AND MEDICAL LEAVE FOR MONTGOMERY COUNTY WORKERS

November 30, 2016

INSTITUTE FOR WOMEN'S POLICY RESEARCH
Informing policy. Inspiring change. Improving lives.

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EXECUTIVE SUMMARY

It has been more than 23 years since the federal Family and Medical Leave Act (FMLA) was signed, extending job protection to eligible workers when they need to take time (up to 12 weeks) to care for their own health, a new child, or their families. FMLA does not require, however, that employers compensate their employees for this time. In four states – California, New Jersey, Rhode Island, and New York – existing temporary disability insurance (TDI) systems were expanded to provide paid family leave through a social insurance program. In many state and local jurisdictions across the country, legislatures are considering proposals to provide paid family and medical leave, but few have TDI systems in place and would need to build a new social insurance system.

This report provides cost estimates for a series of policy scenarios for employers in Montgomery County, MD (MC) based on existing policy ideas and representing selected eligibility criteria and benefit levels. It uses a recently updated simulation model that estimates leave-taking behaviors for workers and the characteristics of the leaves they take under different program designs. The results include descriptions about how each policy will impact leave-taking decisions and discussion of how each policy will affect different groups of workers.

Policy scenarios are compared to a baseline model of the current policy climate, which is one where some workers continue to receive compensation from their employers while taking leave, but there is no program benefit. Under the current policy the model estimates that that MC workers take nearly 72,000 leaves per year for family and medical reasons. According to the 2012 FMLA Employee Survey data collected by Abt Associates for the U.S., nearly two-thirds of the leaves taken are at least partially compensated by employers (Klerman, Daley, and Pozniak 2014).

This report focuses on a series of alternative paid leave policy scenarios that provide partial wage replacement for covered workers when taking eligible leaves. Most are based on programs or proposals introduced in other states, but modeled using the MC labor force. The policies represent a range of criteria for program coverage, as well as different levels of generosity in benefits, including the proportion of wages replaced and number of weeks that benefits may be claimed.

Under the policies highlighted in this report, total leave taking, including paid and unpaid family and medical leaves, would increase by 6 to 9 percent or approximately 76,000 to 78,000 leaves annually; of these, about one-third (23,000 or 27,000 leaves) would be eligible for paid benefits under the proposed policy. The cost of providing paid leave benefits ranges between $110 million (0.44 percent of total earnings) and $160 million (0.64 percent of total earnings), plus an additional 5 percent ($5.5 million to $8.0 million) for administrative costs.

The results highlight the importance of program design features such as eligibility criteria, coverage, and reasons for accessing program benefits. More universal program designs perform better at providing benefits at the lowest cost per worker.

INTRODUCTION

Since 1993, the federal Family and Medical Leave Act (FMLA) has allowed eligible employees to take up to 12 weeks of job protected leave. Under FMLA, reasons for covered leave include a personal illness or injury that impairs a worker's ability to perform their job, providing care or bonding with a new child, or providing care for an immediate family member with a serious health condition, all within in a 12 month period[1]. While the FMLA does not require that employers provide pay, it does require that employers provide job protected, unpaid leave for covered workers taking eligible leaves. Both public agencies and private firms employing at least 50 workers within 75 miles are covered by the law. Employees are eligible for FMLA benefits if they work 1,250 hours in a year and have worked at least 12 months for their current employer, provided their current employer is covered. As of 2012, 59 percent of employees worked at covered firms and met all eligibility requirements for FMLA benefits (Klerman, Daley, and Pozniak 2014).

Workers in Montgomery County (MC) are also covered by the Maryland Parental Leave Act (MPLA). The MPLA covers employers with 15 to 49 employees in Maryland and employee eligibility is similar to the FMLA. Under this policy employees can take up to 6 weeks of job protected, unpaid leave for the birth or adoption of a child in a 12 month period. As with the FMLA, employers are not required to pay employees during their leave. The MPLA does expand job protections to more workers in Maryland, beyond what is covered by FMLA.

The Maryland Flexible Leave Act (MFLA) provides employees with the option to receive pay while on leave. The policy covers employers with 15 or more employees, who must allow workers to use paid leave for the illness of an immediate family member. The MFLA does not require employers to provide paid leave – it requires that employees be permitted to use any paid leave they have accumulated under existing employer sponsored benefits, such as sick days or vacation. If an employee has more than one form of paid leave available, she or he may choose the type and amount of leave to be used.

Workers in MC are more likely to be eligible for job protected leave compared with workers in many other states or locales in the U.S. However, many workers cannot afford to lose pay when they are absent from work to address their own health issues, to bond or care for a new child, or to provide care to family members when the need arises. This report explores policy alternatives and the associated costs of providing partial wage replacement through a public program for the MC labor force. A range of program design feature are described and were selected based on

[1] Family members of an injured service member able to take up to 26 weeks (this leave may be taken all at once, intermittently, or for part or all of a day throughout the year).

existing policy proposals. Each policy represents different eligibility criteria and benefit levels. A recently updated simulation model is used to estimate leave-taking behaviors for workers and the characteristics of the leaves they take under different policies. Discussion about the impact each policy might have on different groups of workers accompanies these estimates.

SIMULATION MODEL

The Institute Women's Policy Research, together with Massachusetts economists Randy Albelda and Alan Clayton-Matthews, developed and updated a simulation model to estimate the usage and costs of family and medical leave. The model simulates specific leave-taking behavior (including number, length, benefit eligibility and benefit receipt) onto individual employees working in Montgomery County, MD using data from the Census Bureau's American Community Survey (ACS) assuming the county's workers behave like workers in the national FMLA survey with similar work and demographic characteristics. The simulation model estimates several aspects of leave taking behavior, conditional on demographic characteristics and leave type, including the worker's own health needs, maternity-related disability, new child bonding, and family care for spouse, children, or parents. These include the probability of needing a leave, of taking a leave, of getting paid for a leave, of extending a leave if some or more pay were received, and so on.

The model uses observable leave-taking behavior available in a national, comprehensive survey of family medical leaves, the 2012 FMLA Survey conducted by Abt Associates under contract to the U.S. Department of Labor, for estimating the occurrence and leave behaviors around qualifying family events experienced by U.S. workers in the previous 18 months. (Leaves taken in the past 12 months are also identified.) At the time of the 2012 FMLA survey, five states (California, Hawaii, New Jersey, New York, and Rhode Island had provisions for workers to be covered by temporary disability insurance for the workers' own health needs; California and New Jersey had expanded their state programs to cover bonding with a new child and family caregiving leaves. The 2012 FMLA survey asked what share of their usual earnings, if any, workers had received while taking recent leaves and included options for disability insurance and state leave programs among the sources of payments that respondents could select. The assumptions of the simulation model are that the worker would choose the compensation (employer provided wages or program benefits) that is most advantageous for herself or himself. The national estimates for leave taking and associated costs reflect changes in worker behavior to the national policy considered if its benefits would be greater than those currently available to them through their existing employer or state policy.

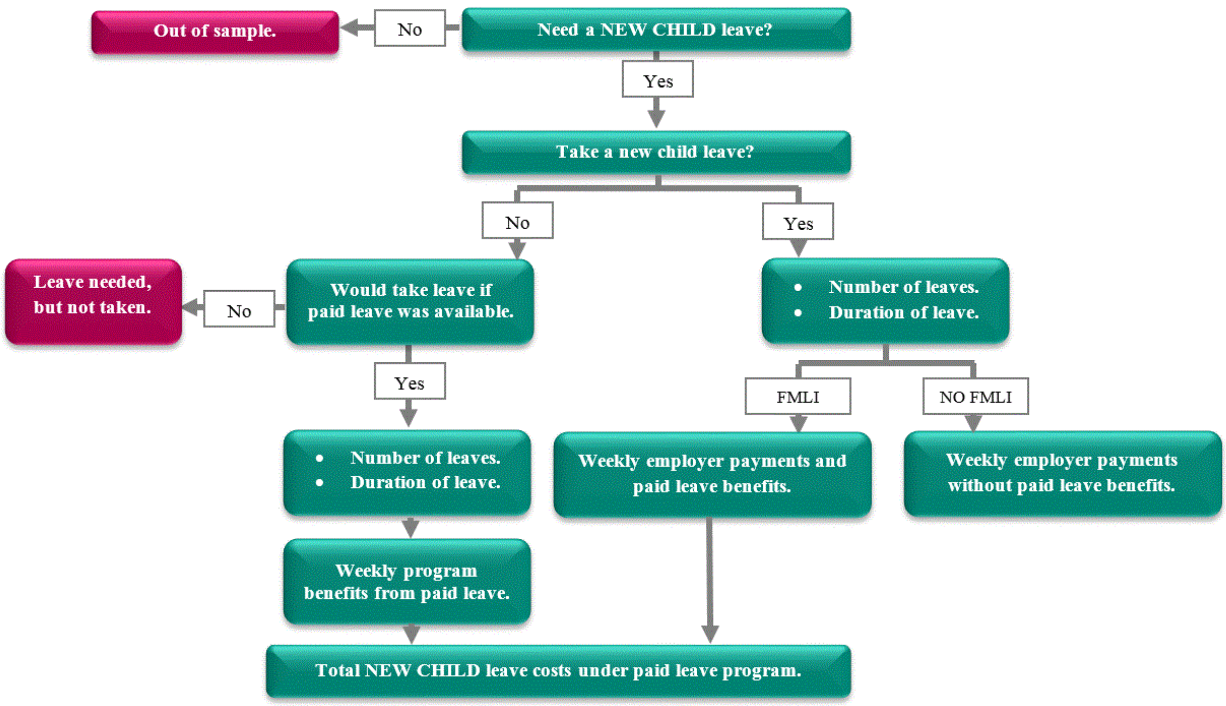
The survey data on observed behaviors are coupled with a few assumptions about unobservable behavior in the presence of a leave program including:

- How employer benefits affect leave program participation – The model assumes eligible workers compare weekly benefit amounts available in the leave program to "next best option" (employer-paid wages or uncompensated leave in most cases). If their employers' leave would provide greater benefits than the proposed benefit program, the model assumes workers would not apply for program benefits, but use their employer-provided leave.

- Program Take Up Rates – The model applies a specific definition of take up at the point where an eligible worker has experienced a qualifying medical or family event and decided to take leave in order to allow the analyst to specify the share that will apply for program benefits. Reasons for less than full take up include lack of knowledge, difficulty of application or use, and lack of job security.
- How a program affects the length of worker leave:
  - Short leaves (less time than a waiting period, if specified) may be extended according to estimates based on responses to "Would you take a longer leave if you received some/additional pay?" – a question available in the earlier 2000 FMLA survey.
  - Leaves lasting longer than a leave program's benefit period, but still considered eligible for employer pay, may be extended to sequentially access employer-provided and program benefits.
  - Leaves lasting more weeks than a leave program allows may be extended further even when no pay or benefits are available. Some workers may continue taking leave even if the time is not compensated.
- The model can provide estimates that assume some employers who would continue to pay workers during their leaves will instead have their employees claim program benefits for some leaves and supplement the program benefits so that their employees receive their usual wages while on eligible leaves. In the analyses presented, half of employers who would continue wages for workers will shift their employees to program benefits and supplement them up to the employee's usual wages on leaves lasting three weeks or more.

The total cost estimates generated by the IWPR-ACM Model compare well to actual benefits paid in CA, NJ, and RI (taking into account the standardization of the programs imposed to make them comparable for this analysis), suggesting that the estimates for the new California program and the proposed FAMILY Act are reasonable.

FIGURE 1: SIMPLIFIED EXAMPLE OF NEW CHILD LEAVES



POLICY SCENARIOS

Table 1 shows four policy proposals representing different eligibility criteria and benefit levels, which are used to estimate the cost of program benefits in MC. The first column shows the recently expanded program in California that will go into effect in 2018. California revised their program to provide more generous benefits to lower and middle wage workers in both disability and family leave programs and eliminated the initial waiting period for claiming paid family leave benefits.

The Washington, D.C. City Council has been considering a family and medical leave insurance program. The version outlined in Table 1 is the revised version that was presented in February 2016 to reflect the feedback from public hearings on the original bill that was introduced in the Fall of 2015. The program would provide up to 12 weeks of partial wage replacement per year for family and medical leaves. Worker eligibility criteria are very inclusive and benefits would provide a proportionately higher benefit to lower wage workers after a one week waiting period.

In 2016, Maryland legislators introduced family and medical leave insurance bills into both houses. Following public hearings, the legislature enacted a study committee to consider the policy further and make recommendations. The third model shows the program originally proposed, which provides two-thirds of usual weekly wages up to a maximum benefit of $1,000 for 12 weeks of family or medical leave in a 12 month period. Eligible workers must earn $1,800 during a 12 month base period.

Table 1: Program Design Features of Selected Family and Medical Leave Benefits and Values Used as Input for the IWPR-ACM Simulation Model

	California SDI & Revised PFL	Washington, D.C. FML Proposal 2/16	Maryland FMLI Proposal HB 740 2/5/16	IWPR Model for Montgomery County
Eligibility	Workers must earn $300 in wages during the base period.	Workers must be employed in Montgomery County.	Workers must earn $1,800 wages in the base period.	Workers must be employed for 26 weeks and have worked 520 hours in the base period.
Maximum Weeks Benefits Can Be Received per Year	SDI provides up to 52 weeks a year for personal illness/injury, pregnancy, and childbirth. PFL provides up to 6 weeks a year to care or bond with a new child or provide care for a family member.	FML provides up to 12 weeks a year for personal illness/injury, pregnancy, and childbirth, or to care or bond with a new child or provide care for a family member.	FMLI provides up to 12 weeks a year for personal illness/injury, pregnancy, and childbirth, or to care or bond with a new child or provide care for a family member.	Paid leave provides up to 12 weeks a year for personal illness/injury or to provide care for a family member and up to 26 weeks to care or bond with a new child.
Weekly Benefit Calculation	Workers can receive 60% of their weekly wages over 33 percent of MCAWW up to a maximum weekly benefit of $1,106. Low-income workers can receive 70% of their weekly wages up to 33 percent of the MCAWW.	Workers earning up to double the minimum age can receive 90% of their weekly wages. Workers earning more than twice the minimum wage can receive 50% of their weekly wages up to a maximum weekly benefit of $1,500.	Workers can receive 66% of their weekly wages up to a maximum weekly benefit of $1,000.	Workers can receive 95% of weekly wages on earnings up to 25% of the MCAWW. Workers can receive 85% of weekly wages on earnings between 25% and 50% of MCAWW. Workers can receive 75% of weekly wages on earnings between 50% and 100% of MCAWW. Workers can receive 65% of their weekly wages on earnings over WCAWW. Maximum weekly benefit is $1,500.
Waiting Period	None.*	One week.	One week.	None.

Note: The Montgomery County average weekly wage (MCAWW) is $1,298. * As introduced, AB-908 eliminated the waiting period for both SDI and PFL and was used in the simulation model; the final bill eliminated the waiting period for PFL, but not SDI.

Table 2 provides estimates of program costs and usage for each policy providing paid family and medical leave. This includes the California revised FML policy, the proposed Washington, D.C. FML policy, and Maryland's MFL policy proposal. California's revised FML policy will reach the most people (26,855) and Maryland's proposed FML policy will reach the fewest people

(23,093). Maryland's policy also has the smallest cost as a percent of earnings (0.44 percent) and California's policy has the highest cost as a percent of earnings (0.64 percent). Under all of the policies (including the current policy) leaves taken for personal health is the most common reason workers draw on paid leave; maternity and bonding being the least common type of leave taken. Under the current policy a total of 71,600 workers take leave – 42,043 take leave for personal health, 11,611 take leave for maternity and bonding, and 17,946 take leave to provide care for a loved one.

The California model would provide benefits for 15,232 people taking leave for personal health issues, 8,982 people taking leave for maternity and bonding, and 2,641 people taking leave for family care. Under the California policy workers would receive 13 weeks of benefits for personal health leaves, 7.8 weeks for maternity and bonding leave, and 2.6 weeks for family care leave. The total cost of benefits for the California model is projected to be $159.4 million. An additional 5 percent in administrative costs ($8 million) would lead to a projected total program cost of $167.4 million, which is 0.64 percent of total earnings.

Washington, D.C.'s proposed policy would provide benefits for 24,248 people. Under the Washington, D.C. policy model 13,709 would receive benefits for personal health leaves, 8,712 would receive benefits for maternity and bonding leave, and 1,827 would receive benefits for leave related to caring for a family member. Under the proposed Washington, D.C. policy people would receive 8.4 weeks of benefits overall. When leave under Washington, D.C.'s proposed policy is broken down, workers who take leave for personal health receive 9 weeks of benefits, workers who take maternity and bonding leave receive 8.5 weeks of benefits, and workers who take leave to care for a family member receive 3.4 weeks of benefits. The Washington, D.C. policy is projected to have a total benefit cost of $152.2 million. The additional 5 percent in administrative costs would result in a total program cost of $159.8 million, which is 0.61 percent of total earnings.

Maryland's proposed policy is the most conservative alternative – providing benefits for a projected 23,093 people. Under Maryland's policy proposal almost 13,000 workers receive benefits for personal health related leave, 8,438 receive benefits for maternity and bonding leave, and 1,729 receive benefits for leave related to family care. Workers who take leave under Maryland's proposed policy to address personal illness or injury would receive 9.1 weeks of benefits, whereas workers taking leave for maternity and bonding would receive 8.4 weeks of benefits and workers caring for a loved one would receive 3.3 weeks of benefits. Overall Maryland's policy proposal would provide benefits for 8.4 weeks of leave to workers. Under Maryland's proposed policy these benefits would cost a total of $110.3 million, carry a 5 percent administrative cost of $5.5 million, leading to a total program cost of $115.8 million, which is 0.44 percent of total earnings.

The IWPR Model for Montgomery County would serve 26,093 workers, which is closest to California's policy that serves 26,855 workers. Under the IWPR Model for Montgomery County 14,855 workers would receive benefits for personal health issues, 8,808 workers would receive benefits for maternity and bonding, and 2,430 workers would receive benefits to provide family care. The IWPR Model for Montgomery County is unique because it would provide 13.1 weeks of benefits for workers on maternity and bonding leave. The IWPR Model for Montgomery

County would provide workers with 5 weeks of benefits for personal health leave and 2.6 weeks of benefits for those taking leave to provide care for family. The cost of maternity and bonding care leave is higher for the IWPR Model for Montgomery County, compared with any other policy alternative – the cost of maternity and bonding care under the IWPR Model for Montgomery County is $96.7 million compared with $41.8 million under the California policy, $57.3 million under Washington, DC's proposed policy, and $41.5 million under Maryland's proposed policy. The total benefit cost for the IWPR Model for Montgomery County is $158.2 million, which is most closely aligned with California's policy ($159.4 million). The additional administrative cost of 5 percent, equal to $7.9 million, would lead to a total program cost of $166.1 million or 0.63 percent of total earnings under the IWPR Model for Montgomery County.

Table 2: Program Usage and Cost Estimates for Family and Medical Leave Benefits in Montgomery County, Maryland

	Current Policy	California Revised FML Design	DC FML Proposal (Feb. 2016)	Maryland FML Proposal	IWPR Model for Montgomery
Number of Leaves Taken					
Own Health	42,043	45,437	44,539	44,415	44,823
Maternity & Bonding	11,611	12,178	12,026	12,098	12,143
Family Care	17,946	20,186	19,235	19,215	19,763
Total	71,600	77,801	75,801	75,728	76,729
Number Receiving Program Benefits					
Own Health	NA	15,232	13,709	12,927	14,855
Maternity & Bonding	NA	8,982	8,712	8,438	8,808
Family Care	NA	2,641	1,827	1,729	2,430
Total	NA	26,855	24,248	23,093	26,093
Weeks Receiving Program Benefits					
Own Health	NA	13.0	9.0	9.1	5.0
Maternity & Bonding	NA	7.8	8.5	8.4	13.1
Family Care	NA	2.6	3.4	3.3	2.6
Overall	NA	10.2	8.4	8.4	7.5
Average Weekly Benefit					
Benefit Cost (millions)					
Own Health	NA	$114.1	$91.0	$66.0	$57.2
Maternity & Bonding	NA	$41.8	$57.3	$41.5	$96.7
Family Care	NA	$3.5	$3.9	$2.8	$4.3
Total Benefit Cost	NA	$159.4	$152.2	$110.3	$158.2
Administrative (5 percent,	NA	$8.0	$7.6	$5.5	$7.9
Total Cost (millions)	NA	$167.4	$159.8	$115.8	$166.1
Cost as a Percent of Total Earnings*	NA	0.64%	0.61%	0.44%	0.63%

Source: Estimates based on IWPR-ACM Family Medical Leave Simulation Model. (30 July 2016)

*Includes Private wage and salary, Self-employed, and County/Local government workers in Montgomery County, MD

Table 3: Percent of Leaves That Are Taken with Pay Simulated Under Alternative Family and Medical Leave Benefit Programs in Montgomery County, Maryland

	Current Policy	California Revised FML Design	DC FML Proposal (Feb. 2016)	Maryland FML Proposal	IWPR Model for Montgomery County
Overall	76.7%	85.7%	84.8%	84.5%	85.1%
Reasons for Leave					
Own Health	76.0%	85.2%	84.3%	83.6%	84.2%
Maternity & Bonding	79.2%	97.5%	96.7%	95.8%	96.7%
Family Care	76.5%	80.2%	79.2%	79.1%	79.9%
Gender					
Men	77.7%	86.0%	84.8%	84.5%	85.4%
Women	75.8%	85.5%	84.8%	84.3%	84.6%
Age					
18 to 29 years	60.3%	77.8%	76.7%	75.9%	75.8%
30 to 44 years	78.0%	87.9%	86.5%	86.5%	87.1%
45 to 59 years	81.6%	87.6%	87.0%	86.9%	87.2%
60 and older	77.1%	84.2%	83.0%	82.9%	83.4%
Educational Attainment					
HS/GED or less	66.5%	79.5%	78.2%	77.7%	78.2%
Some college or Associates	72.7%	82.9%	82.5%	81.5%	82.3%
Bachelors or higher	84.8%	91.1%	90.1%	90.1%	90.4%
Family Income Relative to Poverty Threshold					
< 200 percent	48.2%	74.0%	71.2%	69.5%	69.7%
200 to 399 percent	69.0%	81.6%	79.6%	80.0%	81.2%
400 percent or more	85.2%	90.3%	89.7%	89.7%	90.0%
Race & Ethnicity					
White	81.6%	88.3%	87.3%	87.5%	87.7%
Black	72.9%	83.1%	82.5%	81.7%	82.8%
Hispanic	66.0%	80.1%	78.4%	79.1%	79.2%
Other or Mixed	79.7%	87.9%	87.3%	86.6%	87.1%
Earnings (Individual)					
Less than $30,000	62.6%	77.9%	76.7%	75.7%	76.0%
$30,000 to $74,999	78.6%	86.9%	85.9%	86.3%	87.2%
$75,000 or more	89.7%	93.6%	93.5%	93.0%	93.6%

Source: Estimates based on IWPR-ACM Family Medical Leave Simulation Model, Sept 2016)

Table 3 shows that a county-wide program to provide family and medical leave insurance would increase the share of leaves taken with at least partial wage replacement and that the observed increase would reduce inequality across workers by raising the proportion of leaves that are paid relatively more among less vulnerable workers (young, less educated, and lower income) than other workers. Overall, the share of leaves that are at least partially paid increases by about 7 percentage points, from 77 percent to 85 percent of leaves. Nearly all leaves taken around receiving a new child into the family would receive some income during while away from work. For workers with lower earnings, less than $30,000 annually, the increases in paid leave are 13 to 15 percentage points compared with around 4 percentage points for workers earning 75,000 or more annually.

The share of leaves receiving some income, including employer-paid wages and program benefits, varies across program design. The programs included in Table 3 vary in their eligibility criteria for program benefits and whether or not there is a one week waiting period to apply for benefits. A slightly larger share of leaves taken receive either wages or benefits under the two programs modeled without waiting periods, California and Montgomery County, than those with a waiting period, DC and Maryland proposals.

Table 4 shows the average amount of benefits that workers would receive for leaves taken in a calendar year. The benefit calculation as a percentage of earnings and number of weeks benefits can be received both contribute to benefit costs. Overall, the IWPR Model for Montgomery County offers high wage replacement, especially for lower earners, and more weeks for new parents that result in the highest average total benefit amount. The proposal introduced in Maryland in February 2016 provided a lower wage replacement rate, lower maximum weekly benefit, and 12 weeks for all family and medical reasons for leave that results in the smallest average benefit for leaves taken. The California and DC plans fall in between.

Table 4: Simulated Average Benefit Amounts Under Alternative Family and Medical Leave Benefit Programs in Montgomery County, Maryland

	California Revised FML Design	DC FML Proposal (Feb. 2016)	Maryland FML Proposal	IWPR Model for Montgomery County
Overall	$2,049	$2,009	$1,469	$2,450
Reasons for Leave				
Own Health	$2,511	$2,043	$1,495	$1,931
Maternity & Bonding	$3,433	$4,769	$3,464	$7,990
Family Care	$176	$204	$156	$251
Gender				
Men	$2,076	$1,944	$1,414	$2,302
Women	$2,027	$2,060	$1,513	$2,570
Age				
18 to 29 years	$1,632	$1,628	$1,193	$1,978
30 to 44 years	$2,343	$2,499	$1,822	$3,328
45 to 59 years	$1,985	$1,834	$1,346	$2,061
60 and older	$1,872	$1,490	$1,089	$1,496
Educational Attainment				
HS/GED or less	$1,400	$1,372	$996	$1,630
Some college or Associates	$1,837	$1,772	$1,304	$2,098
Bachelors or higher	$2,565	$2,522	$1,844	$3,144
Family Income Relative to Poverty Threshold				
< 200 percent	$1,106	$1,043	$760	$1,148
200 to 399 percent	$1,588	$1,594	$1,170	$1,925
400 percent or more	$2,457	$2,393	$1,747	$2,954
Race & Ethnicity				
White	$2,307	$2,233	$1,634	$2,705
Black	$1,894	$1,860	$1,356	$2,183
Hispanic	$1,481	$1,493	$1,093	$1,881
Other or Mixed	$2,170	$2,145	$1,565	$2,757
Earnings (Individual)				
Less than $30,000	$983	$932	$658	$983
$30,000 to $74,999	$2,145	$2,128	$1,615	$2,610
$75,000 or more	$3,277	$3,192	$2,266	$4,048

Source: Estimates based on IWPR-ACM Family Medical Leave Simulation Model, Sept 2016)

CONCLUSION

Under current policies, many workers in Montgomery County, MD lack access to paid leave for family and medical needs that arise. This report has explored the costs to provide workers family and medical leave benefits under a range of program designs. Existing state programs

(California, New Jersey, and Rhode Island in Appendix B) provide family and medical leave benefits having recently added paid family leave coverage to state disability insurance programs that have been in operating for many years. In the state programs currently operating, leaves taken for workers' own health conditions can receive benefits for more weeks than leaves taken to meet family needs and most of the program benefits paid out are for workers' health reasons.

In most of the proposals for providing both family and medical leave in additional jurisdictions without existing disability insurance programs benefits would be available for the same number of weeks for all eligible reasons; Maryland, DC, and Colorado have all proposed plans with for up to 12 weeks of leave per year for eligible leaves. Model estimates for these programs also anticipate more leaves will be taken for workers' own health needs and more program benefit dollars would be paid for workers' medical conditions and recovery.

A third possibility was also considered that would target benefits for new parents by providing more weeks of leave for bonding with new children following birth, adoption, or foster placement than either the worker's health or other family care leaves. Under this unique IWPR Model for Montgomery County, the costs associated with benefits for maternity and bonding in the Montgomery County proposal are significantly higher compared with the California-Revised and Maryland models, more than twice as much. However, in terms of administering a family and medical leave program, in most cases verifying the eligibility for leave to care for a new child is relatively straight-forward and supporting working families at such a time has important benefits for both parents and children (Zigler, Muenchow, and Ruhm 2012).

The IWPR Model for Montgomery County is most closely aligned with California's revised FML policy. However, one unique facet of the IWPR Model for Montgomery County is the relatively higher number of weeks that workers can receive benefits for maternity and bonding leave; a difference of roughly five weeks compared with the other policies. The overall cost of the IWPR Model for Montgomery County is the most closely aligned with California's policy (the projected total program cost of the IWPR Model for Montgomery County is $166.1 million compared with $167.4 million for the cost of the California policy). The total cost of the IWPR Model for Montgomery County would be 0.63 percent of total earnings and would provide benefits for just over 26,000 workers. The IWPR Model for Montgomery County is more generous than Maryland's policy proposal, but costs $50.3 million more (0.19 percent more of total earnings), but reaches, 3,000 more workers. The IWPR Model for Montgomery County is also more generous than the policy proposal in Washington, D.C. (Washington, D.C.'s proposed policy is projected to cover 1,845 less people than the IWPR Model for Montgomery County), but also has higher total costs – the IWPR Model for Montgomery County costs $6.3 million more than the proposed policy in Washington, D.C.

The IWPR Model for Montgomery County would improve access to leave overall compared to the current policies that are in place. Those in the lowest income bracket (family income that is 200 percent of the federal poverty threshold or less) would see an increase from 48.2 percent compared with 69.7 percent of leaves that are taken with pay. Those with the least amount of education (a GED or high school diploma or less) would see an increase from 66.5 percent to 78.2 percent of leaves that are taken with pay. The percent of leaves that are taken with pay for other income and education categories also increase compared with the existing policy, but for the estimated increase in access to wage replacement while on leave is relatively larger for those in lower income and lower educated groups. Those that face greater challenges taking leave under current policies would benefit from a paid leave policy, with the estimates indicating those with lower family incomes, less education, and lower individual wages see greater increases in leave taking from this type of policy.

The other policies being considered (California, Washington, D.C., and Maryland) provide more access and better coverage compared with the existing policy, increasing total leaves taken under the current policy from 71,600 leaves to a maximum of 77,801 total leaves taken under California's revised FML policy, an increase of 8.6 percent. The total number of leaves taken would change the least under Maryland's proposed policy, increasing by 5.8 percent. These estimates indicate there would be a modest increase in all leaves taken, demonstrating that a policy of this nature is needed and will be used by workers.

Under all of the policies, workers are not estimated to take the full amount of leave available. Even under California's generous revised FML policy, in which workers can take 52 weeks of leave for personal health issues, workers are estimated to take 13 weeks of leave, only a quarter of the leave available to them. Extending these benefits to workers comes at a cost that is around half a percent of total earnings (ranging from 0.44 percent under Maryland's proposed policy to 0.64 percent under California's revised FML policy with average benefit amounts ranging from $1,469 (Maryland's proposed policy) to $2,450 (IWPR Model for Montgomery County).

REFERENCES

Klerman, Jacob, Kelly Daley, and Alyssa Pozniak. 2014. *Family and Medical Leave in 2012: Technical Report*. Cambridge, MA: Abt Associates. <http://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf> (accessed December 15, 2015).

Zigler, Edward, Susan Muenchow, and Christopher J. Ruhm. 2012. *Time Off with Baby: The Case for Paid Care Leave*. Washington, DC: Zero to Three.

APPENDIX A

Table A-1 specifies the breakdown of earnings for Montgomery County workers. These earnings were used to calculate the total percent of earnings for each policy alternative. Most workers in Montgomery County work in the private sector (79.5percent), with a much smaller percent self-employed (12.1 percent) or employed by local government agencies (8.4 percent). The total earnings for all employees in 2014 was $26.2 billion.

Table A-1: Montgomery County, MD Employment and Earnings

	Employment	Percent	Total Earnings ($M)
Private Wage & Salary	331,453	79.5	$20,348.3
Local Government	35,057	8.4	$2,147.8
Self-Employed	50,565	12.1	$3,665.7
Total	417,075	100	$26,161.9
Source: IWPR analysis of the 2014 American Community Survey for workers in Montgomery County, MD.			

APPENDIX B

Table B-1: Supplementary Program Design Features of Selected Family and Medical Leave Benefits and Values Used as Input for the IWPR-ACM Simulation Model

	California Original SDI/PFL	NJ TDI/FLI	RI TDI/TCI	Colorado FAMLI Proposal (SB 14-196)
Eligibility	Workers must earn at least $300 in wages during the base period.	Workers much earn at least $8,400 in wages or have 20 weeks of employment in the base period.	Workers must earn at least $11,520 in wages in the base period.	Workers must be employed for one year and must have worked at least 680 hours.
Maximum Weeks Benefits Can Be Received per Year	SDI provides up to 52 weeks per year for worker's own illness or injury including pregnancy and childbirth. (A normal pregnancy would use 4 weeks before the birth and 6 weeks after birth for the mother's needs.) PFL provides up to 6 weeks per year for bonding with a new child or providing care to other close family members.	TDI provides up to 26 weeks per year for worker's own illness or injury including pregnancy and childbirth. (A normal pregnancy would use 4 weeks before the birth and 6 weeks after birth for the mother's needs.) FLI provides up to 6 weeks per year or until one third of annual wages are received for bonding with a new child or providing care to other close family members.	TDI provides up to 30 weeks per year for worker's own illness or injury including pregnancy and childbirth. TCI provides up to 4 weeks per year for bonding with a new child or providing care to other close family members.	Up to 12 weeks for worker's own illness or injury, maternity-related disability, new child bonding, or family caregiving.
Weekly Benefit Calculation	The benefit amount is 55 percent of usual weekly earnings up to a maximum weekly benefit of $1,129.	The benefit amount is 66 percent of usual weekly earnings up to a maximum weekly benefit of $615.	The benefit amount is 4.62 percent of wages in the highest quarter of the base period up to a maximum weekly benefit of $817, plus a dependency allowance of $10 per child or 7 percent of the benefit rate (up to 5 children).	The benefit amount is 95 percent of usual weekly earnings up to 30 percent of Montgomery County median annual earnings; 90 percent of usual weekly earnings between 30 and 50 percent of Montgomery County median annual earnings; 85 percent of usual weekly earnings between 50 and 80

					percent of Montgomery County median annual earnings; and 66 percent of earnings above 80 percent of Montgomery County median annual earnings up to a maximum weekly benefit of $1,000.
Waiting Period	One week.	One week.	None.	One week.

Table B-1 provides detailed information about alternative paid leave policies in four other states; all of these policies have been adopted with the exception of Colorado's proposed policy. The California policy is based on the original short-term disability insurance (SDI) program and paid family leave (PFL) program that was in place before the revised policy was signed into law in April 2016. New Jersey's policy consists of temporary disability insurance (TDI) and family leave insurance (FLI), which is similar to Rhode Island's policy that includes temporary disability insurance (TDI) and temporary caregiver insurance (TCI) programs. The final policy alternative presented in Table A-2 is Colorado's proposed policy for family and medical leave insurance (FAMLI).

Table B-2: Percent of Leaves That Are Taken with Pay Simulated Under Supplementary Family and Medical Leave Benefit Programs in Montgomery County, Maryland

	California Original FML Design	New Jersey FML Design	Rhode Island FML Design	Colorado FML Proposal
Number of Leaves Taken				
Own Health	44,729	44,170	44,147	44,014
Maternity & Bonding	12,032	11,909	12,052	11,987
Family Care	19,213	18,859	19,488	18,800
Total	75,973	74,938	75,687	74,801
Number Receiving Program Benefits				
Own Health	13,135	11,950	13,135	10,943
Maternity & Bonding	8,372	7,750	8,118	6,882
Family Care	1,828	1,562	2,058	1,346
Total	23,334	21,261	23,312	19,171
Weeks Receiving Program Benefits				
Own Health	13.4	12.5	12.5	9.1
Maternity & Bonding	7.9	9.6	6.4	8.4
Family Care	2.8	2.8	2.2	3.2
Overall	10.6	10.7	9.5	8.4
Average Weekly Benefit	$547	$477	$554	$716
Benefit Cost (millions)				
Own Health	$90.1	$68.0	$86.7	$67.3
Maternity & Bonding	$35.2	$34.0	$27.6	$40.0
Family Care	$2.2	$1.9	$2.3	$2.7
Total Benefit Cost	$127.6	$103.9	$116.7	$110.1
Administrative (5 percent,	$6.4	$5.2	$5.8	$5.5
Total Cost (millions)	$134.0	$109.1	$122.5	$115.6
Cost as a Percent of Total Earnings*	0.51%	0.42%	0.47%	0.44%

Source: Estimates based on IWPR-ACM Family Medical Leave Simulation Model. (30 July 2016)
*Includes Private wage and salary, Self-employed, and County/Local government workers in Montgomery County, MD based on IWPR analysis of the 2014 American Community Survey (Appendix XX).

Table B-2 builds on Table B-1 by presenting the costs and usage under the four alternative policy alternatives in California, New Jersey, Rhode Island, and Colorado. California and Rhode Island would offer the most generous coverage – 23,334 workers would be covered by the California policy compared with Rhode Island's policy that would cover 23,312 people. The cost of Rhode Island's policy is a smaller percent of total earnings (0.47 percent) compared with California's policy (0.51 percent). Colorado's proposed policy would cover less workers than New Jersey's policy (19,171 compared with 21,261 respectively), but the cost overall and as a percent of earnings is higher (total program costs under Colorado's policy proposal would be $115.6 million and 0.44 percent of total earnings, compared with $109.1 million in total costs and 0.42 percent of payroll for New Jersey's policy). Overall, California's policy covers the most workers, but is the most costly; Colorado's policy covers the least number of people. New Jersey's policy has the lowest associated costs ($109.1 million in total costs, which is 0.42 percent of total earnings), whereas California's policy has the highest costs ($134 million, which is 0.51 percent of total earnings. New Jersey's policy provides the coverage for the longest number of weeks overall (10.7 weeks) and Colorado's policy has the highest weekly benefit ($716).

Table B-3: Percent of Leaves That Are Taken with Pay Simulated Under Supplementary Family and Medical Leave Programs in Montgomery County, Maryland

	California Original FML Design	New Jersey FML Design	Rhode Island FML Design	Colorado FML Proposal
Overall	84.3%	83.6%	84.5%	82.5%
Reasons for Leave				
Own Health	83.7%	82.6%	83.7%	81.6%
Maternity & Bonding	95.8%	94.1%	95.0%	91.7%
Family Care	79.2%	78.8%	79.5%	78.7%
Gender				
Men	84.3%	83.6%	85.2%	82.8%
Women	84.4%	83.4%	84.0%	82.3%
Age				
18 to 29 years	75.5%	72.5%	74.2%	70.4%
30 to 44 years	86.2%	85.6%	86.6%	84.8%
45 to 59 years	86.7%	86.6%	87.1%	85.3%
60 and older	83.0%	82.3%	83.4%	81.4%
Educational Attainment				
HS/GED or less	77.9%	76.3%	77.3%	74.9%
Some college or Associates	81.4%	80.7%	81.8%	79.3%
Bachelors or higher	89.8%	89.4%	90.4%	88.3%
Family Income Relative to Poverty Threshold				
< 200 percent	70.5%	64.5%	65.5%	62.1%
200 to 399 percent	80.1%	79.2%	80.5%	77.8%
400 percent or more	89.5%	89.3%	90.0%	88.6%
Race & Ethnicity				
White	87.0%	86.6%	87.5%	85.6%
Black	82.5%	80.9%	81.8%	79.6%
Hispanic	78.2%	76.8%	77.7%	75.5%
Other or Mixed	86.1%	85.7%	86.7%	84.8%
Earnings (Individual)				
Less than $30,000	75.6%	72.8%	73.5%	70.8%
$30,000 to $74,999	85.7%	85.7%	87.1%	84.8%
$75,000 or more	93.4%	93.0%	93.5%	92.9%

Source: Estimates based on IWPR-ACM Family Medical Leave Simulation Model, Sept 2016)

Table B-4: Simulated Average Benefit Amounts Under Supplementary Family and Medical Leave Benefit Programs in Montgomery County, Maryland

	California Original FML Design	New Jersey FML Design	Rhode Island FML Design	Colorado FML Proposal
Overall	$1,679	$1,386	$1,542	$1,472
Reasons for Leave				
Own Health	$2,015	$1,539	$1,965	$1,530
Maternity & Bonding	$2,929	$2,855	$2,292	$3,338
Family Care	$116	$102	$118	$145
Gender				
Men	$1,694	$1,303	$1,527	$1,409
Women	$1,667	$1,453	$1,554	$1,522
Age				
18 to 29 years	$1,244	$1,283	$1,265	$1,230
30 to 44 years	$1,961	$1,662	$1,740	$1,812
45 to 59 years	$1,635	$1,241	$1,488	$1,350
60 and older	$1,496	$1,099	$1,426	$1,056
Educational Attainment				
HS/GED or less	$1,098	$1,085	$1,071	$1,115
Some college or Associates	$1,459	$1,349	$1,451	$1,375
Bachelors or higher	$2,153	$1,585	$1,871	$1,738
Family Income Relative to Poverty Threshold				
< 200 percent	$838	$828	$749	$727
200 to 399 percent	$1,221	$1,332	$1,274	$1,279
400 percent or more	$2,054	$1,527	$1,816	$1,707
Race & Ethnicity				
White	$1,921	$1,452	$1,703	$1,563
Black	$1,517	$1,400	$1,487	$1,470
Hispanic	$1,174	$1,162	$1,123	$1,175
Other or Mixed	$1,771	$1,448	$1,627	$1,561
Earnings (Individual)				
Less than $30,000	$719	$731	$654	$615
$30,000 to $74,999	$1,690	$1,718	$1,828	$1,748
$75,000 or more	$2,890	$1,675	$2,181	$2,080

Source: Estimates based on IWPR-ACM Family Medical Leave Simulation Model, Sept 2016)

APPENDIX C

Appendix C provides information about alternative paid leave policies that provide benefits for 26, 39, or 52 weeks of parental leave and 6 weeks of leave for the worker's own health or other family care needs. Benefits are calculated with a formula similar to the original California program that replaces 55 percent of usual weekly earnings up to a maximum weekly benefit of $1,100.

Table C-1: Program Usage and Cost Estimates for Family and Medical Leave Programs Providing 6, 9, or 12 Months of Benefits in Montgomery County, Maryland

	26 weeks Maternity/Parental (6 weeks Family and Medical)	**39 weeks Maternity/Parental (6 weeks Family and Medical)**	**52 weeks Maternity/Parental (6 weeks Family and Medical)**
Number of Leaves Taken			
Own Health	45,303	45,305	45,275
Maternity & Bonding	12,305	12,262	12,131
Family Care	19,813	19,976	20,206
Total	77,420	77,543	77,612
Number Receiving Program Benefits			
Own Health	14,659	14,811	14,786
Maternity & Bonding	8,880	9,392	9,826
Family Care	2,467	2,557	2,528
Total	26,006	26,761	27,140
Weeks Receiving Program Benefits			
Own Health	5.1	5.1	5.0
Maternity & Bonding	13.0	15.5	18.2
Family Care	2.6	2.7	2.6
Overall	7.6	8.5	9.6
Average Weekly Benefit	$550	$553	$555
Benefit Cost (millions)			
Own Health	$38.0	$38.5	$38.5
Maternity & Bonding	$64.5	$81.6	$100.3
Family Care	$2.8	$3.1	$3.0
Total Benefit Cost (millions)	$105.3	$123.2	$141.8
Administrative (5 percent, millions)	$5.3	$6.2	$7.1
Total Cost (millions)	$110.6	$129.4	$148.9
Cost as a Percent of Total Earnings*	0.42%	0.49%	0.57%

Source: Estimates based on IWPR-ACM Family Medical Leave Simulation Model. (30 July 2016)

*Includes Private wage and salary, Self-employed, and County/Local government workers in Montgomery County, MD

Table C-2: Percent of Leaves That Are Taken with Pay Simulated Under Family and Medical Leave Programs Providing 6, 9, or 12 Months of Benefits in Montgomery County, Maryland

	26 weeks Maternity/Parental (6 weeks Family and Medical)	39 weeks Maternity/Parental (6 weeks Family and Medical)	52 weeks Maternity/Parental (6 weeks Family and Medical)
Overall	85.4%	85.5%	85.4%
Reasons for Leave			
Own Health	84.8%	85.0%	85.0%
Maternity & Bonding	97.6%	96.7%	97.5%
Family Care	79.8%	79.5%	79.7%
Gender			
Men	85.8%	85.8%	86.1%
Women	85.1%	85.3%	85.3%
Age			
18 to 29 years	77.4%	77.1%	77.6%
30 to 44 years	87.5%	87.8%	87.5%
45 to 59 years	87.6%	87.7%	87.7%
60 and older	83.7%	84.0%	83.4%
Educational Attainment			
HS/GED or less	79.6%	79.4%	79.0%
Some college or Associates	82.9%	83.0%	83.4%
Bachelors or higher	90.5%	91.0%	90.8%
Family Income Relative to Poverty Threshold			
< 200 percent	72.5%	73.0%	73.1%
200 to 399 percent	81.3%	81.1%	81.1%
400 percent or more	90.0%	90.3%	90.3%
Race & Ethnicity			
White	88.2%	88.3%	88.3%
Black	83.5%	83.5%	83.4%
Hispanic	80.6%	79.5%	79.6%
Other or Mixed	86.9%	87.5%	86.7%
Earnings (Individual)			
Less than $30,000	77.0%	77.3%	77.2%
$30,000 to $74,999	87.2%	86.9%	87.2%
$75,000 or more	93.5%	93.6%	93.6%

Source: Estimates based on IWPR-ACM Family Medical Leave Simulation Model, Sept 2016)

Table C-3: Simulated Average Benefit Amounts Under Supplementary Family and Medical Leave Benefit Programs in Montgomery County, Maryland

	26 weeks Maternity/Parental (6 weeks Family and Medical)	39 weeks Maternity/Parental (6 weeks Family and Medical)	52 weeks Maternity/Parental (6 weeks Family and Medical)
Overall	$1,361	$1,590	$1,827
Reasons for Leave			
Own Health	$838	$849	$850
Maternity & Bonding	$5,243	$6,660	$8,295
Family Care	$144	$157	$144
Gender			
Men	$1,249	$1,458	$1,699
Women	$1,451	$1,696	$1,929
Age			
18 to 29 years	$1,017	$1,189	$1,379
30 to 44 years	$1,970	$2,373	$2,804
45 to 59 years	$1,093	$1,236	$1,374
60 and older	$689	$719	$735
Educational Attainment			
HS/GED or less	$837	$940	$1,091
Some college or Associates	$1,102	$1,305	$1,461
Bachelors or higher	$1,822	$2,146	$2,480
Family Income Relative to Poverty Threshold			
< 200 percent	$630	$713	$809
200 to 399 percent	$992	$1,183	$1,343
400 percent or more	$1,681	$1,955	$2,257
Race & Ethnicity			
White	$1,535	$1,779	$2,033
Black	$1,187	$1,389	$1,544
Hispanic	$975	$1,147	$1,361
Other or Mixed	$1,551	$1,847	$2,182
Earnings (Individual)			
Less than $30,000	$555	$625	$700
$30,000 to $74,999	$1,336	$1,594	$1,821
$75,000 or more	$2,446	$2,820	$3,275

Source: Estimates based on IWPR-ACM Family Medical Leave Simulation Model, Sept 2016)