



**Family and Medical Leave in  
2012:  
Technical Report**

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## Preface

This version of the FMLA Technical Report has been updated to reflect minor changes in content and language. Additionally, the report has been formally edited to revise grammatical or typing errors and ensure stylistic consistency and proper report formatting. This report has not been revised to reflect any changes based on public policy that may have gone into effect since the initial report submission date of September 9, 2012.

## Abstract

In 2012, Abt Associates surveyed 1,812 worksites and 2,852 employees about experiences with family and medical leave. The worksite survey includes both sites that are covered by the Family and Medical Leave Act (FMLA) and those that are not covered. The employee survey includes employees that took leave, those that had an unmet need for leave, those that met both of these conditions, and those that met neither. It also included employees who are eligible for the FMLA and those who are not. These surveys update similar surveys conducted in 1995 and 2000. This document presents the findings of the survey, including comparisons between covered and uncovered worksites, between eligible and ineligible employees, and over time. In addition to the main report, there are an Executive Summary, a Methodology Report, Methodology Report Appendices, a Detailed Results Appendix, and a Public Use File Documentation volume.

## Acknowledgements

This report is a collaboration of the United States Department of Labor (DOL)'s Chief Evaluation Office (CEO), Wage and Hour Division (WHD), and Abt Associates. This effort has received the strong support of the CEO—including Jean Grossman, Demetra Nightingale, and Jonathan Simonetta. The survey and this report would not have happened without their vision and day-to-day input. At WHD, Libby Hendrix's understanding of FMLA and her experiences with the fielding and use of the previous survey were invaluable. Other WHD staff participating in the effort included Mary Ziegler, Helen Applewhaite, and Karen Livingston. Valuable comments on earlier drafts and presentations were received from the staff of the Council of Economic Advisors, the DOL Solicitor's Office, and the DOL Chief Economist.

At Abt Associates, Glen Schneider served as Project Quality Advisor, providing key insights throughout the project, and careful review of this final report. Members of our Technical Working Group (TWG)—Ann Bookman, Portia Wu, Christopher Ruhm, Jane Waldfogel, and Christine Walters—provided valuable feedback throughout the project. Katie Heintz and Cindy Taylor provided valuable management guidance. Katherine Wen, Krista Olson, Johanna Hudgens, Bethany Bradshaw, Ben Cushing, and Rachel Banay provided solid research assistance. Nancy McGarry provided programming support. Suzanne Erfurth and Jan Nicholson edited the document.

The survey was fielded by Abt-SRBI under the leadership of Kelly Daley. Allison Ackermann served as Acting Project Director during the early phase of the project and led the Employee Survey effort. Julie Pacer led the Worksite Survey effort. Courtney Kennedy and Ben Phillips led the technical design and weighting effort. Marci Schalk also contributed to the weighting effort.

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## Executive Summary

Employers hire employees to do tasks. When employees take leave to attend to their own medical issues or to the medical issues of other members of their family, employers must find some other way to get those tasks done. Under common law, employers may offer almost any terms of employment—which may or may not include offering leave. The Family and Medical Leave Act of 1993 (FMLA) guarantees up to 12 workweeks of unpaid leave each leave year to qualifying employees for specified family and medical leave reasons and, pursuant to amendments to the law, up to 26 workweeks of leave in a single 12-month period to care for a seriously ill or injured covered service member.

The nation now has nearly two decades of experience with the FMLA. That experience—including both employer workplace practices and employee leave taking patterns—was described by earlier surveys of worksites and employees conducted in 1995 and in 2000. In 2012, Abt Associates conducted a third pair of surveys for the Department of Labor, which is responsible for administering and enforcing the FMLA. Key findings from these surveys are summarized in this Executive Summary. The document begins with a brief description of the 2012 surveys followed by an overview of major findings. A more in-depth review of findings plus methodological detail is contained in the project’s main report and technical appendices.

### The 2012 surveys

Like the 1995 and 2000 surveys, the 2012 effort included two surveys:

- *Employee Survey*: Conducted by random-digit dial (RDD) using computer-assisted telephone interviewing (CATI), calling landlines and cell phones between February 1 and June 24, 2012, yielding 2,852 completed interviews (including oversamples of “leave takers” and those with “unmet need for leave”).
- *Worksite Survey*: Conducted by a respondent-selected combination of phone (using CATI) or web between March 12 and June 15, 2012, yielding 1,812 completed interviews with worksites (not merely corporate headquarters).

The analysis is based on the use of sampling weights to adjust for stratified sampling and survey non-response.

### Most worksites are not covered by the FMLA, though more than half of employees are eligible for the protections of the FMLA.

To be covered by the FMLA, a worksite must be part of a firm with at least 50 employees. Only about one in six worksites reports that it is covered by the FMLA (17%); another 30% are unsure. These uncovered and unsure worksites tend to be small; covered worksites tend to be larger.

Not all employees at covered worksites are eligible. To be eligible an employee must: (i) work for a firm with 50 employees within 75 miles of the employee’s worksite; (ii) have 12 months of tenure with this firm; and (iii) have 1,250 hours of service in the past year (about 24 hours per week). Only slightly more than half of all employees report meeting all three of these conditions to be eligible for the protections of the FMLA (59%).

Expanding eligibility to smaller worksites would modestly increase eligibility. Currently, for an employee to be eligible the FMLA requires that the firm have 50 employees within 75 miles of the employee's worksite; lowering the cutoff to 30 employees would increase eligibility from 59% to 63%, and lowering it further to 20 employees would increase it to 67%. Maintaining the 50 employees within 75 miles requirement, but lowering the hours of service requirement from an average of 24 to an average of 15 hours per week (from 1,250 hours to 780) would increase eligibility from 59% to 63%.

### **Leave is not uncommon.**

Eligible employees may take up to 12 weeks of leave per year for FMLA-qualifying reasons, which include: (i) serious health condition of self, spouse, parent, child; (ii) new child (birth, adoption, foster); and (iii) deployment of the employee's parent, spouse or child to covered active duty as a member of the regular Armed Forces or reserves. Eligible employees may also take up to 26 weeks of leave in a single 12-month period for a serious injury or illness of a covered service member who is the employee's parent, spouse or child.

Thirteen percent of all employees took leave for a qualifying FMLA reason in the past year. This is unchanged from 2000. Rates of leave taking are higher among those eligible for the FMLA (16%) than for those not eligible (10%). Some of this difference may be due to the causal effect of the FMLA, but some of the difference is likely due to the factors that affect eligibility (e.g., firm size, job tenure, hours worked). Thus, it is also likely that at least some of this difference in rates of leave taking would remain even in the absence of the FMLA.

Most leave taken is for the employee's own illness (55%). Leave for pregnancy or a new child, and for illness of qualifying relative (spouse, child, or parent), is less common (21% and 18% respectively). Leave for other qualifying reasons, including military reasons, is quite rare (2%).

Most leave is short. Nearly half of all leave events last 10 days or less (42%); less than a fifth (17%) last more than 60 days. This distribution is similar across eligible and ineligible employees.

Approximately two-thirds of all employees have heard of the FMLA (66%), with a higher percentage of employees at covered worksites having heard of the Act compared to employees at uncovered worksites (71% vs. 53%). Most employees know the reasons covered for leave by the FMLA, but employees also appear to believe that the FMLA is broader than it actually is.

### **Most employees receive some pay while on leave.**

The FMLA guarantees the rights of employees to return to their pre-leave position or to an equivalent position (i.e., one that is virtually identical to their previously held position). However, the Act includes no requirement that employers provide any pay during the leave. Nevertheless, most employees receive some pay while on leave: 48% report receiving full pay and another 17% receive partial pay, usually but not exclusively through regular paid vacation leave, sick leave, or other "paid time off" hours. Rates of full pay drop sharply for leaves of more than 10 days (60% for leaves of 10 days or less, 40% for leaves of more than 10 days). Most employees who took leave in the past year report that they returned to work because there was no longer a need for leave (78%). Despite the receipt of some pay, the inability to afford leave is another common reason for returning to work (40%).



## Unmet need for leave is limited.

A small proportion of employees report that they needed leave but were unable to take it in the past year (5%). Rates of unmet need for leave were similar across eligible and ineligible employees, but more than twice as high as in 2000. Inability to afford the leave is the reason given by nearly half of those with unmet need for leave (46%).

## Most employers report little negative impact of the FMLA.

The results from the Worksite Survey vary depending on whether each worksite is given equal weight (“weighting by worksite”) or larger worksites are given more weight (“weighting by employees”). Therefore, we present both sets of results below.

Most covered worksites that are large enough to have eligible employees (that is, 50 employees within 75 miles) report little difficulty complying with the FMLA (when the data are weighted by worksite, only 14% report “somewhat difficult”; only 1% report “very difficult”). However, larger worksites are more likely to report difficulty complying, such that these figures increase to 3% for “very difficult” and 29% for “somewhat difficult” when the data are weighted by employees. In addition, 30% report that the cost of administering the FMLA is rising (50% when weighted by employees). Few worksites (less than 10%) perceive negative effects of complying with the FMLA on “employee productivity, absenteeism, turnover, career advancement, and morale, as well as the business’s profitability.” However, these negative reports are more common among large worksites (29% when the data are weighted by employees).<sup>1</sup>

While there has been considerable discussion of and concern expressed by some employers regarding intermittent leave (that is, two or more episodes of leave for the same reason), employee responses suggest that such leave is not common (only about 3% of employees took any intermittent leave). Reports of negative impacts on profitability and productivity due to intermittent leave are rare (6% or less), although much more common when the data are weighted by employees (as much as 25%).

## Closing thoughts

The nation now has nearly two decades’ experience with the FMLA. Updating results from 1995 and 2000, the 2012 surveys characterize the leave experiences of worksites and employees. Based on the 2012 surveys, it appears that employees’ use of leave, and employers’ granting and administration of leave, have achieved a level of stability. Employees actively make use of the intended benefits established by the Act, but appear to have limited knowledge of what the Act specifically entails and covers. At the same time, most employers report that complying with the FMLA imposes minimal burden on their operations, although a subset of employers reported difficulty complying.

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<sup>1</sup> As discussed in the following Section 1.2.3 of this report, “the sampling frame for the Worksite Survey is the 2012 Dun’s Market Identifiers (DMI) file. In the terminology of the DMI, we included all *branch locations* as units eligible to be sampled. Following DOL, in this report we refer to such branch locations as ‘worksites.’ Thus, a business entity (hereafter a ‘firm’) may have multiple worksites.” As noted in section 1.3, “with regard to findings from the Worksite Survey, we distinguish between the ‘worksite’ that responded to the survey versus all of the firm’s sites as applicable to the specific findings.”

## 1. Introduction

Employers hire employees to do tasks. When employees take leave to attend to their own medical issues or to the medical issues of other members of their family, employers must find some other way to get those tasks done. Under common law, employers may offer almost any terms of employment—which may or may not include offering leave. The Family and Medical Leave Act of 1993 (FMLA) was landmark federal legislation which has helped millions of working families balance the demands of the workplace with the needs of their families and their own health. The FMLA guarantees up to 12 workweeks of unpaid leave each leave year to qualifying employees for specified family and medical leave reasons and, pursuant to amendments to the law, up to 26 workweeks of leave in a single 12-month period to care for a seriously ill or injured covered service member.

The nation now has nearly two decades of experience with the FMLA. That experience—including both employer workplace practices and employee leave-taking patterns—was described by earlier surveys of worksites and employees conducted in 1995 and in 2000. The U.S. Department of Labor (DOL or the Department) used that information in support of its regulatory and compliance activities in administering and enforcing the law. Since the last survey was fielded, the labor market continues to evolve, the face of the American family continues to change, and there have been several changes to the FMLA statute and regulations. DOL posted a Notice of Proposed Information Collection on April 1, 2011 (76 FR 18254) proposing surveys necessary to provide an updated characterization of family and medical leave in America.

This report describes the results of that information collection effort. Under a contract with the Department, Abt Associates conducted surveys of worksites and employees to understand their experiences with family and medical leave. The surveys consider leave broadly: the Worksite Survey includes both worksites covered by the FMLA and worksites not covered by the FMLA. Similarly, the Employee Survey includes both employees eligible for the protections of the FMLA and employees not eligible for the protections of the FMLA. Where possible, the report compares estimates from the 2012 surveys to estimates from the earlier surveys. These results should be of interest to employees, worksites, DOL, Congress, and state legislatures.

### 1.1 Background on the Family and Medical Leave Act (FMLA)

American family and medical leave policy can usefully be divided into two periods. Prior to the FMLA, the United States had no national federal family or medical leave statute. There was, therefore, no general legal requirement to provide job-protected leave.<sup>2</sup> Worksites could, nevertheless, offer leave, and the 1995 surveys found that more than 30% provided policies comparable to the FMLA voluntarily prior to the Act (U.S. DOL, 1996). Employees at worksites with no such policies in place could be fired for taking leave for childbirth or their own or family medical issues. In this regard, the United States differed from most other developed countries, which did

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<sup>2</sup> There were some restrictions. The Pregnancy Discrimination Act (42 U.S.C § 2000e *et. seq.*, 1978) required (and still requires) worksites to provide disability leave or unpaid leave to pregnant employees if they would do so for other temporarily disabled employees. In addition, collective bargaining agreements frequently include provisions related to worksites' leave policies.

provide a right to job reinstatement (what we will call “job-protected leave”)—and often paid leave—for childbirth and for personal and family medical issues (Ruhm, 1998; Moss and Deven, 1999; OECD, 2010a, 2010b).

Some states adopted maternity leave statutes during the 1990s (see Waldfogel, 1999). These statutes gave new mothers a right to job reinstatement after leave for maternity. Length of leave and coverage varied by state. In addition, some states provided paid leave through state temporary disability insurance programs.

In 1993, the United States enacted the federal FMLA<sup>3</sup> guaranteeing eligible employees up to 12 workweeks per year of job-protected, but unpaid, leave. We defer until Chapter 2 of this report a detailed discussion of the coverage and eligibility provisions of the legislation. Here, we note that eligibility for the protection of the FMLA is far from universal: based on the 2012 surveys, we estimate that only about 59% of all US workers are eligible for benefits (see Section 2.2).

### 1.1.1 Changes in FMLA Policy since FMLA’s Inception

Since being signed into law, the FMLA has been subject to a number of regulatory changes as well as formal efforts to gather feedback on its implementation:

- Notice of Proposed Rulemaking (NPRM), issued March 10, 1993 (58 FR 13394), inviting comments until March 31, 1993. Followed by interim final rule on June 4, 1993 (58 FR 31794), effective August 5, 1993, which also invited further public comment on the interim regulations. Final regulations published January 6, 1995 (60 FR 2180), with minor technical corrections on February 3, 1995 (60 FR 6658) and on March 30, 1995 (60 FR 16382); effective April 6, 1995. These were the initial regulations implementing the 1993 legislation.
- Request for Information (RFI), published December 1, 2006, (71 FR 69504) requested comment from the public on its experiences with the FMLA and the Department’s administration of it and corresponding summary, “Report on the comments received in response to the Department’s RFI” published June 2007 (72 FR 35550). In what follows, we refer to this as the “2007 Report on the RFI.”
- Section 585(a), the National Defense Authorization Act for FY 2008 (NDAA), Public Law 110–181, enacted January 28, 2008, expanded the FMLA to provide two types of military family leave: (i) up to 12 workweeks of job-protected leave for any “qualifying exigency” arising out of the active duty or call to active duty status of a spouse, son, daughter, or parent; and (ii) up to 26 workweeks of job-protected leave in a “single 12-month period” to care for a covered service member with a serious injury or illness. These two types of FMLA leave are known as military family leave.

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<sup>3</sup> The Family and Medical Leave Act of 1993, Public Law 103–3, 107 Stat. 6 (29 U.S.C. 2601 *et seq.*), enacted on February 5, 1993, effective for most covered worksites on August 5, 1993. The FMLA was subsequently amended to provide leave for military families in certain situations, including guaranteeing 26 weeks of leave for care of a covered service member.

- Notice of Proposed Rulemaking published in the *Federal Register* February 11, 2008 (73 FR 7876).<sup>4</sup> Revised Final Rule published November 17, 2008 (73 FR 67934). Major areas of change included implementing the military family leave provisions, permitting employers to contact health care providers to verify and authenticate medical certifications of the need for leave without first obtaining the employee's permission or going through their own health care provider to do so, and changes to the employer and employee notices concerning leave, fitness-for-duty requirements, and rules concerning the substitution of accrued paid leave to cover unpaid periods of FMLA leave taken. In what follows, we refer to this as "2008 Revised Regulations." Section 565 of the 2010 NDAA, Public Law 111-84, enacted on October 28, 2009, further expands military family leave for "qualifying exigency" leave to eligible employees with covered family members in the Regular Armed Forces and coverage for "military caregiver leave" to eligible employees who are the spouse, son, daughter, parent, or next of kin of certain veterans with a "serious injury or illness."
- The Airline Flight Crew Technical Corrections Act ("AFCTCA"), Public Law 111-119, enacted on December 21, 2009, modifies the FMLA hours of service eligibility requirement for flight crew members and flight attendants.
- Section 565(a) of the National Defense Authorization Act for FY 2010, Public Law 111-84, enacted October 28, 2009, further amended the military family leave provisions. The FY 2010 NDAA amendments extended the qualifying exigency leave provisions to include family members of members of the Regular Armed Forces and added a foreign deployment requirement. The FY 2010 NDAA also amended the requirements for leave to care for a covered service member with a serious injury or illness to include an injury or illness that existed prior to service but that was aggravated in the line of duty on active duty, and to include leave to care for certain veterans.
- The Wage and Hour Division Administrator Interpretation FMLA 2010-3 (June 22, 2010) clarifying the definition of "son and daughter" under the Family and Medical Leave Act to ensure that an employee who assumes the role of caring for a child receives parental rights to family leave regardless of the legal or biological relationship.
- Notice of Proposed Rule Making relating to leave for military family members and flight crews, published in the *Federal Register* February 15, 2012 (77 FR 8960).

Selected parts of Chapters 3, 4, 5, and 7 give additional detail on these statutory regulatory changes and report survey-based tabulations related to the changes.

### 1.1.2 Proposed Changes to the FMLA

Beyond these statutory and regulatory changes that have been enacted and implemented, family and medical leave continues to be an active area of policy discussion. Two changes have been the subject of considerable discussion. First, the FMLA currently covers only workers in worksites with 50 or more employees working for 20 or more calendar workweeks in the current or preceding calendar

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<sup>4</sup> Comments available at:  
<http://www.regulations.gov/fdmspublic/component/main?main=DocketDetail&d=ESA-2008-0001>.

year. In 2008, there was a presidential initiative to extend the FMLA to worksites with 25 or more employees (see [Change.gov](http://Change.gov): The Office of the President Elect, 2008). Legislation consistent with that proposal has been introduced, but has not been enacted (see “Family and Medical Leave Enhancement Act of 2009,” HR 825, Maloney; “Family and Medical Leave Enhancement Act of 2011,” HR 1440).

Second, the leave provided by the federal FMLA is currently unpaid. Following the lead of California and New Jersey, which have paid leave programs, the president’s proposed FY2012 budget included \$23 million to create a State Paid Leave Fund that would “provide grants to assist additional states to establish paid leave programs” (U.S. DOL, 2011). However, that provision was not included in the final enacted budget. Legislation has been introduced, but not enacted, to mandate such programs (e.g., “Family Leave Insurance Act of 2011,” HR 2346, Woolsey).

## 1.2 The 2012 Surveys

This report presents results from a pair of surveys—of worksites and of employees—conducted between February and June of 2012. These surveys are the third pair of research surveys that have been conducted since the passage of the FMLA. The first pair of surveys was fielded in 1995 by the University of Michigan’s Institute for Social Research (the Employee Survey) and Westat (the Employer Survey<sup>5</sup>) for the bipartisan Commission on Family and Medical Leave. The Commission’s Executive Director and BLS staff prepared a detailed report on the findings from these two surveys, as well as recommendations from the Commissioners, in *A Workplace Balance: Report to Congress on Family and Medical Leave Policies* (U.S. DOL, 1996). The second pair of surveys was fielded in 2000 by Westat for DOL (Cantor et al., 2001).

While only 5 years passed between the fielding of the first two surveys, 12 years passed before the 2012 surveys reported in this study. In that time, labor markets have continued to evolve, including an increase in women in the workforce, an aging workforce and population, declines in unionization, and changes in the distribution of employment across sectors.

Most significantly, starting in 2007, the U.S. has experienced a major economic recession, characterized as the most significant economic downturn since the Great Depression. That economic downturn has affected wages and benefits. The two prior pairs of surveys were conducted in a very different macroeconomic context.<sup>6</sup> When the first pair of surveys was fielded in calendar year 1995, the unemployment rate was 5.6%; when the second pair of surveys was fielded in calendar year 2000, the unemployment rate was 4.0%. The 2012 surveys were fielded when the unemployment rate was over 8.0%, more than double what it was when the last pair of surveys was fielded.

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<sup>5</sup> For the 2012 and earlier surveys, the “Worksite Survey” is sometimes referred to as an “Employer Survey” or “Establishment Survey.” Worksite is more precise; the questions refer to employees at this worksite, not at all worksites for this employer. Furthermore, using “Worksite Survey” avoids confusing the “Employer Survey” with the “Employee Survey.”

<sup>6</sup> These raw monthly unemployment rates are drawn from [data.bls.gov/timeseries/LNS14000000](http://data.bls.gov/timeseries/LNS14000000). The 1995 and 2000 rates are simple averages of the 12 monthly values. The 2012 value is for January through May (the most recent available data as of this writing).

Furthermore, as noted above, the FMLA statute has been amended and additional changes to the statute and regulations have been suggested. The 2012 surveys provide policymakers and researchers with the current data with which to analyze the FMLA within the context of this evolving economic, labor market, and regulatory landscape.

### 1.2.1 2012 Employee Survey

The 2012 Employee Survey was conducted by random-digit dial (RDD) using computer-assisted telephone interviewing (CATI), calling landlines and cell phones. Between February 1 and June 24, 2012, Abt dialed 260,463 telephone numbers, of which 95,461 were valid, seeking participants in the survey. The final sample includes 2,852 completed interviews.

The data collection plan involved interviewing (up to) one employee per household (excluding the self-employed). Within households, the survey oversampled “leave takers” and “employees with unmet need for leave.” The sample can be divided into four groups, those who:

- Took leave (“leave takers”; 1,133 completed interviews, 39.7% of completed interviews, 16.3% of the weighted sample).<sup>7</sup>
- Needed but did not take leave (“employees with unmet need for leave”; 219 completed interviews, 7.7% of completed interviews, 3.5% of the weighted sample).
- Both took leave and needed but did not take leave (“both leave takers and employees with unmet need for leave”; 199 completed interviews, 7.0% of completed interviews, 3.1% of the weighted sample).
- Neither took nor needed to take leave (“employed only”; 1,301 completed interviews, 45.6% of completed interviews, 77.2% of the weighted sample).

Leave takers are discussed in Chapters 4 and 5; employees who needed but did not take leave are discussed in Chapter 6.<sup>8</sup>

Unless explicitly noted otherwise, for this report, we use a definition of “leave” that aligns with the types of leave covered by the FMLA statute:

- to care for a newborn, newly adopted or new foster child (both maternity and paternity leave);
- for employee’s own serious health condition or to care for a serious health condition of a parent, child,<sup>9</sup> or spouse;

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<sup>7</sup> Leave takers are both male and female. We show in Chapter 4 that most leave takers are female. Thus, we sometimes use the feminine pronoun to refer to leave takers and employees with unmet need for leave. Unless we specifically note otherwise, those references should be taken as including male leave takers as well.

<sup>8</sup> The 199 “both leave takers and employees with unmet need for leave” are included in the analyses for both leave takers and employees who needed but did not take leave.

<sup>9</sup> Note that an employee’s son or daughter age 18 or older is not considered a child under the FMLA unless the child is unable to provide self-care due to a physical or mental disability (U.S. DOL, 2013a).

- for pregnancy-related reasons;
- to care for a covered service member with a serious injury or illness; or
- for reasons related to the deployment of a military service member.

We use this definition when asking about all “leave,” whether or not the individual or the particular leave was covered by or eligible for the FMLA.

We developed and use sampling weights to account for within-household sampling, as well as our mixed mode (landline and cell phone) design and survey non-response. See Chapter 1 of the Methodology Report for details of the sampling plan.

As appropriate, the body of the report provides tabulations of the results for:

- all employees;
- those who took leave or those with an unmet need for leave;
- those who were eligible for the protections of the FMLA and those who were not.

When stratified results are reported, the reader should keep in mind that with only a few exceptions, the estimates are not precise enough to establish that any difference between groups is not simply due to chance.

### **1.2.2 Characteristics of the Employee Sample**

Exhibits 1.2.1, 1.2.2, and 1.2.3 tabulate the demographic characteristics of the sample. Where available in the 2000 public report, the table also includes comparable estimates from the 2000 survey. We note that our weighting procedure forces the distributions of gender, age, education, race/ethnicity, region, and phone service to align with national control totals on employees from the Current Population Survey (CPS). See Chapter 1 of the Methodology Report for details on the weighting procedure.

**Exhibit 1.2.1 Demographic Information on Employee Survey respondents**

Characteristics	2000 % [95% CI]	2012 % [95% CI]
Female	48.7 [46.3-51.1]	49.1 [46.3-51.8]
Education:		
Less than high school graduate	5.2 [3.7-6.7]	7.6 [5.6-9.5]
High school graduate	29.6 [26.4-32.8]	28.7 [25.7-31.8]
Some college	28.6 [26-31.2]	29.7 [26.6-32.7]
College graduate	25.5 [23.8-28.6]	21.8 [19.8-23.9]
Graduate school	11.1 [9.2-13.0]	11.7 [10.1-13.2]
Don't know/refused	N/A	0.6 [0.1-1.0]
Percent Hispanic	7.2 [9.8-12.4]	14.0 [11.7-16.2]
Race:		
Caucasian	77.9 [75.5-80.3]	73.4 [71.0-75.7]
African American	9.6 [7.8-11.4]	12.1 [10.2-14.1]
Asian	2.8 [1.8-3.8]	3.1 [2.1-4.1]
Pacific Islander	N/A	0.9 [0.3-1.4]
Native American	N/A	2.7 [1.8-3.6]
Other	2.6 [1.5-3.7]	9.2 [7.5-10.9]
Don't know/refused	N/A	1.6 [0.9-2.3]
Marital status:		
Married*	67.2 [64.4-70.0]	53.2 [50.4-56.1]
Living with a partner		7.9 [6.3-9.5]
Separated**	10.5 [8.7-12.3]	2.6 [1.9-3.3]
Divorced		9.8 [8.0-11.5]
Widowed		2.1 [1.5-2.7]
Single	22.3 [19.9-24.7]	22.7 [20.1-25.2]
Don't know/refused	N/A	1.8 [0.9-2.7]
Partner living outside home	N/A	14.9 [12.0-17.8]



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Characteristics	2000 % [95% CI]	2012 % [95% CI]
Region:		
Northeast	N/A	17.7 [15.6-19.8]
South	N/A	33.6 [30.5-36.7]
Midwest	N/A	21.1 [18.8-23.3]
West	N/A	20.4 [17.8-23.1]
Don't know/refused	N/A	7.2 [5.6-8.8]
		<b>Average [95% CI]</b>
Average age	N/A	41.5 [40.6-42.3]
Unweighted N	2,558	2,852

\* The 2000 Report reflects married/living with partner.

\*\* The 2000 Report reflects separated/divorced/widowed.

Source: 2012 Employee Survey D1, D5, D6, D10, D11, ZIP; 2000 Report Table A2-2.4.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

2012 Sample: Asked of all employees. Note: Region is coded from employee responses on ZIP code. Some respondents refused to provide their ZIP code.

**Exhibit 1.2.2 Household composition of Employee Survey respondents**

Household composition	2000 % [95% CI]	2012 % [95% CI]
Number of children under 18 in respondent's care:		
0	59.5 [57.0-62.0]	56.5 [53.4-59.6]
1	40.5 [38.0-43.0]	17.7 [15.5-20.0]
2	N/A	15.2 [13.2-17.2]
3	N/A	6.7 [5.3-8.2]
4 or more	N/A	2.7 [1.8-3.6]
Don't know/refused	N/A	1.2 [0.6-1.8]
Number of adults over 65 in respondent's care:		
0	N/A	91.2 [89.8-92.6]
1	N/A	5.6 [4.6-6.6]
2	N/A	1.9 [1.1-2.7]
3	N/A	0.2 [-0.0-0.3]
4 or more	N/A	0.1 [-0.0-0.1]
Don't know/refused	N/A	1.0 [0.5-1.6]
		<b>Average [95% CI]</b>
Number of members in household	N/A	2.9 [2.8-3.0]
Unweighted N	2,558	2,852

Source: 2012 Employee Survey D7, D8; 2000 Report Table A2-2.4.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

2012 Sample: Asked of all employees.

**Exhibit 1.2.3 Economic background of Employee Survey respondents**

Economic characteristics	2000 % [95% CI]	2012 % [95% CI]
Family income:		
Under \$5,000	N/A	0.6 [0.2-1.0]
\$5,000- \$20,000*	16.2 [13.9-18.5]	5.4 [4.0-6.7]
\$20,000- \$30,000	13.7 [11.3-16.1]	11.0 [9.0-13.0]
\$30,000- \$35,000	N/A	6.1 [4.5-7.7]
\$35,000- \$40,000	N/A	7.5 [5.6-9.5]
\$40,000- \$50,000**	25.0 [22.4-27.6]	8.5 [6.4-10.6]

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Economic characteristics	2000 % [95% CI]	2012 % [95% CI]
\$50,000- \$75,000	23.1 [20.2-26]	15.3 [13.1-17.5]
\$75,000- \$100,000	12.1 [10.1-14.1]	10.4 [8.9-11.9]
\$100,000 or more	10.0 [8.3-11.7]	20.6 [18.4-22.9]
Don't know/refused	N/A	14.7 [12.2-17.1]
Government employee:		
Federal	N/A	5.2 [3.9-6.5]
State	N/A	5.7 [4.6-6.9]
Local	N/A	5.8 [4.5-7.1]
Not a government employee	N/A	82.3 [80.2-84.4]
Don't know/refused	N/A	1.0 [0.4-1.5]
Percent union member	N/A	14.4 [12.2-16.6]
Currently employed	N/A	88.4 [86.3-90.4]
Contract worker	N/A	9.0 [7.0-10.9]
How respondent is paid:		
Salaried	37.3 [34.8-39.8]	34.6 [31.8-37.3]
Hourly	51.4 [49.1-53.7]	59.4 [56.6-62.2]
Piece work	N/A	2.1 [1.1-3.1]
Other/combined	11.3 [9.4-13.2]	4.4 [2.8-5.9]
Don't know/refused	N/A	0.2 [-0.0-0.5]
Unweighted N	2,558	2,852

\* The 2000 Report reflects less than \$20,000.

\*\* The 2000 Report reflects \$30,000 to less than \$50,000.

Source: 2012 Employee Survey D2, D3, D4a-j, E1, E9, E10; 2000 Report Table A2-2.4.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

2012 Sample: Asked of all employees.

### 1.2.3 2012 Worksite Survey

The sampling frame for the Worksite Survey is the 2012 Dun's Market Identifiers (DMI) file. In the terminology of the DMI, we included all *branch locations* as units eligible to be sampled. Following DOL, in this report we refer to such branch locations as “worksites.” Thus, a business entity (hereafter a “firm”) may have multiple worksites.

The frame was not restricted to headquarters locations (that is, the sample unit is a *worksite*). The final sample excluded self-employed respondents without employees, government and quasi-government units (federal, state, and local governments, public educational institutions, and post offices). Within worksites, we tried to interview the individual who would be most knowledgeable about employee benefits and FMLA issues. See Chapter 2 of the Methodology Report for more details.

For the Worksite Survey, we defined sampling strata by the cross-classification of seven employment size classes and four industry groups. Since we survey worksites to learn about the experiences of employees, worksites with more employees were oversampled. We developed and use sampling weights to account for differential sampling rates across strata and survey non-response. Final weights also adjust for differential non-response. See Chapter 2 of the Methodology Report for more detail on the sampling methodology, sampling plan, and response rates. For most of the tabulations below, we report two sets of results: (i) giving each worksite equal weight (“weighted by worksite”); and (ii) weighting each worksite by the number of employees at the worksite (“weighted by employees at worksite”). Results using the first weight characterize the experience of worksites; results using the second weight characterize the experience of employees. For most purposes, weighting by employees in the worksite is more appropriate. Our discussion focuses on results using those weights.

Between March 12 and June 15, 2012, 6,873 worksites were contacted to participate in the survey. Sampled worksites were given the option of responding via phone (interview conducted with live interviewer using CATI) or via the web. The final sample includes 1,812 completed interviews: 1,178 (65%) completed via phone and 634 (35%) completed via the web.

As appropriate, the body of the report provides tabulations of the results for:

- all worksites;
- worksites that self-report that they are covered by the FMLA (only worksites that self-reported that they were covered were asked the detailed questions about implementation of and effect of the FMLA); and
- covered worksites that have 50 employees within 75 miles. When this 50 employees within 75 miles condition is not met, no employee at the worksite will be eligible for the protections of the FMLA. It follows that for most purposes, the FMLA does not apply to that worksite.<sup>10</sup>

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<sup>10</sup> The issues related to coverage and eligibility are complicated. We discuss the details in Chapter 2 and provide tabulations. Here we note that in operationalizing “worksites with eligible employees,” we require only 50 employees within 75 miles of this worksite. It is possible that a worksite that meets this

In the body of the report, we refer to this last group as “50/75 worksites.” When considering how the FMLA affects worksites, these 50/75 worksites are usually the most relevant. Therefore, unless otherwise noted, when we discuss results from the Worksite Survey in the text, we discuss results for covered worksites that are large enough to have eligible employees (i.e., “50/75 worksites”), weighted by the number of employees at the worksite (not weighted by worksite). Thus, these results correspond roughly to tabulations of eligible employees from the Employee Survey.<sup>11</sup>

Again, when we report stratified results, the reader should keep in mind that with only a few exceptions, the estimates are not precise enough to establish that any difference between groups is not simply due to chance.

#### **1.2.4 Characteristics of the Worksite Sample**

Exhibit 1.2.4 presents background information on the worksites in the Worksite Survey, weighted by both the number of employees at the worksite and worksites. Where available in the public report, the table also includes comparable estimates from the 1995 and 2000 surveys, weighted by worksites.

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requirement nevertheless has no employees who also meet the tenure and minimum hours requirements. Also, note that while the coverage definition is based on self-report; this imputation of any eligible employees is based on reported number of employees. The alignment between self-reports of coverage and reports of numbers of employees at all worksites is imperfect.

<sup>11</sup> The correspondence is not exact. The Employee Survey includes government employees; the Worksite Survey does not include government worksites. The weighting is by all employees at the worksite, not just by those who are eligible. Worksites are likely to vary in the fraction of their workers who meet the other eligibility criteria (job tenure and hours worked in the last year).

**Exhibit 1.2.4 Description of worksites in sample**

<b>Worksite characteristics</b>	<b>All worksites, weighted by number of employees % [95% CI]</b>	<b>All worksites, weighted by worksite % [95% CI]</b>
<b>Industry:</b>		
Manufacturing	12.2 [-23.5-47.9]	14.2 [11.4-17.0]
Retail	25.2 [-36.2-86.6]	21.7 [17.3-26.2]
Service	19.3 [-160.1-198.6]	29.4 [24.5-34.3]
Other	43.3 [-110.4-197.0]	34.7 [31.2-38.2]
Percent of employees who worked at organization for at least one year	78.3 [-24.7-181.3]	84.1 [81.6-86.7]
Of employees who have worked at organization for at least one year, percentage who have worked at least 1,250 hours in the past year	65.7 [26.3-105.1]	63.5 [60.4-66.5]
Unionization	9.5 [-126.0-145.1]	1.9 [0.3-3.5]
Female	48.7 [33.3-64.2]	47.9 [45.3-50.5]
<b>Census region:</b>		
Northeast	18.8 [15.6-22.0]	18.8 [15.6-22.0]
South	34.1 [25.3-42.9]	33.7 [29.8-37.6]
Midwest	23.5 [-31.6-78.5]	20.3 [16.9-23.7]
West	23.6 [-39.9-87.1]	27.2 [20.9-33.4]
	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>
Number of employees at entire organization	4590.7 [-74044.5-83225.9]	145.1 [59.2-231.0]
Unweighted N	1,812	1,812

Source: Worksite Survey Q1, Q4, Q6, Q7, Q8, Q9 Q10, Screener.

Sample: Asked of all worksites.

### 1.2.5 Changes in the Survey Focus from 2000

As much as possible, the 2012 surveys followed the model implemented in 2000. That strategy preserves comparability, allowing analyses of changes over time. Nevertheless, despite efforts to maximize comparability, the final 2012 surveys differ substantially from the 2000 surveys in several ways.

First, the 2012 surveys have changed to reflect the evolving policy context. Unlike the 2000 Employee Survey, the screener for the 2012 Employee Survey and then questions in the body of the survey carefully distinguish between longer leave for acute medical conditions and shorter—often unanticipated—leave for chronic conditions (what is referred to in the FMLA statute as “intermittent leave”). As appropriate in this report, we compare and contrast those two types of leave.

Second, to capture recent or pending statutory or regulatory changes (discussed above), new questions have also been added to both 2012 surveys. Given concerns about respondent burden and response rates, expanded areas of inquiry had to be offset by reductions in other areas. To this end, we have dropped questions that are currently less relevant than they were in 2000 or those that did not generate particularly rich insights in previous analyses and reports. These include questions from the 2000 Worksite Survey that asked about benefits offered by worksites, how long worksites have been covered by the FMLA, and effect of the FMLA on different aspects of the worksite. (See Chapter 3 of the Methodology Report for a detailed list of questions that were dropped, added, and modified.)

Third, as we discuss in detail in the introduction to Chapter 4, we shifted the reference period from the past 18 months to the past 12 months and the reference leave from the longest leave (in the past 18 months) to the most recent leave (in the past 12 months).

Thus, while comparability over time was a design goal, in some areas the changes are non-trivial. Chapter 3 of the Methodology Report presents changes in the two surveys in more detail and how those changes might affect comparability over time. Given these changes, comparisons of results over time should be interpreted with caution.

## 1.3 Notes on Discussion and Language

Throughout this document, we discuss issues related to the FMLA statute and regulations. Our discussions are intended as high-order summaries. For rhetorical clarity, our discussions often delete what are—for the purposes of this report— non-relevant details or caveats. No statement in this document should be taken as stating official interpretation of the statute or regulations; nor should any statement in this document be taken as stating official DOL policy. Those desiring information on the statute and regulations should consult the appropriate legal documents.<sup>12</sup>

We use “worker” and “employee” interchangeably throughout the report. With regard to findings from the Worksite Survey, we distinguish between the “worksite” that responded to the survey versus all of the firm’s sites as appropriate.

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<sup>12</sup> See Section 1.1 above and the DOL/WHd FMLA website at <http://www.dol.gov/dol/topic/benefits-leave/fmla.htm> and <http://www.dol.gov/whd/fmla/index.htm#Forms>.

The “findings” of the original FMLA statute state: “due to the nature of the roles of men and women in our society, the primary responsibility for family caretaking often falls on women, and such responsibility affects the working lives of women more than it affects the working lives of men” (Public Law 103-3 § 2(5)). Consistent with this statutory language, the Employee Survey results reported in Chapter 4 imply that leave is more common among females. Consistent with that pattern, we sometimes use the female pronoun (i.e., “she” or “her”) to refer to those taking or needing leave. Unless explicitly noted otherwise, such references should be taken to refer to men taking (or needing) leave as well.

Throughout, we report not only point estimates, but also the 95% confidence interval (hereafter, simply “CI”). In 95% of samples, the true answer will fall within this range.

Where possible, we compare results across the 1995, 2000, and 2012 surveys. Those comparisons should be interpreted with care. As noted in Section 1.1, many things have changed. The FMLA is no longer new; the statute and regulations have changed; the labor market continues to evolve; and the unemployment rate was considerably higher in 2012 than it had been at earlier surveys. Furthermore, as discussed in Chapter 4, the reference period differed between the 2000 and 2012 surveys, limiting the ability to make some comparisons.

In the text, we discuss only differences for which we can reject chance as the explanation (at the 5% level). Those standard errors apply to a test taken alone. Multiple comparison considerations imply that, even if there was no true difference, we would expect some differences based solely on chance.

Furthermore, even when the results are precise enough, they should be interpreted with care. In particular, many analyses of the Worksite Survey compare results for covered worksites to results for uncovered worksites. Similarly, many analyses of the Employee Survey compare results for eligible employees to results for ineligible employees. Any differences are likely to be due to some combination of:

- (i) the causal impact of coverage and eligibility;
- (ii) the pure effect of firm and worksite size, and differences they induce in the industry and type of employees—such that the differences would be present even in the absence of the FMLA; and
- (iii) chance.

Thus, in general, it is not appropriate to interpret differences as the causal impact of the FMLA.

Beyond the subgroups noted in Section 1.2.1 and Section 1.2.3, the survey is not large enough to detect all but the very largest differences between subgroups. Concerns about the precision of disaggregated estimates are particularly salient when the data are unbalanced across the subgroups (e.g., when there are more than two subgroups or when the fraction of the population in each group deviates from approximately half in each group). We report some limited tabulations by other subgroups in the body of the report and others in the Detailed Results Appendix. Given the small sample sizes and the large number of subgroup analyses, those results should be interpreted with considerable caution.

In particular, while there are reasons to expect differences across states (e.g., paid leave statutes, demographic characteristics, and economic conditions), sample sizes are simply not sufficient to support such analyses. After explicit discussion with DOL, we decided not to focus on those issues



and not to report tabulations by states or groups of states. Furthermore, considerations of respondent confidentiality require that no geographic information (i.e., state of residence or Census Region) be included in the Public Use File (PUF).

## **1.4 Structure of this Report**

The balance of this report attempts to integrate results from the Worksite Survey and the Employee Survey. Specifically, Chapter 2 presents results on worksite coverage and worker eligibility for the FMLA, as well as information related to employees' knowledge of the FMLA. Chapter 3 considers issues related to worksites' administration of the FMLA and other leave policies. Chapter 4 presents information on leave taking. Chapter 5 presents aspects of leave specifically related to the FMLA, and, in particular, areas of recent regulatory activity, including worksites' medical (re)certification and fitness-for-duty requirements. Chapter 6 presents findings on those who responded that they needed leave, but did not take it. Chapter 7 considers several subpopulations of particular interest—e.g., military families, and differences in leave taking and unmet need by gender. Chapter 8 presents how worksites respond to employee leave and their perceptions of the effects of leave. The final chapter poses the challenge of FMLA policy making, considers the implications of the survey results for such policies, and discusses directions for future research.

This is one of several documents describing the results of this 2012 survey effort. Those documents include the Executive Summary and two volumes. One appendix volume provides more-detailed results (Pozniak, Olson, Wen, Daley, and Klerman, 2012). In particular, the Detailed Results Appendix includes supplementary analyses for the Employee and Worksite Surveys. All documents are available on the Department's website (<http://www.dol.gov/whd/fmla/survey>).

Another volume presents additional information on the methods used. In particular, this Methodology Report (Daley, Kennedy, Schalk, Pacer, Ackermann, Pozniak, and Klerman, 2012) discusses (i) issues related to the design of the Employee and Worksite Surveys, including a crosswalk of questions between the 2000 and 2012 surveys; (ii) issues related to weighting; (iii) results of the incentive pilot; and (iv) results of the non-response follow-up analysis.

A final volume documents the Public Use File (PUF) (McGarry, Klerman, Daley, and Pozniak, 2012). The PUF is available on the Department's website (<http://www.dol.gov/asp/evaluation/fmla/FMLASurveys-PUFdocumentation.pdf>).

## 2. FMLA Coverage and Eligibility

The Family and Medical Leave Act (FMLA) is a federal entitlement offered to *eligible* employees of *covered* firms (where “coverage” applies to all “employees” at all of the firm’s “worksites”). This chapter presents two perspectives on information on the coverage and eligibility requirements for applying the FMLA. Section 2.1 tabulates firm coverage from the Worksite Survey, while Section 2.2 tabulates employee eligibility from the Employee Survey. Section 2.3 describes employee knowledge of the FMLA’s provisions from the Employee Survey. Section 2.4 tabulates information on qualifying reasons for job-protected leave. Finally, Section 2.5 presents information from worksite responses on other terms of employment—increments for recording time, other benefits, and demerit systems.

As noted in Chapter 1, unless otherwise noted, when discussing results from the Worksite Survey, we focus on estimates weighted by the number of employees at the worksite (not weighted by worksite) for 50/75 worksites (i.e., worksites that have 50 employees within 75 miles and are, therefore, large enough to have eligible employees).

### 2.1 Covered Firms in the Sample

A private firm is *covered* by the FMLA if, across all of its worksites, it employs or has employed 50 or more employees in 20 or more workweeks in the current or preceding calendar year.<sup>13</sup> We have two sources of information about FMLA coverage. First, the Worksite Survey asked directly whether a worksite believes that it is covered. The Worksite Survey uses this response to determine which worksites are asked FMLA-specific questions. Second, following the approach used in the 2000 survey, we also impute FMLA coverage if the worksite reports, that across all worksites, its parent firm employed at least 50 employees.<sup>14</sup>

Exhibit 2.1.1 reports both our imputed coverage and the worksites’ self-reported coverage. Specifically, 16.6% of worksites self-report that the FMLA applies to them. In contrast, our imputation implies much lower coverage rates; 9.7% of worksites are covered by the FMLA (i.e., 50 or more employees across all worksites for this employer).<sup>15</sup> Furthermore, over a quarter of all sites (29.7%) are unsure if the FMLA applies to them.

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<sup>13</sup> All public agencies are covered by the FMLA. The 2012 Worksite Survey included only private sector worksites. The 2012 Employee Survey included employees from both the private and public sector (Public Law 103-3 § 101(2)(b)).

<sup>14</sup> Our imputation does not consider the 20 or more workweeks requirement (§ 825.105 (e)). It was not feasible to include that level of detail (i.e., more than the current number of employees) on a worksite survey.

<sup>15</sup> This estimate is also slightly lower than the estimates from the 1995 and 2000 surveys, which both reported that 10.8% of worksites were covered (see Cantor et al., 2001; Table 3.1, p. 3-3). However, the estimates are not comparable. Cantor et al. (2001) state: “For purposes of analysis in both the establishment and employee surveys, an establishment was considered an FMLA-covered establishment if, at the time of the survey, it had at least 50 or more [sic] employees working at locations within 75 miles. In the establishment survey, multi-establishment employers with 50 or more employees *beyond* 75 miles (but less than 50 within

Among the worksites that self-report that they are covered, 55.7% report fewer than 50 employees across all worksites (*i.e.*, we would impute that they are not covered; not shown in Exhibit 2.1.1). Conversely, among the worksites that self-report that they are not covered, only 2.9% report more than 50 employees across all worksites (*i.e.*, we would impute that they are covered; these are not shown in Exhibit 2.1.1).

**Exhibit 2.1.1 Worksites that are covered by FMLA**

FMLA coverage	All, weighted by worksite % [95% CI]	All, weighted by employees % [95% CI]
Self-reported coverage under the FMLA by worksites:		
FMLA applies to worksite	16.6 [10.5-22.7]	70.4 [62.5-78.2]
FMLA does not apply to worksite	53.6 [48.1-59.1]	16.2 [11.7-20.7]
Not sure if FMLA applies	29.7 [23.7-35.7]	13.3 [8.9-17.6]
Don't know/refused	0.1 [-0.0-0.2]	0.2 [0.0-0.3]
Worksite's imputed coverage under the FMLA:		
50 employees at all of the organization's worksite	9.7 [7.2-12.3]	68.2 [59.8-76.5]
Unweighted N	1,812	

Source: Worksite Survey Q1, Q2, Q3, Q17.

Sample: Asked of all worksites.

As discussed above, many more sites—16.6% vs. 9.7%—report that they are covered than appears to be the case based on our imputation. There are at least two reasons why self-reports of FMLA coverage may diverge from our imputation. First, some worksites may misunderstand their coverage status, either believing they are uncovered when they do meet the statutory requirement or believing that they are covered when they do not. From the responses, the latter appears to be more common; *i.e.*, worksites are more likely to believe they are covered when they are not.

Second, our imputation is undoubtedly imperfect. In particular, some worksites may misunderstand or misreport their firms' count of employees across all worksites. In addition, as discussed above, our coverage imputation does not impose the 20 calendar week's condition on surveyed worksites (although this error would increase the discrepancy, with even fewer worksites truly covered). Similarly, the Worksite Survey asked about employees currently on the payroll whereas the statute considers employment in any 20 weeks in the current or previous year. It seems unlikely that inter-year variation in the employee count is a major cause of the discrepancy.

Finally, in considering these estimates (and other estimates based on the Worksite Survey), it is crucial to remember that this is the percentage of *worksites*. The second column of Exhibit 2.1.1

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75 miles) were not counted as covered, while some employers with a large number of seasonal employees may also have been classified as being non-covered.” (p. 3-2 in Cantor et al., 2001). Consistent with guidance from DOL, the definition of coverage used in this report does not impose the 50 employees within 75 miles requirement.

repeats that analysis weighting by employees. Doing so considerably shrinks the discrepancy. Specifically, worksites' self-reports of coverage status imply that 70.4% of employees are covered by the FMLA (see first row of Exhibit 2.1.1); while our imputations based on worksite reports of total firm employment imply that 68.2% of employees are covered by the FMLA (see penultimate row of Exhibit 2.1.1). Put differently, the discrepancies are primarily in small worksites with few employees.

Exhibit 2.1.1 considers whether worksites are covered by the FMLA. As we noted in Chapter 1 and as we discuss in detail later in this chapter and in later chapters, employees may only access the protections of the FMLA if they meet specific eligibility criteria.. A necessary, but not sufficient, condition for employee eligibility is that there be 50 employees of the firm at all worksites within 75 miles of the particular employee's worksite (what we call "50/75 worksites"). When that condition is not met, the protections of the FMLA do not apply to the employee.

Exhibit 2.1.2 considers how many worksites are large enough to have any eligible employees. To do this analysis, we use worksite reports of the number of employees.<sup>16</sup> Using worksite reports of employment (not self-reports of coverage), Exhibit 2.1.2 shows that 44.2% of worksites are covered (34.6%+9.6%), but only 34.6% of worksites are large enough to have any eligible employees at the site. The definitions of eligibility imply that larger worksites will be covered and have eligible employees, and smaller worksites will not. We would thus expect that, compared to weighting each worksite equally, weighting by employees would imply that more workers are at sites large enough to have eligible employees (i.e., satisfying the criterion of 50 employees within 75 miles). Consistent with that expectation, when weighting by employees and according to worksite reports of employment (not self-reports of coverage), 91.5% (89.6%+1.9%) of employees are in covered worksites and 89.6% of employees work at worksites large enough to have eligible employees.<sup>17</sup>

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<sup>16</sup> The Worksite Survey did not ask worksites directly if they were large enough to have eligible employees. Instead, this analysis imputes that status based on reports about number of employees. We have already noted that using reported number of employees in the worksite leads to a lower estimate of coverage than using worksites' self-reports of coverage.

<sup>17</sup> Note that this number is slightly higher than the corresponding estimate from the Employee Survey (see Exhibit 2.2.1: 73.6% vs. 89.6%). The most likely reason for the discrepancy is employee misreporting of the number of employees within 75 miles.

**Exhibit 2.1.2 Self-reported covered worksites with 50 employees within 75 miles**

Among self-reported covered worksites, percentage that have:	Weighted by worksite % [95% CI]	Weighted by employees at worksite % [95% CI]
50 employees within 75 miles of the worksite	34.6 [23.0-46.3]	89.6 [84.1-95.2]
50 employees, but not within 75 miles of the worksite	9.6 [1.5-17.8]	1.9 [0.6-3.2]
Fewer than 50 employees at all worksites	55.7 [42.6-68.9]	8.5 [2.9-14.0]
Unweighted N	988	

Source: Worksite Survey Q1, Q2, Q3, Q17.

Coverage imputation: 50 employees at all of the organization's worksites, based on worksite reports of number of employees in the firm overall and within 75 miles (not based on worksites' self-reports of coverage).

Sample: Asked of all worksites.

## 2.2 Eligible Employees in the Sample

An employee is *eligible* for FMLA if he or she:

- works for a covered employer (see Public Law 103-3, § 101(2)) has worked for that employer for at least 12 months (which do not have to be consecutive);
- has at least 1,250 hours of service over the past 12 months; and
- works at a location with 50 or more employees at the location or within 75 miles of the employee's worksite.

The employee is then eligible to take leave for one of the following qualifying FMLA reasons (Public Law 103-3 §102(a)):

- Birth of the employee's child, and care of the child within one year of birth.
- Placement with the employee of a child for adoption or foster care, within one year of the placement.
- Care of an immediate family member (spouse, child, parent) who has a serious health condition.
- For the employee's own serious health condition that makes the employee unable to perform any of the functions of his or her job.
- For any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, or parent is on covered active duty or has been notified of an impending call or order to covered active duty in the U.S. Armed Forces.
- To care for a covered service member with a serious injury or illness incurred or aggravated in the line of duty. (Unlike other qualifying reasons, which allow up to 12 weeks of leave in each leave year, this leave may be for up to 26 weeks in a single 12-month period.)

Exhibit 2.2.1 presents the estimated percentage of employees who are eligible for FMLA leave using Employee Survey responses. This exhibit reports that:

- 73.6% of employees work at a worksite with 50 or more employees within 75 miles.

- 64.0% of employees work in covered FMLA worksites *and* have 12 months’ tenure.<sup>18</sup>
- 59.2% of employees work in covered FMLA worksites *and* have worked continuously for the past 12 months *and* worked at least 1,250 hours in the past 12 months (approximately 24 hours per week).<sup>19</sup>

That is, the imputation implies that 59.2% of employees are eligible for FMLA (see the penultimate row of Exhibit 2.2.1).

We use this imputation of “eligible employees” in subsequent tables in the report that stratify some of the responses to the Employee Survey. For several reasons, the imputation methodology may generate imprecise estimates. One reason is survey response errors as to number of employees, length of employment, and hours in the past year. Second, FMLA eligibility is imputed based on questions referring to current employment, and some currently ineligible individuals (e.g., just changed jobs) might have been eligible earlier in the reference period (e.g., on a previous job) and vice versa. Considerations of survey length and fielding methods made it infeasible to collect sufficient detail to better establish FMLA eligibility at all periods.

**Exhibit 2.2.1 Estimation of number of current employees who are eligible for FMLA**

Current employees	All employees % [95 CI]
Percent of employees whose worksites have 50 or more employees within 75 miles	73.6 [70.6-76.6]
...and continuously worked for same worksite for 12 months	64.0 [61.0-67.0]
...and were always a full-time employee or worked at least 1,250 hours over the past 12 months (this is the percentage of employees who are eligible for FMLA)	59.2 [56.3-62.1]
Unweighted N	2,572

Source: Employee Survey E13, E14, E15.

Sample: Asked of all employees.

Exhibit 2.2.2 and Exhibit 2.2.3 consider the effect of varying the statutory eligibility requirements; 63.2% of employees would be eligible if the cutoff were lowered to 30 employees (within 75 miles), or 66.6% with a 20-employee threshold (within 75 miles)<sup>20</sup> (Exhibit 2.2.2). Approximately 62.7% of employees would be eligible if the minimum hours of service requirement was dropped to 780 hours

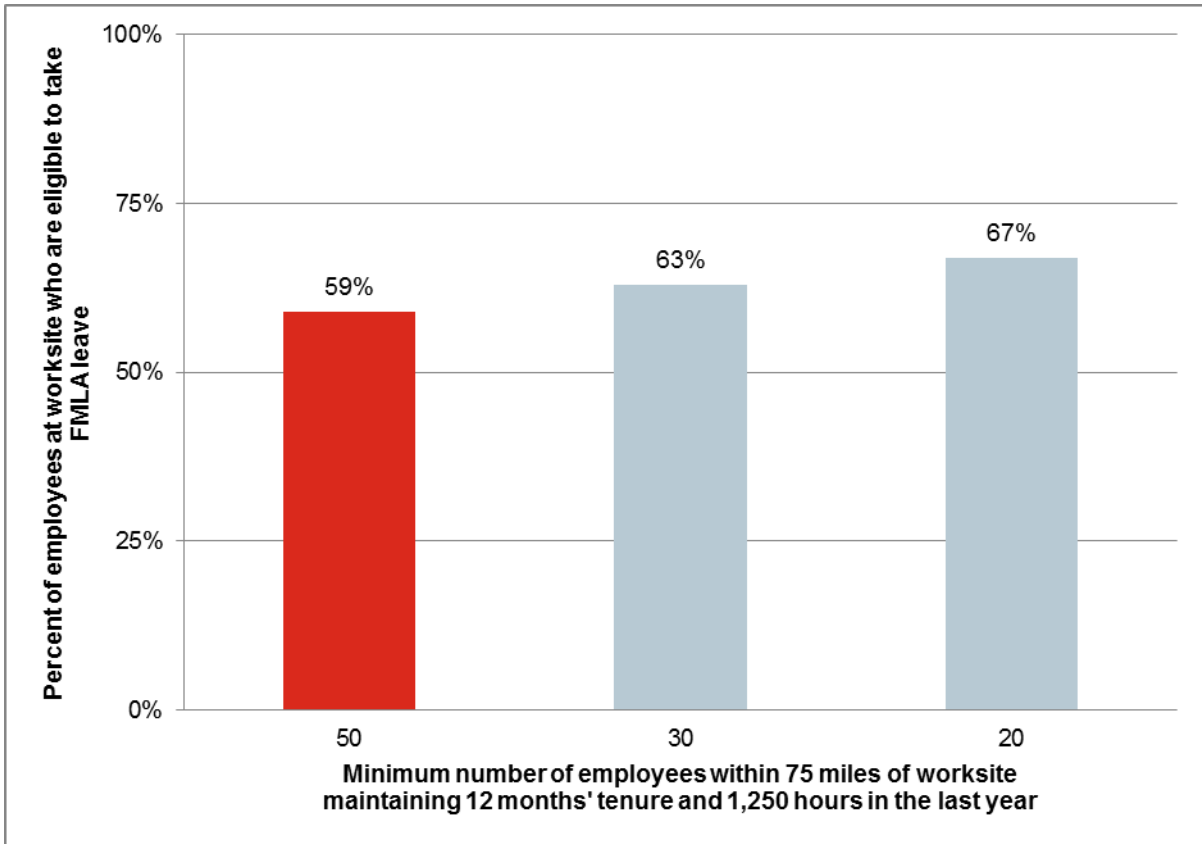
<sup>18</sup> Because of concerns about respondent burden and following the question wording used in 2000, the survey asked about 12 months of continuous employment with this employer. This does not align exactly with the FMLA, which requires only 12 months’ total employment with this employer. Thus, our estimates are slightly too low.

<sup>19</sup> The FMLA Final Rule established special hours of service eligibility requirements for airline flight crew employees. Airline flight crew employees, which include airline flight crewmembers and flight attendants, meet FMLA eligibility requirements if they work at least 60% of the applicable total monthly guarantee and have worked or been paid for at least 504 hours during the 12 months prior to taking leave (U.S. DOL, 2013b).

<sup>20</sup> The Employee Survey reports only the number of employees in groups (1–9, 10–19, 20–29, 30–39, 40–49, 50–99, 100–249, 250–349, 350–499, 500 or more). Therefore, we report 20- and 30-employee thresholds instead of 25 due to the response categories listed in E12.

(average of 15 hours per week); approximately 54.5% would be eligible if the minimum hours were raised to 1,820 hours (average of 35 hours per week; see Exhibit 2.2.3).<sup>21</sup>

**Exhibit 2.2.2 Simulations of eligibility with minimum number of employees**

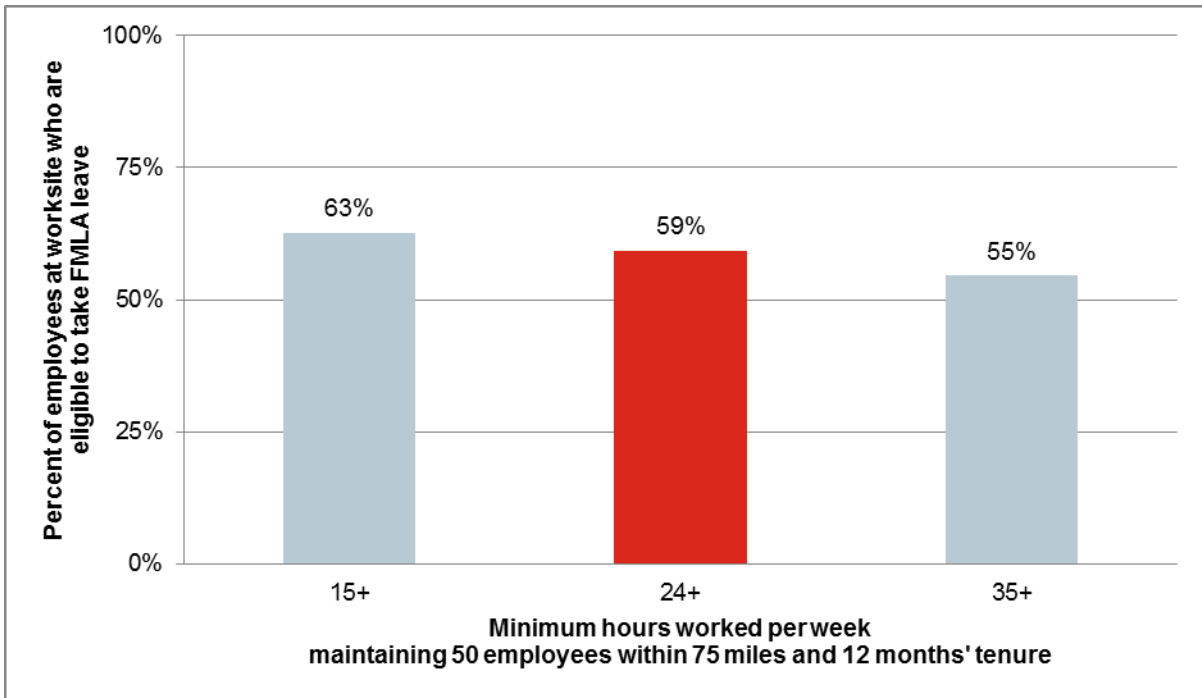


Source: Employee Survey E13, E14, E15.

Sample: Asked of all employees.

<sup>21</sup> The FMLA does not require a specific number of hours to be worked in any week for its eligibility criteria to be met, i.e., an employee who works 10 hours in one week and 32 in others would be eligible in all weeks if he had worked 1,250 hours in the 12 months prior to the leave. However, for ease of comparison, we report these numbers as an average per week.

**Exhibit 2.2.3 Simulations of eligibility with hours worked**



Source: Employee Survey E13, E14, E15.  
Sample: Asked of all employees.

### 2.3 Employees' Knowledge and Awareness of FMLA

Employee knowledge and understanding of the FMLA is crucial to its use. The Employee Survey included questions to examine workers' knowledge and awareness of the FMLA. Since the fielding of this survey, DOL has issued additional guidance in plain-language format geared to increasing employees' knowledge and understanding of the Act (see *Need Time? The Employee's Guide to the Family and Medical Leave Act*, and the associated webinar; U.S. DOL, 2012). Any changes in knowledge and understanding due to those efforts will not be reflected in the survey responses.

Exhibit 2.3.1 indicates that 66.2% of all employees have heard of the FMLA. This rate is up from 59.1% in 2000 and 56.0% in 1995.



**Exhibit 2.3.1 Employee awareness of FMLA**

Employee awareness of FMLA	1995 survey	2000 survey	2012 survey		
	All employees % [95 CI]	All employees % [95 CI]	All employees % [95 CI]	Employees at covered worksites % [95 CI]	Employees at uncovered worksites % [95 CI]
Have heard of the federal FMLA	56.0 [52.9-59.1]	59.1 [56.3-61.9]	66.2 [63.0-69.4]	70.9 [67.1-74.6]	53.1 [47.1-59.2]
How employee learned about FMLA:					
Media	N/A	42.5 [38.9-46.1]	11.6 [10.0-13.3]	11.0 [9.1-12.8]	13.6 [10.1-17.1]
Coworker	N/A	5.0 [3.4-6.6]	3.1 [2.2-4.0]	3.8 [2.6-5.0]	1.1 [-0.0-2.2]
Employer or Human Resource department	N/A	38.4 [34.9-41.9]	36.5 [33.7-39.4]	41.1 [37.7-44.5]	23.8 [19.3-28.4]
Saw a poster (includes notice posted)	N/A	3.6 [2.2-5.0]	44.3 [41.0-47.6]	48.6 [44.9-52.3]	32.4 [26.0-38.9]
Family member	N/A	2.7 [1.5-3.9]	3.8 [2.7-4.9]	4.2 [2.8-5.5]	2.7 [1.1-4.3]
Friend or neighbor	N/A	N/A	1.8 [1.0-2.6]	1.8 [0.8-2.9]	1.7 [0.5-2.9]
Union	N/A	1.4 [0.6-2.2]	0.7 [0.4-1.1]	1.0 [0.5-1.5]	0.0 [-0.0-0.1]
Other	N/A	6.3 [4.7-7.9]	11.0 [9.1-12.9]	11.0 [8.7-13.3]	11.0 [7.6-14.4]
Don't know/refused	N/A	N/A	1.7 [0.8-2.6]	1.4 [0.6-2.1]	2.7 [0.2-5.1]
Unweighted N	1,202	3,104	2,572	1,985	587

Source: 2012 Employee Survey E2, E3; 2000 Report Tables A1-3.4 and A1-6.2.

Columns may sum to >100% since respondent could select more than one category.

Last two columns disaggregate responses based on employees working at a covered or uncovered worksite *regardless* of whether the employee is eligible.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

2012 Sample: Asked of all employees.

The last two columns of Exhibit 2.3.1 disaggregate these findings by whether the employee works at a covered or uncovered worksite regardless of whether the employee is eligible for FMLA<sup>22</sup> (coverage status is based on our imputation from the employees' responses as discussed in Section 2.2 above). Not surprisingly, more employees at covered worksites have heard of the FMLA than those who work at uncovered worksites (70.9% vs. 53.1%).

The most common sources of knowledge are a poster or other posted notice and communication from the worksite (including the Human Resources [HR] department), each with about 40% of employees. As expected, this is more common among employees in covered than uncovered worksites (for poster: 48.6% vs. 32.4%; for HR department: 41.1% vs. 23.8%).

<sup>22</sup> We tabulate based on coverage rather than eligibility because worksites have an obligation to inform all covered employees of the FMLA, regardless of their eligibility.

In addition, employees were asked whether the FMLA entitled covered employees to take leave for 11 possible reasons—8 of which are covered under the current FMLA statute, and 3 of which are not (E4a): “*To the best of your knowledge, are employees who are covered by the federal FMLA law entitled to take leave for the following reasons?*”).<sup>23</sup>

Exhibit 2.3.2 tabulates responses to these knowledge questions. Most employees know the covered reasons. However, most employees incorrectly believe that the FMLA provides protected leave for the care of family members that FMLA does not actually cover (last three rows); that is, employees appear to believe the FMLA is broader than it actually is. Knowledge of the military family leave provisions is substantially lower than the other provisions—below 65% vs. knowledge of other provisions, which is well above 75%. Like the previous results, the last two columns of Exhibit 2.3.2 disaggregate these findings by whether the employee works at a covered or uncovered worksite *regardless* of whether the employee is eligible for FMLA; however, there are few statistically significant differences.

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<sup>23</sup> The full list was too long to administer to every respondent, so each respondent was asked about 4 of the 11 reasons. The 4 reasons were randomly selected for each respondent with the following specifications:

- 1 of the 4 reasons was about leave related to military service members;
- 2 of the 4 reasons were for other covered reasons; and
- 1 of the 4 reasons was for leave that is not covered by the FMLA.

Additionally, the order in which the questions were asked was randomized.

**Exhibit 2.3.2 Employee knowledge of what FMLA covers**

<b>Employee knowledge of FMLA</b>	<b>All % [95% CI]</b>	<b>Employees at covered worksites % [95% CI]</b>	<b>Employees at uncovered worksites % [95% CI]</b>
Percent of respondents who correctly answered that FMLA applies to the following covered reasons:			
FMLA is available for the care of a newborn.	91.7 [86.2-97.3]	92.8 [88.5-97.1]	88.1 [76.1-100.1]
FMLA is available for an employee's own serious health condition.	88.7 [84.2-93.1]	90.5 [85.7-95.4]	80.5 [68.8-92.2]
FMLA is available for the care of a child with a serious health condition.	86.8 [82.2-91.4]	89.1 [84.9-93.4]	80.0 [66.7-93.3]
FMLA is available for the care of a spouse with a serious health condition.	85.8 [81.0-90.5]	86.5 [81.0-92.0]	82.8 [72.2-93.3]
FMLA is available for the care of a parent with a serious health condition.	83.1 [78.4-87.9]	83.5 [78.2-88.7]	81.9 [70.8-93.0]
FMLA is available for the care of an adopted child or foster child.	80.1 [74.3-85.9]	81.1 [75.2-86.9]	76.4 [63.8-89.1]
FMLA is available for the care of a military service member.	62.8 [57.8-67.8]	63.7 [58.0-69.5]	59.9 [48.9-70.9]
FMLA is available for reasons related to the deployment of a military service member.	59.8 [55.1-64.5]	59.6 [54.4-64.8]	60.5 [49.2-71.8]
Percent of respondents who correctly answered that FMLA does <i>not</i> apply to the following reasons:			
FMLA is available for the care of a grandparent with a serious health condition.	17.5 [12.5-22.4]	13.9 [8.9-18.9]	27.2 [11.6-42.7]
FMLA is available for the care of a grandchild with a serious health condition.	18.2 [13.7-22.8]	17.4 [12.5-22.2]	22.6 [8.3-36.8]
FMLA is available for the care of a sibling with a serious health condition.	16.6 [11.0-22.2]	15.9 [10.1-21.8]	19.3 [7.3-31.4]
Unweighted N	938		

Source: Employee Survey E4a.

Last two columns disaggregate responses based on employees working at a covered or uncovered firm *regardless* of whether the employee is eligible.

Sample: Asked of all employees.

## 2.4 Qualifying Reasons for Leave

The FMLA provides job-protected leave for qualifying conditions (listed at the beginning of Section 2.2). Responses to the Worksite Survey suggest that the majority of worksites allow leave for all FMLA-qualifying reasons (Exhibit 2.4.1a). Two-thirds (66.6%) of employees work at worksites that allow leave for *all* of the qualifying FMLA reasons listed regardless of circumstances. As expected, rates of allowing leave are higher in covered worksites than in uncovered worksites (69.5% vs. 59.6% of employees work at these worksites, respectively). At least 79% of employees work at covered worksites that report “allowing leave” for qualifying FMLA reasons, even excluding the “depends on circumstances” response (which could be correct as the FMLA does have exclusions). Rates of allowing leave are much lower in uncovered worksites, but still well over 60% for the qualifying FMLA reasons listed. Differences are larger when weighting by worksites, rather than by the number of employees at the worksite (Exhibit 2.4.1b).

**Exhibit 2.4.1a Worksites that allow leave for a qualifying FMLA reason, weighted by employees at worksite**

Worksites that allow leave for the following qualifying FMLA reasons	All worksites, weighted by employees at worksite				Uncovered worksites, weighted by employees at worksite			
	Allows leave % [95% CI]	Depends on circum- stances % [95% CI]	Does not allow leave % [95% CI]	DK % [95% CI]	Allows leave % [95% CI]	Depends on circum- stances % [95% CI]	Does not allow leave % [95% CI]	DK % [95% CI]
For an employee's own serious health condition	94.5 [92.6-96.3]	1.8 [1.2-2.5]	3.1 [1.8-4.5]	0.5 [0.2-0.9]	84.8 [81.2-88.4]	5.4 [3.2-7.5]	8.1 [5.3-10.8]	1.7 [0.7-2.8]
For a pregnancy-related reason	92.7 [90.7-94.7]	2.8 [2.2-3.4]	3.7 [2.3-5.0]	0.9 [0.3-1.5]	80.3 [76.9-83.7]	8.4 [5.9-10.9]	8.8 [6.2-11.4]	2.5 [0.9-4.0]
For the care of a newborn	91.1 [87.6-94.5]	2.7 [2.0-3.5]	5.6 [2.8-8.4]	0.7 [0.3-1.0]	75.9 [70.0-81.7]	8.3 [6.0-10.6]	13.7 [8.2-19.3]	2.1 [1.0-3.2]
For an adoption or foster care placement	87.4 [83.6-91.2]	4.4 [3.2-5.6]	6.7 [3.7-9.7]	1.5 [0.8-2.2]	65.3 [60.0-70.5]	13.0 [9.4-16.5]	17.4 [11.9-22.9]	4.4 [2.2-6.5]
For the care of a child, spouse or parent with a serious health condition	93.0 [91.1-94.8]	2.7 [1.9-3.5]	3.8 [2.5-5.1]	0.6 [0.2-1.0]	81.0 [77.6-84.4]	8.2 [5.6-10.7]	8.9 [6.3-11.5]	1.9 [0.8-3.0]
For care of a parent or spouse who is elderly	79.2 [68.9-89.6]	3.7 [2.1-5.3]	16.2 [5.9-26.5]	0.9 [0.4-1.3]	78.0 [74.0-82.0]	8.1 [5.8-10.4]	11.6 [8.2-15.0]	2.3 [1.2-3.5]
For the care of a military service member with a serious injury or illness	90.8 [88.0-93.6]	3.0 [2.1-4.0]	4.8 [3.0-6.6]	1.4 [0.8-1.9]	75.8 [71.4-80.2]	8.7 [6.2-11.3]	11.5 [8.5-14.4]	4.0 [2.5-5.5]
For reasons related to the deployment of a military service member	84.3 [77.6-91.0]	3.7 [2.6-4.9]	8.7 [1.8-15.6]	3.3 [0.5-6.2]	73.6 [69.1-78.1]	10.0 [7.6-12.4]	11.4 [8.4-14.5]	4.9 [2.9-7.0]
Worksites that allow leave for <i>any</i> of the above qualifying FMLA reasons	96.2 [94.8-97.5]	6.9 [4.8-9.0]	25.0 [13.5-36.5]	N/A	89.1 [86.5-91.7]	16.7 [12.6-20.7]	24.8 [18.8-30.8]	N/A
Worksites that allow leave for <i>all</i> of the above qualifying FMLA reasons	66.6 [55.8-77.4]	N/A	N/A	N/A	59.6 [54.1-65.1]	N/A	N/A	N/A
Unweighted N			1,812				824	

Worksites that allow leave for the following qualifying FMLA reasons	Covered worksites, weighted by employees at worksite				50/75 worksites, weighted by employees at worksite			
	Allows leave % [95% CI]	Depends on circum- stances % [95% CI]	Does not allow leave % [95% CI]	DK % [95% CI]	Allows leave % [95% CI]	Depends on circum- stances % [95% CI]	Does not allow leave % [95% CI]	DK % [95% CI]
For an employee's own serious health condition	98.6 [97.6-99.5]	0.4 [-0.1-0.9]	1.0 [0.4-1.7]	0.0 [-0.0-0.1]	99.2 [98.5-99.9]	0.1 [-0.1-0.2]	0.7 [0.0-1.3]	0.0 [-0.0-0.1]
For a pregnancy-related reason	97.9 [96.7-99.1]	0.4 [-0.1-0.9]	1.5 [0.6-2.3]	0.2 [-0.0-0.4]	98.7 [97.8-99.6]	0.1 [-0.0-0.2]	1.2 [0.3-2.0]	0.1 [-0.0-0.2]
For the care of a newborn	97.5 [96.1-98.8]	0.4 [-0.1-0.9]	2.1 [1.1-3.2]	0.1 [-0.0-0.1]	98.4 [97.4-99.4]	0.1 [-0.1-0.2]	1.5 [0.5-2.5]	0.1 [-0.0-0.2]
For an adoption or foster care placement	96.7 [95.2-98.1]	0.8 [0.1-1.5]	2.2 [1.2-3.2]	0.3 [0.1-0.6]	97.9 [96.8-99.0]	0.4 [-0.1-0.8]	1.4 [0.5-2.2]	0.3 [0.1-0.6]
For the care of a child, spouse or parent with a serious health condition	98.0 [96.8-99.1]	0.4 [-0.1-0.9]	1.6 [0.8-2.5]	0.0 [-0.0-0.1]	98.8 [98.0-99.6]	0.1 [-0.1-0.2]	1.1 [0.3-1.9]	0.0 [-0.0-0.1]
For care of a parent or spouse who is elderly	79.8 [65.3-94.2]	1.9 [-0.0-3.7]	18.2 [3.4-32.9]	0.2 [0.0-0.4]	78.6 [62.2-95.0]	1.7 [-0.3-3.6]	19.5 [3.2-35.8]	0.2 [-0.0-0.4]
For the care of a military service member with a serious injury or illness	97.1 [95.5-98.6]	0.6 [0.0-1.2]	2.0 [0.9-3.2]	0.3 [0.0-0.5]	98.4 [97.4-99.3]	0.1 [-0.0-0.3]	1.3 [0.5-2.2]	0.2 [-0.0-0.4]
For reasons related to the deployment of a military service member	88.7 [78.8-98.6]	1.1 [0.2-1.9]	7.6 [-1.8-16.9]	2.6 [-1.2-6.5]	89.1 [78.2-100.0]	0.6 [0.1-1.1]	7.5 [-2.8-17.8]	2.8 [-1.6-7.2]
Worksites that allow leave for <i>any</i> of the above qualifying FMLA reasons	99.1 [98.3-99.8]	2.8 [0.7-4.9]	25.1 [9.5-40.8]	N/A	99.6 [99.2-100.0]	2.3 [0.2-4.4]	26.5 [9.4-43.5]	N/A
Worksites that allow leave for <i>all</i> of the above qualifying FMLA reasons	69.5 [54.4-84.5]	N/A	N/A	N/A	68.3 [51.4-85.2]	N/A	N/A	N/A
Unweighted N	988				808			

Source: Worksite Survey Q16.

Sample: Asked of all worksites. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

**Exhibit 2.4.1b Worksites that allow leave for a qualifying FMLA reason, weighted by worksite**

Worksites that allow leave for the following qualifying FMLA reasons	All worksites, weighted by worksite				Uncovered worksites, weighted by worksite			
	Allows leave % [95% CI]	Depends on circum- stances % [95% CI]	Does not allow leave % [95% CI]	DK % [95% CI]	Allows leave % [95% CI]	Depends on circum- stances % [95% CI]	Does not allow leave % [95% CI]	DK % [95% CI]
For an employee's own serious health condition	78.9 [74.1-83.7]	6.8 [4.1-9.5]	12.3 [9.0-15.7]	2.0 [0.6-3.4]	65.1 [59.0-71.2]	19.2 [14.9-23.6]	12.5 [7.1-17.8]	3.2 [1.4-5.0]
For a pregnancy-related reason	70.0 [65.2-74.8]	8.6 [5.0-12.2]	18.1 [14.2-22.1]	3.3 [1.3-5.3]	58.4 [53.4-63.3]	22.2 [17.4-26.9]	15.6 [10.5-20.7]	3.9 [2.5-5.4]
For the care of a newborn	68.8 [63.1-74.5]	12.1 [7.6-16.7]	16.4 [13.0-19.8]	2.7 [1.1-4.2]	75.6 [70.0-81.3]	14.4 [10.0-18.7]	7.6 [4.5-10.7]	2.4 [0.8-4.0]
For an adoption or foster care placement	62.8 [58.5-67.1]	14.5 [10.0-18.9]	19.4 [15.8-23.0]	3.3 [2.0-4.6]	65.7 [60.4-71.0]	21.0 [15.9-26.1]	9.7 [5.6-13.7]	3.7 [1.5-5.8]
For the care of a child, spouse or parent with a serious health condition	75.7 [71.7-79.8]	7.6 [5.4-9.7]	14.7 [11.2-18.2]	2.0 [0.7-3.4]	72.0 [67.3-76.8]	17.2 [12.7-21.7]	8.3 [5.8-10.9]	2.4 [0.8-4.0]
For care of a parent or spouse who is elderly	73.6 [68.4-78.8]	9.5 [6.2-12.8]	14.5 [10.8-18.1]	2.4 [0.9-4.0]	70.4 [64.9-75.9]	16.3 [11.7-21.0]	10.4 [6.3-14.5]	2.9 [1.2-4.6]
For the care of a military service member with a serious injury or illness	69.7 [63.9-75.4]	10.7 [7.4-14.1]	16.6 [13.1-20.1]	3.0 [1.4-4.7]	65.9 [60.3-71.5]	18.9 [14.4-23.4]	11.7 [8.0-15.3]	3.5 [1.7-5.4]
For reasons related to the deployment of a military service member	67.6 [61.5-73.6]	10.5 [7.0-14.0]	17.8 [14.6-21.1]	4.1 [2.1-6.1]	63.7 [57.5-70.0]	20.3 [15.9-24.7]	11.2 [7.4-15.0]	4.7 [2.4-7.1]
Worksites that allow leave for any of the above qualifying FMLA reasons	83.4 [79.6-87.2]	21.8 [16.4-27.3]	24.7 [21.5-27.9]	N/A	80.7 [76.1-85.2]	27.7 [22.9-32.5]	22.5 [16.2-28.8]	N/A
Worksites that allow leave for all of the above qualifying FMLA reasons	55.2 [49.8-60.6]	N/A	N/A	N/A	51.9 [45.9-57.9]	N/A	N/A	N/A
Unweighted N			1,812				824	

Worksites that allow leave for the following qualifying FMLA reasons	Covered worksites, weighted by worksite				50/75 worksites, weighted by worksite			
	Allows leave % [95% CI]	Depends on circum- stances % [95% CI]	Does not allow leave % [95% CI]	DK % [95% CI]	Allows leave % [95% CI]	Depends on circum- stances % [95% CI]	Does not allow leave % [95% CI]	DK % [95% CI]
For an employee's own serious health condition	95.3 [91.2-99.4]	2.1 [-1.1-5.4]	2.6 [0.1-5.0]	0.0 [-0.0-0.1]	99.0 [98.2-99.8]	0.1 [-0.1-0.3]	0.9 [0.1-1.6]	0.1 [-0.1-0.2]
For a pregnancy-related reason	91.6 [86.1-97.1]	3.8 [-0.4-8.1]	3.3 [0.2-6.5]	1.2 [-1.0-3.5]	98.3 [97.0-99.5]	0.1 [-0.1-0.3]	1.5 [0.4-2.7]	0.1 [-0.0-0.2]
For the care of a newborn	87.5 [80.8-94.2]	2.1 [-1.1-5.4]	10.3 [4.0-16.6]	0.0 [-0.0-0.1]	92.7 [83.3-102.1]	0.1 [-0.1-0.3]	7.1 [-2.4-16.5]	0.1 [-0.1-0.3]
For an adoption or foster care placement	85.2 [79.2-91.3]	5.5 [0.5-10.5]	9.1 [2.7-15.5]	0.2 [0.0-0.4]	97.1 [95.6-98.6]	0.3 [0.0-0.6]	2.0 [0.8-3.1]	0.7 [0.1-1.2]
For the care of a child, spouse or parent with a serious health condition	94.2 [89.8-98.7]	2.1 [-1.1-5.4]	3.6 [0.4-6.8]	0.0 [-0.0-0.1]	98.6 [97.7-99.5]	0.1 [-0.1-0.3]	1.2 [0.4-2.1]	0.1 [-0.1-0.2]
For care of a parent or spouse who is elderly	89.7 [83.0-96.3]	5.1 [-0.4-10.5]	5.0 [1.7-8.4]	0.2 [-0.0-0.4]	92.3 [88.4-96.2]	2.4 [0.2-4.5]	5.0 [2.5-7.6]	0.3 [-0.0-0.6]
For the care of a military service member with a serious injury or illness	88.5 [80.1-96.8]	5.0 [-0.4-10.5]	6.0 [0.3-11.7]	0.5 [0.0-1.0]	96.7 [94.9-98.6]	0.6 [-0.3-1.5]	1.8 [0.7-2.9]	0.9 [-0.1-1.9]
For reasons related to the deployment of a military service member	86.8 [78.1-95.4]	5.5 [-0.1-11.0]	6.8 [0.9-12.7]	0.9 [0.2-1.7]	92.2 [87.7-96.7]	1.7 [0.1-3.2]	4.0 [0.9-7.2]	2.2 [-0.2-4.5]
Worksites that allow leave for any of the above qualifying FMLA reasons	96.9 [93.5-100.3]	9.6 [2.8-16.4]	18.8 [9.5-28.0]	N/A	99.4 [98.7-100.0]	3.9 [1.1-6.7]	13.7 [3.8-23.6]	
Worksites that allow leave for all of the above qualifying FMLA reasons	71.1 [65.4-76.7]	N/A	N/A	N/A	80.2 [70.5-89.9]	N/A	N/A	N/A
Unweighted N			988				808	

Source: Worksite Survey Q16.

Sample: Asked of all worksites. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.



On June 22, 2010, DOL issued an Administrator Interpretation clarifying the definition of “son or daughter” under the FMLA as applying to any caregiver who is responsible for regular care taking duties for a child (“in loco parentis”) even if the child is not biologically related to the caregiver. For example, a grandparent or aunt who is the primary regular caregiver for a child may take leave if that child has a serious health condition (U.S. DOL, 2010). The 2012 Worksite Survey asked about worksite policies on leave for birth, adoption, foster care, and without regard for guardian’s or caregiver’s legal or biological relationship with the child.

Exhibit 2.4.2 suggests that rates of coverage for situations other than biological relationships are clearly lower, even in covered worksites. For example, virtually all 50/75 worksites allow leave to care for a newborn (99.9% of employees work at these worksites). Only three-quarters of worksites—and 75.6% of employees work at these worksites—allow that leave for an adult serving “in loco parentis” regardless of the employee’s legal or biological relationship to the child. (The survey language is “guardians and caregivers of a child regardless of their legal or biological relationship to that child.”) Findings are similar for all covered worksites, and there is a similar pattern among uncovered worksites: 89.6% allow leave to care for a newborn, but only 68.1% of employees work at worksites that allow that leave regardless of the employee’s legal or biological relationship to the child.

**Exhibit 2.4.2 Requirements of relationship to child among worksites that allow parental leave, by coverage**

Requirements of relationship to child	All worksites % [95% CI]	Uncovered worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]
<b>Weighted by employees at worksite</b>				
Percent of worksites that allow leave for the care of a newborn*	96.6 [95.7-97.6]	89.6 [86.7-92.5]	99.6 [99.1-100.1]	99.9 [99.7-100.0]
Proportion who cover this for guardians or caregivers regardless of the employee's legal or biological relationship to the child	73.9 [66.1-81.8]	68.1 [61.7-74.4]	76.2 [66.5-86.0]	75.5 [64.9-86.1]
Percent of worksites that allow leave for an adoption or foster care placement *	94.1 [92.6-95.5]	82.7 [78.6-86.7]	98.9 [98.1-99.7]	99.3 [98.7-99.9]
Proportion who cover this for guardians or caregivers regardless of the employee's legal or biological relationship to the child	72.4 [64.7-80.2]	64.1 [57.7-70.6]	75.7 [66.0-85.4]	75.1 [64.4-85.7]
For the care of a child, spouse or parent with a serious health condition*	96.7 [95.8-97.7]	89.9 [87.0-92.8]	99.6 [99.1-100.1]	99.9 [99.7-100.0]
Proportion who cover this for guardians or caregivers regardless of the employee's legal or biological relationship to the child, spouse, or parent	74.0 [66.4-81.7]	68.3 [62.2-74.5]	76.2 [66.5-86.0]	75.6 [64.9-86.2]
Unweighted N	1,812	824	988	808
<b>Weighted by worksite</b>				
Percent of worksites that allow leave for the care of a newborn*	80.9 [77.3-84.6]	77.6 [72.9-82.2]	97.8 [94.5-101.1]	99.8 [99.5-100.0]
Proportion who cover this for guardians or caregivers regardless of the employee's legal or biological relationship to the child	66.3 [59.6-73.0]	64.5 [57.3-71.6]	74.0 [62.3-85.7]	72.7 [58.3-87.0]
Percent of worksites that allow leave for an adoption or foster care placement *	77.3 [73.8-80.7]	73.9 [69.1-78.7]	94.3 [89.3-99.3]	99.0 [98.4-99.7]
Proportion who cover this for guardians or caregivers regardless of the employee's legal or biological relationship to the child	64.0 [57.3-70.7]	62.4 [54.8-70.0]	70.6 [61.1-80.1]	72.2 [57.8-86.6]
For the care of a child, spouse or parent with a serious health condition*	83.3 [79.4-87.1]	80.4 [75.5-85.3]	97.8 [94.6-101.1]	99.8 [99.6-100.1]
Proportion who cover this for guardians or caregivers regardless of the employee's legal or biological relationship to the child, spouse, or parent	67.4 [60.8-74.0]	65.8 [58.9-72.7]	74.0 [62.4-85.7]	72.7 [58.4-87.1]
Unweighted N	1,812	824	988	808

\* Includes worksites that report that they allow leave depending on circumstances.

Source: Worksite Survey Q16, Q16X1.

Sample: Asked of all worksites. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

## 2.5 Other Terms of Employment

The previous section discussed the reasons for leave allowed by worksites as these reasons related to the FMLA. This section presents additional information on terms of employment (that is, regardless of FMLA coverage). Exhibit 2.5.1 reports that nearly half of employees work at worksites that expect employees to record work by hours or minutes (48.8%), while only 6.6% of employees work at worksites that do not require their employees to report time (multiple responses were allowed).

Relative to uncovered worksites, covered worksites are more likely to report time in minutes and less likely to not require reporting time.

**Exhibit 2.5.1 How employees record time, by coverage**

Time reporting by employees	All worksites % [95% CI]	Uncovered worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]
<b>Weighted by employees at worksite</b>				
Increments in which employees record their time:				
Report time in minutes	48.8 [38.9-58.7]	39.7 [33.1-46.3]	52.6 [37.4-67.8]	53.0 [36.0-70.0]
Report time in hours	57.3 [47.6-66.9]	52.9 [46.3-59.6]	59.1 [45.5-72.7]	58.0 [43.0-72.9]
Not required to report time	6.6 [4.5-8.8]	17.0 [13.1-20.9]	2.2 [0.5-4.0]	1.7 [0.0-3.4]
Don't know/refused	0.1 [-0.0-0.2]	0.1 [-0.1-0.2]	0.1 [-0.1-0.3]	0.1 [-0.1-0.3]
Unweighted N	1,812	824	988	808
<b>Weighted by worksite</b>				
Increments in which employees record their time:				
Report time in minutes	24.6 [20.4-28.8]	20.9 [16.3-25.5]	43.3 [35.5-51.2]	44.3 [33.1-55.4]
Report time in hours	46.3 [41.0-51.6]	43.2 [37.4-49.0]	61.8 [51.9-71.7]	56.5 [44.0-68.9]
Not required to report time	36.8 [30.9-42.7]	41.5 [35.3-47.6]	13.5 [5.7-21.3]	10.8 [-4.6-26.3]
Don't know/refused	0.0 [-0.0-0.1]	0.0 [-0.0-0.0]	0.1 [-0.0-0.3]	0.3 [-0.1-0.7]
Unweighted N	1,812	824	988	808

Source: Worksite Survey Q10.

Columns may sum to >100% since respondent could select more than one category.

Sample: Asked of all employers. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

Exhibit 2.5.2 suggests that most employees work at worksites that allow their employees to take leave for a range of reasons, but few worksites pay for that leave. Nearly three-quarters of employees work at worksites that offer paid vacation to all or most employees (73.7%=36.2%+37.5%) and over half of employees work at worksites that offer paid sick leave (57.8%=26.1%+31.7%). Nearly half offer paid disability leave (46.5%=23.3%+23.2% of employees work at these worksites) and a third offer paid maternity leave to all or most employees (i.e., specifically to mothers, 35.1%=21.6%+13.5% of employees work at these worksites). Rates of paid paternity leave to most employees are lower (i.e., specifically to fathers, 20.0%=9.0%+11.0%). Less than a fifth of worksites offer flex time to all or most employees (14.9% of employees work at these worksites; 14.9%=9.2%+5.7%); the Worksite Survey defined “flex time” as “a flexible work schedule which allows you to choose when you work, as long as you meet your total expected work hours”). The last three panels of Exhibit 2.5.2 provide

the same information for uncovered worksites, covered worksites, and 50/75 worksites, respectively. In general, benefits are slightly more generous at covered than uncovered worksites.<sup>24</sup>

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<sup>24</sup> Q9 of the 2000 Establishment Survey asked a similar set of questions about time off and leave policies, but had fewer and different response categories (see Appendix C of the Methodology Report for more detail). Therefore, the 2012 results are not comparable to the 2000 results.

**Exhibit 2.5.2 Worksites' time off and other leave policies offered to employees, weighted by employees at worksite**

Time off and other leave policies	All worksites, weighted by employees at worksite					Uncovered worksites, weighted by employees at worksite				
	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/ refused % [95% CI]	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/ refused % [95% CI]
Worksites that offer:										
Paid sick leave	26.1 [19.3-32.9]	31.7 [19.1-44.4]	21.6 [12.6-30.6]	19.5 [14.2-24.8]	1.1 [0.3-1.9]	27.9 [23.6-32.2]	12.4 [7.2-17.6]	17.0 [13.5-20.5]	40.3 [35.2-45.5]	2.4 [-0.0-4.8]
Paid disability leave	23.3 [15.3-31.4]	23.2 [11.8-34.7]	19.4 [7.6-31.2]	31.8 [23.4-40.3]	2.2 [1.2-3.2]	18.4 [13.7-23.2]	7.0 [1.7-12.2]	7.4 [4.6-10.2]	62.9 [55.6-70.3]	4.2 [2.0-6.5]
Paid vacation	36.2 [26.3-46.1]	37.5 [25.6-49.3]	16.8 [10.0-23.6]	8.7 [5.8-11.6]	0.9 [0.1-1.6]	40.8 [35.6-46.0]	16.2 [10.6-21.8]	20.5 [13.9-27.1]	20.9 [16.4-25.3]	1.6 [-0.5-3.7]
Paid maternity leave	21.6 [14.1-29.2]	13.5 [8.2-18.9]	23.2 [9.4-37.0]	39.3 [30.4-48.2]	2.3 [0.3-4.4]	17.6 [11.1-24.2]	7.1 [1.7-12.4]	7.4 [3.8-10.9]	62.4 [54.0-70.8]	5.5 [0.4-10.6]
Paid paternity leave	9.0 [5.9-12.1]	11.0 [5.9-16.2]	20.8 [6.4-35.2]	55.2 [43.9-66.5]	3.9 [1.0-6.8]	9.4 [5.6-13.3]	6.0 [0.8-11.2]	3.9 [1.9-5.9]	74.7 [67.5-82.0]	6.0 [1.5-10.4]
Flex time	9.2 [6.3-12.2]	5.7 [1.7-9.7]	37.5 [24.5-50.6]	44.8 [35.7-54.0]	2.7 [0.8-4.7]	15.3 [10.7-19.8]	2.3 [0.6-4.0]	13.8 [7.9-19.6]	63.1 [57.2-68.9]	5.6 [1.2-10.0]
Any other paid time off	16.1 [7.9-24.3]	23.4 [10.0-36.8]	7.0 [5.1-9.0]	52.1 [40.7-63.5]	1.4 [0.7-2.0]	12.4 [5.3-19.4]	7.0 [1.7-12.2]	4.8 [2.1-7.5]	73.9 [66.0-81.7]	2.0 [0.6-3.4]
Worksites that allow employees to take leave:										
To attend a child's school meetings	67.5 [58.5-76.4]	10.6 [7.2-14.1]	12.7 [3.7-21.8]	7.2 [4.5-9.9]	2.0 [1.0-3.0]	79.3 [75.3-83.2]	5.1 [3.4-6.7]	5.6 [3.2-7.9]	7.2 [5.1-9.4]	2.9 [0.7-5.0]
For elder care reasons	62.7 [52.6-72.8]	20.9 [10.4-31.4]	8.9 [2.4-15.4]	5.4 [3.6-7.2]	2.2 [1.4-3.0]	75.7 [70.4-81.1]	4.2 [2.4-5.9]	6.6 [3.9-9.4]	10.1 [7.3-13.0]	3.3 [1.3-5.3]
For routine medical appointments	71.7 [64.3-79.2]	15.4 [8.3-22.6]	5.0 [3.4-6.5]	5.6 [3.6-7.6]	2.3 [1.5-3.0]	80.6 [76.4-84.8]	4.5 [2.8-6.2]	6.9 [4.0-9.9]	4.9 [3.6-6.2]	3.1 [1.2-5.1]
For non-routine medical appointments	73.1 [65.5-80.7]	12.6 [8.0-17.2]	8.1 [1.2-14.9]	4.2 [2.6-5.8]	2.0 [0.9-3.1]	83.2 [78.6-87.8]	4.1 [2.5-5.7]	6.0 [2.9-9.0]	3.7 [2.7-4.7]	3.0 [1.0-5.0]
Unweighted N	1,812					824				

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Time off and other leave policies	Covered worksites, weighted by employees at worksite					50/75 worksites, weighted by employees at worksite				
	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/ refused % [95% CI]	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/ refused % [95% CI]
Worksites that offer:										
Paid sick leave	25.3 [15.9-34.7]	39.9 [23.5-56.2]	23.5 [11.2-35.8]	10.7 [6.0-15.4]	0.6 [0.1-1.1]	24.8 [14.8-34.8]	40.8 [22.9-58.8]	24.3 [10.7-37.9]	9.5 [4.7-14.2]	0.6 [0.1-1.1]
Paid disability leave	25.4 [13.6-37.1]	30.1 [14.5-45.6]	24.5 [8.3-40.6]	18.8 [11.8-25.7]	1.3 [0.5-2.2]	24.8 [12.0-37.6]	31.9 [14.7-49.2]	26.5 [8.8-44.1]	15.4 [8.9-21.9]	1.3 [0.4-2.3]
Paid vacation	34.2 [21.2-47.3]	46.4 [31.4-61.5]	15.2 [5.9-24.5]	3.6 [1.2-5.9]	0.5 [0.1-1.0]	34.1 [19.9-48.2]	47.8 [31.4-64.2]	14.8 [4.6-25.1]	2.7 [0.5-5.0]	0.5 [0.0-1.1]
Paid maternity leave	23.3 [12.6-34.1]	16.2 [8.4-24.0]	29.8 [11.9-47.8]	29.6 [19.5-39.7]	1.0 [0.3-1.7]	23.3 [11.5-35.1]	17.0 [8.2-25.8]	31.6 [12.0-51.2]	27.3 [16.6-38.0]	0.8 [0.2-1.5]
Paid paternity leave	8.8 [5.0-12.7]	13.1 [5.9-20.3]	28.0 [9.6-46.3]	47.0 [32.4-61.6]	3.1 [-0.0-6.2]	7.5 [3.6-11.4]	13.6 [5.5-21.6]	30.0 [10.1-50.0]	45.7 [29.7-61.7]	3.2 [-0.3-6.6]
Flex time	6.7 [3.3-10.1]	7.1 [1.4-12.8]	47.5 [31.6-63.4]	37.1 [25.8-48.5]	1.5 [0.6-2.4]	5.4 [2.2-8.6]	7.3 [1.4-13.2]	52.2 [36.2-68.2]	33.5 [22.4-44.7]	1.6 [0.6-2.6]
Any other paid time off	17.7 [6.7-28.6]	30.3 [12.5-48.1]	8.0 [4.9-11.0]	43.0 [28.0-58.0]	1.1 [0.3-1.9]	17.6 [5.5-29.6]	32.3 [12.9-51.7]	8.3 [4.8-11.8]	40.7 [24.5-56.9]	1.1 [0.2-2.0]
Worksites that allow employees to take leave:										
To attend a child's school meetings	62.5 [48.9-76.0]	13.0 [7.5-18.4]	15.8 [3.5-28.0]	7.1 [3.4-10.9]	1.7 [0.8-2.5]	59.4 [44.1-74.7]	14.2 [7.9-20.5]	17.0 [3.6-30.5]	7.5 [3.3-11.8]	1.9 [0.9-2.8]
For elder care reasons	57.1 [42.6-71.7]	27.9 [13.5-42.3]	9.9 [0.7-19.0]	3.4 [1.3-5.5]	1.7 [1.0-2.4]	54.8 [38.5-71.1]	29.8 [14.0-45.7]	10.6 [0.4-20.8]	3.0 [0.9-5.0]	1.8 [1.0-2.6]
For routine medical appointments	68.0 [56.3-79.8]	20.1 [10.0-30.1]	4.1 [2.4-5.9]	5.9 [3.0-8.8]	1.9 [1.0-2.8]	65.8 [52.3-79.2]	21.8 [10.5-33.2]	4.0 [2.1-5.9]	6.4 [3.1-9.6]	2.1 [1.0-3.1]
For non-routine medical appointments	68.9 [57.3-80.6]	16.1 [9.0-23.2]	9.0 [-0.4-18.3]	4.4 [2.1-6.7]	1.6 [0.3-2.9]	66.6 [53.1-80.0]	17.7 [9.3-26.0]	9.5 [-0.8-19.8]	4.5 [1.9-7.0]	1.8 [0.3-3.2]
Unweighted N	988					808				

Source: Worksite Survey Q11, Q14.

Sample: Asked of all worksites. Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

**Exhibit 2.5.3 Worksites' time off and other leave policies offered to employees, weighted by worksite**

Time off and other leave policies	All worksites, weighted by worksite					Uncovered worksites, weighted by worksite				
	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/ refused % [95% CI]	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/ refused % [95% CI]
Worksites that offer:										
Paid sick leave	27.2 [22.8-31.7]	6.7 [4.3-9.0]	9.9 [7.7-12.0]	55.1 [49.8-60.4]	1.1 [-0.0-2.3]	24.0 [19.6-28.3]	4.4 [3.0-5.8]	9.2 [6.1-12.3]	61.2 [55.7-66.7]	1.3 [-0.1-2.7]
Paid disability leave	17.7 [12.6-22.8]	4.2 [2.0-6.4]	5.1 [2.9-7.4]	70.5 [65.2-75.8]	2.5 [1.3-3.8]	13.9 [9.4-18.3]	2.2 [0.7-3.7]	4.1 [2.1-6.2]	77.0 [71.9-82.1]	2.8 [1.3-4.3]
Paid vacation	36.3 [31.0-41.5]	9.6 [7.0-12.3]	12.7 [9.0-16.4]	40.8 [35.6-45.9]	0.6 [-0.1-1.4]	33.7 [29.1-38.3]	6.8 [4.1-9.4]	12.5 [7.4-17.5]	46.4 [41.1-51.6]	0.7 [-0.2-1.6]
Paid maternity leave	17.6 [12.4-22.9]	3.4 [1.3-5.6]	4.1 [1.5-6.7]	72.6 [66.9-78.3]	2.3 [0.5-4.1]	14.6 [8.9-20.3]	2.4 [0.6-4.3]	2.5 [0.6-4.4]	78.3 [72.6-83.9]	2.2 [0.3-4.1]
Paid paternity leave	11.4 [6.8-16.0]	2.6 [0.7-4.5]	2.5 [0.8-4.1]	80.6 [75.4-85.8]	2.9 [1.1-4.8]	9.0 [4.6-13.5]	1.7 [0.3-3.0]	1.2 [-0.1-2.5]	85.6 [80.5-90.7]	2.5 [0.7-4.4]
Flex time	19.1 [14.0-24.1]	1.5 [0.4-2.7]	6.4 [4.0-8.9]	70.6 [65.9-75.3]	2.3 [0.7-4.0]	18.3 [13.1-23.5]	1.1 [0.0-2.2]	5.4 [3.0-7.8]	72.6 [68.1-77.0]	2.6 [0.7-4.6]
Any other paid time off	12.1 [7.8-16.5]	4.0 [2.1-5.9]	3.6 [2.0-5.3]	79.0 [73.4-84.7]	1.3 [0.1-2.4]	10.1 [5.9-14.3]	2.4 [0.8-4.0]	2.6 [1.0-4.1]	83.6 [79.2-88.0]	1.4 [0.0-2.7]
Worksites that allow employees to take leave:										
To attend a child's school meetings	77.4 [72.5-82.3]	2.4 [1.2-3.5]	4.1 [2.4-5.8]	12.9 [9.2-16.5]	3.3 [0.5-6.0]	75.7 [70.0-81.3]	2.0 [0.8-3.2]	4.3 [2.4-6.3]	14.2 [10.1-18.3]	3.8 [0.6-7.1]
For elder care reasons	74.4 [69.9-79.0]	2.8 [1.4-4.1]	3.1 [1.9-4.3]	15.9 [13.2-18.7]	3.8 [1.2-6.4]	73.7 [68.1-79.3]	1.4 [0.4-2.5]	3.2 [1.7-4.6]	17.3 [13.3-21.4]	4.4 [1.3-7.5]
For routine medical appointments	80.1 [75.5-84.6]	2.7 [1.6-3.9]	3.8 [2.0-5.5]	9.8 [7.6-12.0]	3.7 [1.1-6.2]	79.1 [73.8-84.5]	1.9 [0.6-3.1]	3.7 [1.7-5.7]	11.0 [8.7-13.3]	4.3 [1.3-7.3]
For non-routine medical appointments	82.5 [77.8-87.1]	2.0 [0.9-3.0]	3.4 [1.5-5.3]	8.6 [6.5-10.6]	3.6 [0.8-6.3]	81.6 [75.9-87.4]	1.4 [0.3-2.6]	3.5 [1.3-5.7]	9.2 [7.2-11.3]	4.2 [0.9-7.5]
Unweighted N	1,812					824				

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Time off and other leave policies	Covered worksites, weighted by worksite					50/75 worksites, weighted by worksite				
	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/refused % [95% CI]	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/refused % [95% CI]
Worksites that offer:										
Paid sick leave	43.8 [35.6-51.9]	18.3 [9.5-27.1]	13.3 [4.5-22.0]	24.3 [16.5-32.2]	0.3 [0.0-0.6]	45.2 [33.0-57.5]	24.9 [13.3-36.5]	15.7 [9.1-22.3]	13.6 [7.5-19.7]	0.6 [0.1-1.1]
Paid disability leave	36.8 [28.0-45.6]	14.0 [6.4-21.6]	10.2 [3.1-17.3]	38.0 [32.2-43.9]	1.0 [0.3-1.6]	35.6 [21.2-49.9]	21.7 [9.6-33.8]	19.0 [5.2-32.8]	22.1 [12.5-31.6]	1.7 [0.5-2.8]
Paid vacation	49.1 [37.4-60.8]	24.1 [14.6-33.7]	14.0 [5.1-22.8]	12.5 [8.2-16.9]	0.3 [0.0-0.6]	48.1 [35.2-61.0]	34.4 [22.7-46.0]	14.5 [8.5-20.5]	2.5 [0.6-4.4]	0.6 [0.1-1.0]
Paid maternity leave	32.7 [25.1-40.2]	8.6 [3.0-14.3]	12.2 [4.3-20.1]	43.9 [36.8-51.0]	2.6 [-0.3-5.4]	32.5 [18.4-46.5]	9.3 [4.9-13.7]	16.9 [4.7-29.0]	40.5 [24.6-56.5]	0.9 [0.2-1.6]
Paid paternity leave	23.2 [16.4-30.0]	7.6 [2.0-13.1]	8.9 [1.9-15.9]	55.4 [46.3-64.4]	5.0 [0.3-9.7]	12.5 [2.9-22.1]	6.6 [3.3-9.8]	15.5 [2.9-28.0]	58.1 [37.4-78.9]	7.3 [-3.2-17.9]
Flex time	22.9 [11.1-34.7]	3.7 [-0.6-8.0]	11.8 [2.6-21.0]	60.7 [51.1-70.2]	0.9 [0.2-1.6]	3.4 [1.7-5.1]	3.8 [1.0-6.5]	26.3 [4.1-48.5]	64.8 [44.3-85.3]	1.7 [0.3-3.1]
Any other paid time off	22.3 [15.0-29.6]	11.9 [3.4-20.4]	9.0 [5.0-13.0]	56.0 [43.9-68.1]	0.8 [0.1-1.4]	24.5 [9.9-39.1]	15.4 [2.8-28.1]	9.6 [5.3-13.8]	49.2 [30.4-68.1]	1.3 [-0.0-2.6]
Worksites that allow employees to take leave:										
To attend a child's school meetings	86.2 [78.8-93.5]	4.2 [2.1-6.4]	3.1 [1.4-4.9]	6.0 [0.0-12.0]	0.5 [-0.0-1.0]	79.3 [71.2-87.4]	9.9 [5.1-14.7]	5.0 [1.7-8.2]	4.4 [2.0-6.8]	1.4 [-0.1-2.9]
For elder care reasons	78.1 [69.1-87.1]	9.5 [2.9-16.0]	2.7 [1.4-4.0]	9.0 [2.3-15.7]	0.8 [0.1-1.4]	79.6 [71.7-87.5]	11.9 [6.7-17.1]	3.9 [1.8-5.9]	3.0 [1.1-4.9]	1.7 [0.0-3.3]
For routine medical appointments	84.7 [75.6-93.9]	7.1 [2.5-11.6]	4.1 [0.9-7.3]	3.6 [-0.8-7.9]	0.5 [-0.0-1.1]	80.0 [71.7-88.2]	12.0 [6.2-17.7]	3.7 [1.7-5.7]	3.2 [1.6-4.8]	1.2 [-0.3-2.6]
For non-routine medical appointments	86.7 [79.5-93.8]	4.5 [2.4-6.7]	3.1 [1.3-4.8]	5.3 [-0.6-11.2]	0.4 [-0.1-0.9]	80.8 [72.8-88.8]	10.4 [5.0-15.7]	5.1 [1.8-8.5]	2.5 [1.2-3.8]	1.2 [-0.3-2.7]
Unweighted N	988					808				

Source: Worksite Survey Q11, Q14.

Sample: Asked of all worksites. Uncovered stratification reflects worksites' self-reported coverage under the FMLA.



To manage leave-taking, some worksites have put in place “no-fault” attendance policies that assign “points” or “demerits” for leave used regardless of the reason for the needed leave. Under such systems all absences—excused or unexcused—generate points. Employees with point totals that exceed a designated threshold are subject to dismissal. A July 29, 2003, Wage and Hour Division Opinion Letter clarified that an employee may not be assessed “points” when leave is taken for a qualifying FMLA reason under such systems (U.S. DOL, 2003).

The Worksite Survey asked about the use of such systems (“Does your company policy use a point or demerit system that tracks an employee’s unscheduled absences?”). Exhibit 2.5.4 suggests that such point systems are in place among about 40% of employees at all worksites, covered and uncovered (41.5%=29.9%+11.6%). Such systems are much more common in covered than uncovered worksites, weighted by the number of employees at the worksite (50.6%=35.0%+15.6% vs. 19.9%=17.7%+2.2%), and most common in 50/75 worksites (54.8% of employees in 50/75 worksites; 54.8%=37.7%+17.1%). This difference is consistent with the fact that covered worksites are larger and tend, therefore, to have more-formal personnel systems; smaller worksites might simply dismiss people for absences deemed to be excessive, or alternately, allow the leave in individual circumstances.

**Exhibit 2.5.4 Worksites’ methods for dealing with unscheduled absences by coverage**

Worksites that use a point or demerit system for employees' unscheduled absences	All worksites % [95% CI]	Uncovered worksites % [95% CI]	Covered worksites % [95% CI]	Covered worksites with 50 employees within 75 miles, % [95% CI]
<b>Weighted by employees at worksite</b>				
Yes, all employees	29.9 [20.8-39.0]	17.7 [11.9-23.5]	35.0 [22.3-47.8]	37.7 [23.1-52.4]
Yes, some employees	11.6 [3.9-19.3]	2.2 [0.8-3.5]	15.6 [4.9-26.2]	17.1 [5.4-28.9]
No	52.0 [41.3-62.7]	71.0 [63.4-78.6]	44.0 [28.6-59.4]	40.5 [22.8-58.2]
Depends on circumstance	5.7 [3.5-7.8]	8.5 [3.2-13.9]	4.4 [2.3-6.6]	3.7 [1.5-6.0]
Don't know/refused	0.8 [0.1-1.6]	0.6 [0.2-1.0]	0.9 [-0.1-2.0]	0.9 [-0.2-2.1]
Unweighted N	1,812	824	988	808
<b>Weighted by worksite</b>				
Yes, all employees	9.5 [6.8-12.2]	8.5 [5.6-11.4]	14.4 [8.5-20.4]	19.3 [11.0-27.6]
Yes, some employees	1.2 [0.4-2.0]	0.9 [0.0-1.7]	2.8 [1.2-4.5]	6.3 [2.8-9.9]
No	84.1 [81.1-87.0]	86.7 [83.3-90.1]	70.8 [62.8-78.8]	61.7 [45.4-78.0]
Depends on circumstance	5.0 [3.7-6.4]	3.8 [1.6-5.9]	11.5 [6.1-16.9]	12.3 [-3.0-27.7]
Don't know/refused	0.2 [0.1-0.4]	0.2 [0.1-0.3]	0.4 [-0.1-1.0]	0.3 [-0.1-0.7]
Unweighted N	1,812	824	988	808

Source: Worksite Survey Q15.

Sample: Asked of all worksites. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

### 3. Worksites' FMLA and Other Leave Policies

Section 2.2 of Chapter 2 discussed worksite policies on who is eligible for leave. In this chapter, we discuss worksite policies with respect to implementing the FMLA itself. These issues are most salient with respect to covered worksites. Accordingly, most of these questions were asked only of worksites that self-reported that they were covered. Where questions were asked of both types of worksites (self-reported covered and uncovered), we report pooled results and results stratified by self-reported coverage status as well as the subgroup of covered worksites that are large enough to have eligible employees. Section 3.1 considers who is considered eligible at covered worksites. Section 3.2 considers covered worksites' FMLA notification practices. Finally, Section 3.3 presents findings on administering the FMLA at worksites.

As stated in Chapter 1, unless otherwise noted, when discussing results from the Worksite Survey, we focus on estimates weighted by the number of employees at the worksite (not weighted by worksite) for 50/75 worksites (i.e., worksites that have 50 employees within 75 miles and are therefore large enough to have covered employees).

#### 3.1 Who Is Considered Eligible

By statute, certain employees are not eligible for FMLA leave: those who do not have the requisite number of hours of service and those who have not worked for the employer for 12 months, for example (see Public Law 103-3 § 101(2)(A)). To better understand leave policies at covered worksites, the Worksite Survey asked:

- Q45. *In your entire organization, what types of employees do you consider to be eligible for FMLA leave?*
- Q46. *Some employees are not eligible for FMLA leave for various reasons, such as the number of hours or months they have worked. Do you offer the same family and medical leave benefits to employees who are NOT eligible for FMLA because of their employee type or class, that is because they are [FILL FROM Q45]?*

Exhibit 3.1.1 tabulates responses to those questions. About two-fifths of employees work at worksites that offer FMLA-like benefits to FMLA-ineligible hourly staff (39.0%), and about a third of employees work at worksites that offer them to ineligible staff who have at least a certain number of hours at the company (30.1%). Less than 20% of employees work at worksites offer FMLA-like benefits to ineligible senior managers and professional staff (17.3%).

**Exhibit 3.1.1 Types of employees who are eligible for leave for a qualifying FMLA reason at covered worksites**

Staff at covered worksites who are eligible for leave under the FMLA	Weighted by employees at worksite				Weighted by worksite			
	50/75 worksites		Covered worksites		50/75 worksites		Covered worksites	
	Worksites consider staff to be eligible for FMLA benefits % [95% CI]	Worksites offer same FMLA benefits to ineligible staff % [95% CI]	Worksites consider staff to be eligible for FMLA benefits % [95% CI]	Worksites offer same FMLA benefits to ineligible staff % [95% CI]	Worksites consider staff to be eligible for FMLA benefits % [95% CI]	Worksites offer same FMLA benefits to ineligible staff % [95% CI]	Worksites consider staff to be eligible for FMLA benefits % [95% CI]	Worksites offer same FMLA benefits to ineligible staff % [95% CI]
Senior managers/professional staff	77.5 [60.2-94.9]	17.3 [10.7-23.9]	75.1 [63.7-86.5]	24.0 [10.7-37.3]	73.5 [62.2-84.8]	38.3 [24.7-52.0]	76.1 [60.7-91.6]	20.5 [13.2-27.9]
Staff who have at least a certain number of hours at the company	96.6 [92.1-101.0]	30.1 [15.3-44.8]	97.2 [94.7-99.6]	39.4 [21.8-57.0]	90.0 [82.7-97.3]	57.2 [44.5-69.9]	96.0 [91.9-100.0]	34.0 [19.8-48.2]
Hourly staff	77.6 [60.3-95.0]	39.0 [21.8-56.3]	75.0 [63.6-86.4]	40.7 [22.6-58.9]	71.0 [59.7-82.2]	48.8 [37.6-60.0]	76.0 [60.5-91.4]	40.6 [24.9-56.3]
None of the above	0.4 [0.0-0.7]	N/A	0.5 [-0.0-1.1]	N/A	0.6 [0.0-1.3]	N/A	0.4 [0.1-0.8]	N/A
Unweighted N	808		988		808		808	

Source: Worksite Survey Q45.

Columns may sum to >100% since respondent could select more than one category.

Sample: Asked of worksites that self-report that they are covered by the FMLA.

### 3.2 Worksites' FMLA Notification Provisions

According to the FMLA regulations (29 C.F.R. § 825.300), worksites are required to provide a range of notifications related to the FMLA. First, covered worksites<sup>25</sup> are required to display a poster explaining the provisions of the FMLA and telling employees how to file a complaint with the Wage and Hour Division if the worksite appears to be in violation of the Act. Electronic posting is also acceptable. (See § 825.300(a) (1).) These requirements apply whether or not the worksite is large enough to have eligible employees (50 employees within 75 miles). This discussion therefore discusses rates both for covered worksites in general and specifically for covered worksites having 50 employees within 75 miles (what we call “50/75 worksites”).

Nearly four in five employees work in covered worksites that report a notice on a bulletin board (78.4%; Exhibit 3.2.1); this is nearly the same as the number of employees who work at 50/75 worksites (79.3%). Counting either notice on a bulletin board or notice on a computer network, 84.8% of 50/75 covered worksites appear to meet the posting requirement (not reported in Exhibit 3.2.1). The regulations also require worksites to include the FMLA in their employee handbook if they have one (§825.300(a)(3)), and more than four-fifths of employees in covered worksites report that they do (84.7% for covered worksites; 85.5% for 50/75 worksites). In addition, nearly three-quarters of employees in covered worksites report discussing the FMLA in meetings with employees (73.5% of covered worksites; 73.9% of 50/75 worksites).

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<sup>25</sup> This requirement applies whether or not there are any eligible employees (e.g., if the firm has more than 50 employees, but there are not 50 employees within 75 miles of this worksite).

**Exhibit 3.2.1 Methods used by covered worksites to inform employees of their rights under the FMLA**

Methods used to inform employees of rights under the FMLA	Weighted by number of employees		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
Employee handbook	85.5 [75.5-95.4]	84.7 [75.6-93.8]	92.3 [88.4-96.2]	75.6 [65.2-86.1]
Notice on bulletin board	79.3 [61.7-97.0]	78.4 [62.9-93.8]	68.4 [53.4-83.3]	61.5 [48.1-74.9]
Memos	43.2 [27.1-59.3]	42.9 [28.5-57.3]	42.9 [31.5-54.3]	37.7 [29.2-46.2]
Computer network, intranet or Email	63.7 [48.2-79.2]	60.0 [46.1-73.9]	35.7 [26.6-44.8]	31.7 [22.1-41.3]
Oral notification	76.0 [67.5-84.6]	72.3 [63.2-81.5]	58.5 [41.0-75.9]	50.9 [37.7-64.1]
Employee orientation and/or other meetings with employees	73.9 [55.5-92.4]	73.5 [57.0-90.0]	72.9 [61.6-84.3]	62.1 [51.4-72.8]
Some other method	19.2 [7.2-31.2]	17.6 [7.0-28.2]	10.1 [5.3-15.0]	4.9 [2.9-6.9]
Does not inform employees of their rights	0.1 [-0.1-0.2]	0.2 [0.0-0.4]	0.0 [-0.0-0.1]	2.4 [-0.6-5.4]
Unweighted N	808	988	808	988

Source: Worksite Survey Q48.

Columns may sum to >100% since respondent could select more than one category.

Sample: Asked of worksites that self-report that they are covered by the FMLA.

Exhibit 3.2.2 reports sources that worksites use to get information on the FMLA. Focusing on 50/75 worksites weighted by the number of employees at the worksite, nine-tenths of employees at 50/75 worksites report getting information from DOL (90.9%), four-fifths report getting information from existing company policies or procedures (80.4%), more than two-thirds report getting information from an attorney or consultant (68.4%), and about a third report getting information from a trade or business group (30.5%).

**Exhibit 3.2.2 Sources used by covered worksites to get information on FMLA**

Sources of information on FMLA	Weighted by number of employees		Weighted by worksite		Weighted by worksite	Weighted by worksite
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	2000 survey covered worksites % [95% CI]	1995 survey covered worksites % [95% CI]
The U.S. Department of Labor	90.9 [87.3-94.6]	90.2 [86.7-93.6]	73.5 [59.2-87.7]	75.9 [68.8-83.1]	83.1 [76.5-89.7]	53.9 [43.1-64.7]
The media	14.7 [4.3-25.0]	14.6 [5.1-24.1]	8.9 [4.6-13.2]	11.2 [5.5-16.9]	54.2 [68-100.4]	66.4 [50.5-82.3]
A trade or business group	30.5 [18.7-42.4]	31.4 [20.5-42.2]	21.6 [12.2-31.1]	24.4 [13.3-35.6]	68.3 [57.2-79.4]	70.3 [60.5-80.1]
An attorney or consultant	68.4 [52.3-84.5]	63.7 [49.0-78.3]	43.8 [34.2-53.5]	31.0 [25.4-36.6]	77.9 [71.4-84.4]	57.0 [47.4-66.6]
A union	11.7 [0.7-22.7]	10.6 [0.6-20.6]	3.9 [0.6-7.2]	1.5 [0.1-2.9]	3.2 [0.7-5.7]	3.0 [0.3-5.7]
Your employees	14.4 [3.5-25.3]	13.7 [3.8-23.6]	12.1 [2.3-22.0]	14.5 [6.6-22.4]	10.0 [1.6-18.4]	3.3 [1-5.6]
Existing company policies or procedures	80.4 [62.9-97.8]	76.7 [61.4-92.1]	76.4 [64.9-87.9]	53.9 [43.8-64.1]	89.4 [83.9-94.9]	N/A
Some other source	18.1 [8.4-27.8]	16.8 [8.3-25.3]	28.2 [14.3-42.0]	13.1 [8.2-18.0]	12.4 [8.1-16.7]	20.5 [10.5-30.5]
Do not use any source	0.1 [-0.1-0.2]	0.6 [0.1-1.0]	0.0 [-0.0-0.1]	7.8 [1.9-13.7]	N/A	N/A
Unweighted N	808	988	808	988	736	1,070

Columns may sum to >100% since respondent could select more than one category.

Source: 2012 Worksite Survey Q47; 2000 Report Table A1-6.1.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

2012 Sample: Asked of worksites that self-report that they are covered by the FMLA.

### **3.3 Administering FMLA**

About half of workers work at 50/75 worksites that report using a combination of computer software and a designated Human Resources staff person to track family and medical leave use (48.2%), while only a small fraction report not using any formal method (3.1%). A third of workers at these worksites report using only a designated Human Resources staff person without computer support (38.7%; Exhibit 3.3.1). Exhibit 3.3.2 reports that about 10% of workers work at 50/75 worksites that outsource processing of FMLA requests (10.2%).

**Exhibit 3.3.1 Methods used by worksites to track family and medical leave, by coverage**

Methods used to track leave	Weighted by employees at worksite				Weighted by worksite			
	All % [95% CI]	Uncovered % [95% CI]	Covered sites % [95% CI]	50/75 worksites % [95% CI]	All worksites % [95% CI]	Uncovered worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]
Computer software	3.7 [1.6-5.7]	7.1 [0.9-13.2]	2.3 [1.1-3.4]	1.9 [0.8-2.9]	5.1 [2.2-8.0]	4.6 [0.9-8.2]	7.5 [2.2-12.9]	2.6 [0.9-4.4]
Designated person in human resources	34.5 [23.2-45.7]	26.0 [18.3-33.7]	38.0 [23.4-52.7]	38.7 [22.5-54.8]	17.4 [12.1-22.7]	13.2 [8.2-18.2]	38.8 [30.2-47.5]	59.6 [47.2-72.1]
Both computer software and designated HR person	36.5 [25.8-47.1]	13.6 [10.1-17.1]	46.1 [31.9-60.4]	48.2 [32.5-63.8]	9.4 [7.9-10.9]	7.7 [6.3-9.0]	17.9 [13.6-22.3]	17.9 [10.8-25.0]
Other method of tracking leave for a qualifying FMLA reason	7.7 [4.9-10.4]	6.3 [2.4-10.2]	8.2 [4.8-11.7]	7.8 [4.2-11.4]	5.2 [2.0-8.3]	4.3 [1.4-7.2]	9.3 [2.3-16.4]	9.9 [-0.3-20.1]
Do not track family and medical leave	17.0 [13.0-21.1]	46.5 [41.1-51.9]	4.7 [1.3-8.0]	3.1 [-0.3-6.5]	62.6 [56.1-69.0]	70.1 [64.3-75.9]	24.6 [13.3-35.8]	9.3 [-1.2-19.9]
Don't know/refused	0.6 [0.3-1.0]	0.5 [0.1-0.9]	0.7 [0.2-1.2]	0.5 [0.0-0.9]	0.4 [0.0-0.8]	0.1 [0.0-0.2]	1.8 [-0.5-4.2]	0.6 [0.1-1.2]
Unweighted N	1,812	824	988	808	1,812	824	988	808

Source: Worksite Survey Q68. All responses are mutually exclusive.

Sample: Asked of all worksites. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.



**Exhibit 3.3.2 Methods used by covered worksites to process FMLA requests**

Methods used to process FMLA requests	Weighted by employees at worksite		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
FMLA processing internally	89.2 [83.7-94.7]	88.3 [83.0-93.6]	88.6 [78.9-98.4]	83.1 [71.7-94.5]
FMLA processing outsourced	10.2 [5.0-15.5]	10.4 [5.5-15.2]	9.9 [-0.1-19.9]	10.9 [0.9-20.8]
FMLA processing other	0.3 [0.0-0.6]	0.7 [0.2-1.3]	0.6 [-0.1-1.4]	2.8 [-0.4-5.9]
Don't know/refused	0.3 [0.0-0.6]	0.6 [0.1-1.1]	0.8 [-0.1-1.6]	3.2 [-1.3-7.8]
Unweighted N	808	988	808	988

Source: Worksite Survey Q18.

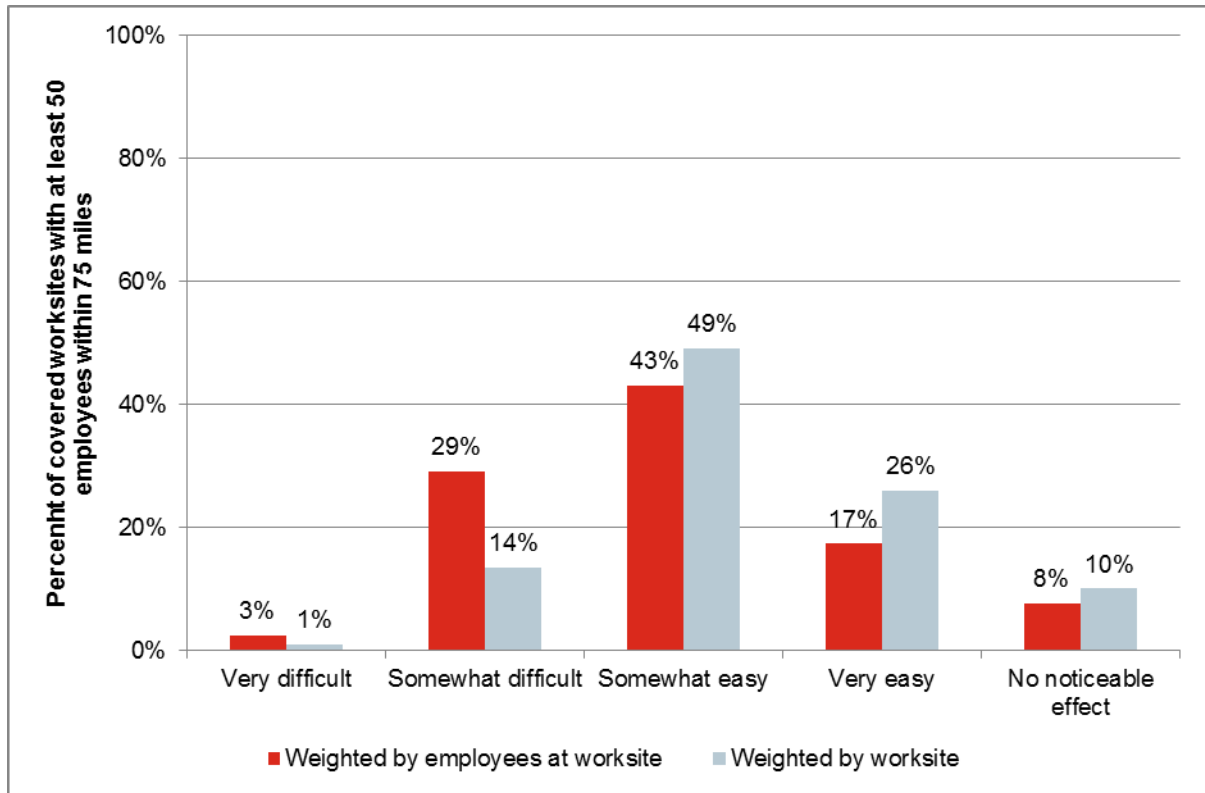
Sample: Asked of worksites that self-report that they are covered by the FMLA.

The Worksite Survey asked covered worksites about the ease of complying with the FMLA (Exhibit 3.3.3 and Exhibit 3.3.4). About a quarter of employees work at 50/75 worksites that report that it was either “very easy” (17.4%) or had “no noticeable effect” (7.7%); a third of these employees work at 50/75 worksites that report that complying is “very difficult” (2.5%) or “somewhat difficult” (29.2%). The balance (43.2%) of employees work at 50/75 worksites that report that complying was “somewhat easy.” Weighting by worksites, “very difficult” and “somewhat difficult” are less common responses (1.0% vs. 2.5% and 13.6% vs. 29.2%).<sup>26</sup>

Exhibit 3.3.5 reports ease of conducting various FMLA-related activities. There are no major differences across activities. Exhibit 3.3.6 reports changes in ease of conducting various FMLA-related activities over time. Reported ease of compliance has improved; “easy” answers have become more common; “difficult” answers have become less common.

<sup>26</sup> Q34 of the 2000 Establishment Survey asked a similar question, but did not include “no noticeable effect” as a response category (see Appendix C of the Methodology Report for more detail). Therefore, the 2012 results are not comparable to the 2000 results.

**Exhibit 3.3.3 Covered worksites' reported ease of complying with FMLA**



Source: Worksite Survey Q52.

Sample: Asked of worksites that self-report that they are covered by the FMLA.

**Exhibit 3.3.4 Covered worksites' reported ease of complying with FMLA**

Ease of compliance	Weighted by number of employees		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
Very difficult	2.5 [0.4-4.5]	2.2 [0.5-4.0]	1.0 [0.2-1.8]	0.6 [0.2-0.9]
Somewhat difficult	29.2 [12.9-45.5]	26.5 [11.7-41.3]	13.6 [4.1-23.0]	5.5 [1.5-9.6]
Somewhat easy	43.2 [25.4-61.1]	42.0 [25.9-58.2]	49.2 [36.4-62.1]	29.8 [21.7-37.9]
Very easy	17.4 [10.3-24.4]	19.7 [12.7-26.7]	26.1 [13.3-38.9]	35.7 [28.4-43.1]
No noticeable effect	7.7 [2.5-12.8]	9.3 [4.4-14.3]	10.1 [4.6-15.6]	27.7 [18.6-36.9]
Don't know/refused	0.0 [-0.0-0.1]	0.2 [-0.0-0.3]	0.0 [-0.0-0.1]	0.5 [-0.1-1.2]
Unweighted N	808	988	808	988

Source: Worksite Survey Q52.

Sample: Asked of worksites that self-report that they are covered by the FMLA.

**Exhibit 3.3.5 Covered worksites' reported ease of conducting activities related to FMLA**

Ease of conducting following activities	Very easy % [95% CI]	Somewhat easy % [95% CI]	Somewhat difficult % [95% CI]	Very difficult % [95% CI]	N/A % [95% CI]	DK/refused % [95% CI]
<b>50/75 worksites, weighted by number of employees</b>						
Coordinating state and federal leave policies	12.3 [6.8-17.7]	43.0 [25.1-61.0]	26.2 [12.5-39.8]	3.7 [1.4-5.9]	13.8 [-0.7-28.4]	1.0 [-0.2-2.3]
Coordinating the Act with other federal laws	12.1 [6.1-18.1]	50.4 [33.6-67.1]	24.9 [13.4-36.4]	8.2 [-1.9-18.2]	4.2 [2.0-6.4]	0.3 [0.0-0.5]
Coordinating the Act with other leave policies	13.2 [7.3-19.1]	46.7 [30.0-63.5]	34.6 [17.9-51.4]	1.9 [0.6-3.2]	3.1 [1.3-4.9]	0.4 [0.0-0.8]
Coordinating the Act with employee attendance policies	15.2 [7.9-22.6]	35.9 [20.1-51.7]	28.2 [14.7-41.7]	10.3 [-4.4-25.0]	9.7 [-0.6-19.9]	0.6 [0.1-1.2]
Coordinating the act with your Collective Bargaining Agreement	7.8 [2.3-13.2]	23.6 [9.0-38.2]	39.2 [12.8-65.6]	17.5 [-5.4-40.3]	11.0 [2.8-19.2]	0.9 [0.1-1.8]
Administering FMLA's notification, designation, and certification requirements	13.7 [7.7-19.6]	50.9 [33.3-68.4]	24.6 [9.4-39.8]	7.8 [-2.3-17.9]	2.7 [1.2-4.3]	0.3 [0.0-0.6]
Determining if a health condition is a serious health condition under the FMLA	14.5 [7.2-21.7]	36.2 [20.6-51.9]	40.5 [23.8-57.1]	2.8 [1.1-4.5]	5.3 [2.6-7.9]	0.8 [0.2-1.4]
Unweighted N	808					
<b>All covered worksites, weighted by number of employees</b>						
Coordinating state and federal leave policies	11.6 [6.9-16.3]	56.2 [34.7-77.8]	8.9 [2.4-15.5]	4.2 [-0.6-9.0]	18.9 [8.3-29.5]	5.4 [0.4-10.5]
Coordinating the Act with other federal laws	12.2 [6.9-17.6]	40.6 [22.1-59.0]	17.6 [11.7-23.5]	0.6 [-0.5-1.7]	26.2 [10.7-41.6]	5.8 [0.5-11.1]
Coordinating the Act with other leave policies	13.3 [8.1-18.5]	41.5 [28.3-54.7]	24.4 [3.7-45.1]	4.1 [-0.9-9.0]	13.5 [4.9-22.2]	6.1 [0.7-11.5]
Coordinating the Act with employee attendance policies	16.0 [9.1-22.9]	54.8 [33.4-76.3]	5.1 [0.6-9.6]	2.9 [-1.4-7.2]	14.8 [5.4-24.2]	4.0 [0.4-7.5]
Coordinating the act with your Collective Bargaining Agreement	2.6 [-2.9-8.0]	5.4 [-5.9-16.7]	13.4 [-14.9-41.8]	0.0 [0.0-0.0]	78.6 [46.2-111.1]	0.0 [0.0-0.0]
Administering FMLA's notification, designation, and certification requirements	26.3 [16.1-36.6]	39.4 [22.0-56.8]	6.1 [0.5-11.6]	4.6 [-0.6-9.7]	18.0 [7.3-28.7]	5.6 [0.5-10.8]
Determining if a health condition is a serious health condition under the FMLA	13.6 [5.2-22.0]	29.1 [11.1-47.0]	34.6 [3.8-65.4]	2.7 [-1.5-7.0]	14.1 [6.1-22.1]	5.9 [0.7-11.0]
Unweighted N	988					

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Ease of conducting following activities	Very easy % [95% CI]	Somewhat easy % [95% CI]	Somewhat difficult % [95% CI]	Very difficult % [95% CI]	N/A % [95% CI]	DK/refused % [95% CI]
<b>50/75 worksites, weighted by worksite</b>						
Coordinating state and federal leave policies	14.0 [7.6-20.4]	57.6 [40.7-74.4]	13.7 [6.9-20.6]	5.0 [2.2-7.8]	8.6 [4.2-13.0]	1.0 [-0.2-2.3]
Coordinating the Act with other federal laws	12.2 [6.7-17.8]	59.0 [43.1-74.9]	19.4 [11.3-27.4]	3.0 [1.2-4.7]	5.6 [2.6-8.6]	0.8 [-0.3-2.0]
Coordinating the Act with other leave policies	15.9 [8.9-22.9]	56.0 [45.0-67.0]	18.9 [10.2-27.6]	2.4 [0.7-4.2]	5.8 [2.4-9.1]	1.0 [-0.2-2.3]
Coordinating the Act with employee attendance policies	15.5 [8.0-22.9]	54.3 [43.3-65.2]	18.6 [9.4-27.8]	2.2 [0.6-3.8]	8.1 [4.0-12.3]	1.3 [-0.1-2.7]
Coordinating the act with your Collective Bargaining Agreement	14.3 [5.0-23.7]	37.3 [23.0-51.6]	20.4 [3.8-37.1]	6.0 [-0.7-12.6]	20.4 [9.5-31.3]	1.6 [0.1-3.0]
Administering FMLA's notification, designation, and certification requirements	16.1 [8.7-23.5]	61.6 [46.4-76.7]	14.9 [8.2-21.7]	2.9 [0.8-5.1]	3.6 [1.4-5.8]	0.9 [-0.3-2.0]
Determining if a health condition is a serious health condition under the FMLA	14.6 [7.4-21.7]	55.4 [45.0-65.8]	15.7 [9.3-22.0]	1.7 [0.6-2.8]	11.2 [1.3-21.0]	1.5 [0.1-3.0]
Unweighted N	808					
<b>All covered worksites, weighted by worksite</b>						
Coordinating state and federal leave policies	13.0 [6.8-19.1]	47.6 [37.1-58.1]	13.9 [7.5-20.3]	4.7 [0.5-8.9]	17.3 [9.7-24.9]	3.5 [-1.1-8.0]
Coordinating the Act with other federal laws	18.0 [10.4-25.6]	36.3 [25.9-46.6]	22.1 [15.9-28.3]	1.3 [0.6-2.0]	18.7 [10.3-27.0]	3.6 [-1.0-8.2]
Coordinating the Act with other leave policies	20.7 [12.5-29.0]	45.5 [34.2-56.7]	12.9 [5.7-20.2]	4.7 [0.0-9.3]	12.4 [5.6-19.2]	3.8 [-0.9-8.5]
Coordinating the Act with employee attendance policies	28.1 [19.1-37.1]	42.7 [35.2-50.2]	9.9 [4.2-15.6]	3.3 [-0.7-7.3]	14.3 [7.4-21.2]	1.7 [0.5-2.8]
Coordinating the act with your Collective Bargaining Agreement	13.6 [5.0-22.3]	36.1 [22.8-49.3]	19.6 [4.0-35.2]	5.5 [-0.7-11.6]	23.3 [12.2-34.4]	1.9 [0.3-3.4]
Administering FMLA's notification, designation, and certification requirements	24.2 [15.0-33.4]	37.7 [27.0-48.3]	13.0 [5.2-20.8]	4.8 [0.1-9.4]	16.7 [6.2-27.2]	3.7 [-1.0-8.3]
Determining if a health condition is a serious health condition under the FMLA	23.8 [15.6-32.0]	38.5 [25.2-51.7]	15.6 [1.6-29.5]	3.3 [-0.7-7.3]	15.1 [8.8-21.3]	3.8 [-0.9-8.4]
Unweighted N	988					

Source: Worksite Survey Q50.

Sample: Asked of worksites that self-report that they are covered by the FMLA.

**Exhibit 3.3.6 Covered worksites' reported ease of conducting activities related to FMLA: 2012, 2000, 1995**

Ease of conducting following activities	2012		2000		1995	
	Very/ Somewhat Easy % [95% CI]	Very/ Somewhat Difficult % [95% CI]	Very/ Somewhat Easy % [95% CI]	Very/ Somewhat Difficult % [95% CI]	Very/ Somewhat Easy % [95% CI]	Very/ Somewhat Difficult % [95% CI]
Coordinating state and federal leave policies	60.6 [48.4-72.8]	18.6 [11.1-26.1]	57.1 [40.8-73.4]	42.9 [26.6-59.2]	81.1 [72.7-89.5]	18.9 [10.5-27.3]
Coordinating the Act with other federal laws	54.3 [41.4-67.2]	23.4 [17.2-29.7]	47.2 [35.3-59.1]	52.8 [40.9-64.7]	74.3 [65.3-83.3]	25.7 [16.7-34.7]
Coordinating the Act with other leave policies	66.2 [55.8-76.7]	17.6 [9.0-26.1]	59.9 [49.2-70.6]	40.1 [29.4-50.8]	78.9 [67.2-90.6]	21.1 [9.4-32.8]
Coordinating the Act with employee attendance policies	70.8 [62.4-79.2]	13.2 [6.0-20.4]	65.5 [51.6-79.4]	34.5 [20.6-48.4]	N/A	N/A
Coordinating the act with your Collective Bargaining Agreement	49.7 [35.1-64.4]	25.1 [9.3-40.9]	N/A	N/A	N/A	N/A
Administering FMLA's notification, designation, and certification requirements	61.9 [48.8-75.0]	17.8 [8.3-27.2]	45.6 [34.7-56.5]	54.4 [43.5-65.3]	N/A	N/A
Determining if a health condition is a serious health condition under the FMLA	62.3 [48.4-76.1]	18.9 [4.3-33.5]	57.7 [47.4-68]	42.3 [32-52.6]	N/A	N/A
Unweighted N	988		1,070		736	

Source: 2012 Worksite Survey Q50; 2000 Report Table A1-6.4.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

2012 Sample: Asked of worksites that self-report that they are covered by the FMLA, weighted by worksite.

The FMLA includes several provisions to ease the burden it imposes on worksites. Exhibit 3.3.7 reports how helpful covered worksites consider these provisions. The helpfulness (i.e., reported as either “very helpful” or “somewhat helpful”) of the provisions varied across the 50/75 worksites. Over half of workers work at 50/75 worksites that report the following provisions were helpful: medical certifications (74.1%=25.9%+48.2%), medical recertifications (69.6%=31.1%+38.5%) fitness-for-duty (69.2%=19.8%+49.4%), and advance notice for foreseeable leave (65.5%=29.0%+36.5%) helpful. Conversely, only about a fifth of employees work at 50/75 worksites that report provisions for the exception for highly paid key employees to be helpful (20.7%=6.2%+14.5%).<sup>27</sup>

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<sup>27</sup> Q33 of the 2000 Establishment Survey asked a similar question, but had fewer and different response categories (see Appendix C of the Methodology Report for more detail). Therefore, the 2012 results are not comparable to the 2000 results.

**Exhibit 3.3.7 Covered worksites' perception on helpfulness of FMLA provisions**

Worksites' perception of the helpfulness of the following FMLA provisions	Very helpful % [95% CI]	Somewhat helpful % [95% CI]	Neither % [95% CI]	Somewhat unhelpful % [95% CI]	Very unhelpful % [95% CI]	N/A % [95% CI]	DK/refused % [95% CI]
<b>50/75 worksites, weighted by employees at worksite</b>							
The exception for highly paid key employees	6.2 [3.2-9.2]	14.5 [9.8-19.2]	28.9 [12.4-45.3]	1.5 [0.3-2.7]	3.6 [-1.0-8.1]	42.9 [27.2-58.6]	2.4 [1.0-3.9]
Medical certifications for a serious health condition	25.9 [16.1-35.8]	48.2 [31.0-65.5]	16.2 [0.3-32.0]	1.8 [0.4-3.2]	1.2 [0.2-2.1]	5.9 [3.2-8.5]	0.8 [0.2-1.5]
Second and third medical opinions	4.8 [2.2-7.4]	22.4 [11.1-33.7]	31.0 [14.5-47.5]	2.1 [1.0-3.3]	3.1 [0.4-5.8]	35.0 [18.0-52.0]	1.6 [0.6-2.5]
Advance notice of foreseeable leave	29.0 [11.8-46.3]	36.5 [21.0-52.1]	16.1 [1.7-30.6]	9.0 [-0.9-19.0]	1.7 [0.2-3.3]	6.7 [3.6-9.9]	0.8 [0.2-1.4]
Transfer to an alternative position	8.6 [4.3-12.9]	38.1 [20.5-55.8]	19.1 [4.9-33.4]	2.7 [1.2-4.2]	8.7 [-1.7-19.1]	21.2 [13.0-29.4]	1.5 [0.4-2.6]
Medical re-certification	31.1 [12.8-49.4]	38.5 [22.2-54.8]	14.7 [0.3-29.0]	2.8 [0.8-4.8]	1.2 [-0.1-2.5]	10.7 [6.4-15.0]	1.0 [0.2-1.8]
The fitness-for-duty certification for employees	19.8 [12.0-27.7]	49.4 [32.8-65.9]	16.8 [1.0-32.6]	1.8 [0.7-2.9]	0.9 [0.2-1.6]	10.0 [6.1-14.0]	1.2 [0.4-2.1]
Certification of leave for a reason related to the deployment of a military service member	13.4 [6.9-19.9]	28.5 [11.8-45.3]	26.6 [9.9-43.2]	7.3 [-3.1-17.6]	1.8 [-0.4-4.1]	21.1 [13.8-28.3]	1.4 [0.4-2.3]
Certification of a serious injury or illness of a military service member	19.5 [1.9-37.1]	29.5 [14.4-44.5]	24.5 [7.3-41.7]	1.5 [0.3-2.8]	0.7 [0.1-1.3]	22.7 [14.7-30.6]	1.7 [0.5-2.8]
Unweighted	808						
<b>All covered worksites, weighted by employees at worksite</b>							
The exception for highly paid key employees	6.2 [3.7-8.8]	14.4 [10.2-18.6]	26.8 [11.9-41.7]	1.3 [0.3-2.4]	3.2 [-0.8-7.2]	45.5 [31.5-59.5]	2.6 [1.2-3.9]
Medical certifications for a serious health condition	24.7 [16.4-33.1]	46.7 [30.9-62.4]	15.6 [1.3-29.9]	1.7 [0.5-3.0]	1.0 [0.2-1.9]	9.0 [5.7-12.3]	1.2 [0.4-2.1]
Second and third medical opinions	5.1 [2.7-7.6]	21.7 [11.6-31.8]	28.6 [13.7-43.4]	1.9 [0.9-2.9]	2.8 [0.3-5.2]	38.0 [22.6-53.4]	1.9 [0.8-3.0]
Advance notice of foreseeable leave	27.6 [12.0-43.2]	36.5 [22.5-50.4]	15.2 [2.2-28.1]	8.2 [-0.7-17.2]	1.6 [0.2-3.0]	9.9 [5.9-13.9]	1.0 [0.4-1.7]
Transfer to an alternative position	8.2 [4.5-11.9]	38.2 [22.4-53.9]	17.8 [5.0-30.7]	2.5 [1.2-3.8]	7.9 [-1.5-17.4]	23.7 [15.5-31.9]	1.7 [0.7-2.8]
Medical re-certification	29.2 [12.4-46.0]	38.0 [23.3-52.6]	14.0 [1.1-26.9]	2.6 [0.8-4.3]	1.1 [-0.1-2.2]	14.0 [9.1-19.0]	1.2 [0.4-2.0]

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Worksites' perception of the helpfulness of the following FMLA provisions	Very helpful % [95% CI]	Somewhat helpful % [95% CI]	Neither % [95% CI]	Somewhat unhelpful % [95% CI]	Very unhelpful % [95% CI]	N/A % [95% CI]	DK/refused % [95% CI]
The fitness-for-duty certification for employees	19.2 [12.2-26.2]	47.5 [32.4-62.7]	16.3 [2.1-30.6]	1.7 [0.7-2.7]	0.8 [0.2-1.4]	13.0 [9.0-17.0]	1.5 [0.5-2.5]
Certification of leave for a reason related to the deployment of a military service member	12.8 [7.3-18.3]	27.0 [12.0-42.0]	24.5 [9.4-39.6]	6.6 [-2.9-16.0]	1.7 [-0.4-3.7]	25.9 [17.4-34.4]	1.5 [0.6-2.4]
Certification of a serious injury or illness of a military service member	18.5 [2.5-34.5]	27.6 [14.0-41.2]	23.1 [7.5-38.8]	1.4 [0.3-2.5]	0.6 [0.1-1.2]	27.0 [17.9-36.1]	1.8 [0.7-2.9]
Unweighted N	988						
<b>50/75 worksites, weighted by worksite</b>							
The exception for highly paid key employees	6.9 [3.5-10.3]	22.6 [11.3-33.8]	20.4 [5.2-35.7]	2.2 [0.3-4.0]	1.5 [-0.4-3.5]	38.6 [28.5-48.7]	7.7 [-1.7-17.2]
Medical certifications for a serious health condition	26.0 [14.2-37.7]	40.5 [19.6-61.5]	16.5 [1.2-31.9]	2.1 [0.2-4.0]	0.6 [0.1-1.0]	12.9 [6.5-19.3]	1.4 [0.3-2.4]
Second and third medical opinions	9.2 [-0.4-18.7]	15.0 [9.0-21.0]	26.5 [9.4-43.6]	1.5 [0.5-2.5]	0.7 [0.2-1.1]	45.7 [26.2-65.2]	1.5 [0.5-2.5]
Advance notice of foreseeable leave	26.2 [14.4-38.0]	40.0 [26.9-53.0]	16.6 [1.3-31.9]	1.9 [0.4-3.4]	0.8 [0.2-1.4]	13.2 [6.9-19.6]	1.4 [0.3-2.4]
Transfer to an alternative position	8.1 [4.3-11.9]	33.2 [11.6-54.7]	25.6 [8.8-42.4]	1.5 [0.6-2.3]	2.5 [-0.5-5.6]	27.5 [16.5-38.6]	1.6 [0.5-2.7]
Medical re-certification	18.5 [6.3-30.7]	37.6 [24.9-50.3]	18.8 [3.4-34.1]	0.7 [0.2-1.3]	0.6 [0.0-1.1]	22.3 [12.9-31.7]	1.5 [0.5-2.5]
The fitness-for-duty certification for employees	18.8 [10.9-26.6]	39.4 [26.2-52.6]	16.7 [1.4-32.0]	1.1 [0.4-1.8]	0.7 [0.2-1.3]	21.8 [12.9-30.8]	1.5 [0.5-2.5]
Certification of leave for a reason related to the deployment of a military service member	9.1 [4.2-14.0]	22.5 [8.8-36.3]	23.6 [6.7-40.5]	3.1 [-0.1-6.4]	0.4 [0.1-0.8]	38.8 [28.7-48.8]	2.4 [0.6-4.2]
Certification of a serious injury or illness of a military service member	16.1 [3.3-28.9]	24.3 [9.3-39.4]	17.1 [1.8-32.4]	1.3 [-0.0-2.6]	0.6 [0.0-1.1]	39.1 [28.5-49.7]	1.6 [0.6-2.6]
Unweighted N	808						
<b>All covered worksites, weighted by worksite</b>							
The exception for highly paid key employees	9.3 [2.3-16.2]	17.8 [9.1-26.5]	15.0 [8.1-21.9]	0.8 [0.2-1.5]	0.5 [-0.0-1.1]	52.6 [45.7-59.5]	4.0 [0.2-7.7]
Medical certifications for a serious health condition	22.2 [15.3-29.1]	25.6 [11.6-39.5]	15.2 [6.4-23.9]	1.0 [0.2-1.7]	0.2 [0.1-0.4]	32.2 [24.6-39.8]	3.7 [-1.0-8.3]
Second and third medical opinions	13.3 [5.2-21.3]	14.3 [7.3-21.3]	16.4 [10.4-22.4]	0.6 [0.2-1.1]	0.2 [0.1-0.4]	51.4 [41.1-61.6]	3.8 [-0.8-8.5]



Family and Medical Leave in 2012: Final Report

Worksites' perception of the helpfulness of the following FMLA provisions	Very helpful % [95% CI]	Somewhat helpful % [95% CI]	Neither % [95% CI]	Somewhat unhelpful % [95% CI]	Very unhelpful % [95% CI]	N/A % [95% CI]	DK/refused % [95% CI]
Advance notice of foreseeable leave	23.1 [14.9-31.3]	26.2 [18.1-34.2]	12.7 [5.8-19.6]	0.9 [0.3-1.5]	0.4 [0.1-0.6]	35.1 [25.2-44.9]	1.7 [0.5-2.9]
Transfer to an alternative position	7.5 [2.9-12.0]	26.5 [17.5-35.5]	15.8 [9.6-21.9]	0.6 [0.3-1.0]	2.2 [-0.4-4.8]	45.5 [35.0-56.0]	1.9 [0.7-3.1]
Medical re-certification	17.7 [8.7-26.7]	26.5 [14.2-38.7]	14.0 [7.1-21.0]	0.3 [0.1-0.6]	0.2 [0.0-0.4]	39.7 [29.7-49.8]	1.5 [0.5-2.6]
The fitness-for-duty certification for employees	19.5 [11.7-27.3]	23.4 [13.3-33.5]	18.1 [6.3-29.8]	0.6 [0.2-1.0]	0.4 [0.1-0.7]	34.6 [24.4-44.8]	3.5 [-1.1-8.1]
Certification of leave for a reason related to the deployment of a military service member	12.2 [5.5-19.0]	17.8 [11.4-24.1]	15.0 [9.0-21.1]	1.2 [-0.1-2.6]	0.2 [0.0-0.3]	51.7 [43.0-60.3]	2.0 [0.7-3.2]
Certification of a serious injury or illness of a military service member	13.8 [5.7-21.9]	14.5 [7.0-21.9]	15.3 [6.6-24.1]	0.5 [0.0-0.9]	0.2 [0.0-0.4]	54.0 [43.9-64.2]	1.7 [0.6-2.8]
Unweighted N	988						

Source: Worksite Survey Q51.

Sample: Asked of worksites that self-report that they are covered by the FMLA.

Finally, the Worksite Survey asked covered worksites about their perceptions of changes in costs of complying with the FMLA over the years (Exhibit 3.3.8).<sup>28</sup> Half of workers work at 50/75 worksites that report that the administrative costs of complying are rising (49.9%). Similarly, two out of five workers work at worksites that report that the cost of continuing benefits (presumably health benefits) for workers on leave has increased (39.2% workers work at these worksites). In addition, a third of worksites report that hiring and training costs related to the FMLA have increased (36.4%).

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<sup>28</sup> Specifically, Worksite Survey Q49 asks, “Over the years, has complying with the FMLA increased, decreased, or not changed?”

**Exhibit 3.3.8 Changes in covered worksites' costs of complying with FMLA over the years**

<b>Change in complying with different aspects of FMLA over the years</b>	<b>Increased % [95% CI]</b>	<b>Decreased % [95% CI]</b>	<b>No change % [95% CI]</b>	<b>DK/refused % [95% CI]</b>
<b>50/75 worksites, weighted by employees at worksite</b>				
Administrative costs	49.9 [33.2-66.5]	0.2 [-0.1-0.5]	44.9 [28.0-61.8]	5.1 [1.3-8.8]
Cost of continuing benefits during leave	39.2 [22.8-55.5]	0.3 [-0.2-0.8]	50.8 [34.1-67.5]	9.7 [4.0-15.5]
Hiring/training costs	36.4 [19.8-53.0]	0.2 [-0.1-0.4]	57.8 [41.5-74.1]	5.6 [2.0-9.3]
Other costs	20.5 [4.2-36.8]	0.2 [-0.1-0.5]	10.2 [4.3-16.1]	69.0 [52.7-85.4]
Any other costs	9.8 [-5.1-24.6]	0.0 [0.0-0.0]	10.6 [4.7-16.5]	79.7 [64.7-94.6]
Unweighted N	808			
<b>All covered worksites, weighted by employees at worksite</b>				
Administrative costs	48.6 [33.6-63.5]	0.2 [-0.1-0.4]	46.5 [31.4-61.6]	4.8 [1.4-8.1]
Cost of continuing benefits during leave	39.0 [24.4-53.6]	0.3 [-0.2-0.8]	51.7 [36.8-66.6]	9.0 [3.9-14.1]
Hiring/training costs	35.9 [20.8-51.0]	0.1 [-0.1-0.4]	58.4 [43.9-72.9]	5.5 [2.2-8.9]
Other costs	18.6 [3.8-33.4]	0.2 [-0.1-0.5]	9.4 [4.4-14.4]	71.8 [57.1-86.5]
Any other costs	8.8 [-4.5-22.1]	0.0 [0.0-0.0]	9.7 [4.7-14.7]	81.5 [68.1-94.9]
Unweighted N	988			
<b>50/75 worksites, weighted by worksite</b>				
Administrative costs	30.4 [21.2-39.5]	0.7 [-0.4-1.8]	65.3 [56.0-74.6]	3.7 [1.2-6.2]
Cost of continuing benefits during leave	28.2 [19.5-37.0]	0.2 [-0.1-0.5]	67.0 [58.0-76.0]	4.6 [1.8-7.4]
Hiring/training costs	20.9 [12.2-29.5]	0.1 [-0.1-0.4]	74.4 [65.9-82.9]	4.6 [1.7-7.5]
Other costs	10.3 [0.2-20.4]	0.2 [-0.1-0.5]	7.9 [3.6-12.1]	81.6 [72.2-91.1]
Any other costs	1.5 [0.1-3.0]	0.0 [0.0-0.0]	8.2 [3.8-12.5]	90.3 [85.3-95.3]
Unweighted N	808			
<b>All covered worksites, weighted by worksite</b>				
Administrative costs	31.5 [20.4-42.5]	0.2 [-0.1-0.6]	65.9 [55.3-76.6]	2.4 [1.0-3.7]
Cost of continuing benefits during leave	31.7 [24.7-38.7]	0.1 [-0.0-0.2]	65.4 [58.5-72.3]	2.8 [1.4-4.3]
Hiring/training costs	24.8 [14.8-34.8]	0.1 [-0.0-0.1]	70.6 [61.1-80.0]	4.6 [1.1-8.1]
Other costs	4.1 [0.2-8.1]	0.1 [-0.0-0.2]	3.8 [2.1-5.5]	92.0 [87.6-96.4]
Any other costs	0.7 [0.1-1.3]	0.0 [0.0-0.0]	3.9 [2.2-5.7]	95.4 [93.4-97.3]
Unweighted N	988			

Source: Worksite Survey Q49.

Sample: Asked of worksites that self-report that they are covered by the FMLA.

## 4. Employees' Leave Taking Practices

This chapter presents results on leave taken for family or medical reasons. Specifically, the chapter presents findings on prevalence of leave taken in the last year (or 18 months) for an FMLA-covered reason, the reasons for and frequency of leave taking, duration of leave taken, and reasons why leave ended. Throughout, our discussion reports leave taking among both “eligible” employees (i.e., eligible employees at covered worksites) and “ineligible” employees (i.e., employees at uncovered worksites, and employees at covered sites that do not meet the employee count, tenure, or hours requirements) based on our imputation of employees’ eligibility (see discussion in Section 2.2).

In reviewing the following discussion, it is crucial to understand the various reference periods used in the tabulations. After careful consideration, the 2012 survey changed the primary reference period from that used previously. The 2000 survey had used an *18-month reference period* (i.e., it asked about number and details of leave taken in the past 18 months).<sup>29</sup> After consultation with DOL, we decided that a *12-month reference period* produced more easily interpretable results. (The details of this design decision are discussed in the Methodology Report). Consistent with this decision, the primary profile of leave taking practices in this chapter uses a 12-month period.

Another change between the two surveys concerned which specific leave was referenced in the extended battery of questions on leave taking. In the 2000 survey, the *longest leave in the 18-month period* was selected for more detailed questions. This approach has the effect of under-reporting intermittent leave, which tends to be of short duration. Given increased interest in intermittent leave (see the 2007 Report on the RFI) and after consultation with DOL, we opted to gather additional detail on the *most recent leave in the 12-month period*. Since under reasonable assumptions (in particular, no seasonality), the most recent leave yields a random sample of all leave episodes, this reference period provides an improved opportunity to gain insight into the use of intermittent leave.

To allow some comparisons to the 2000 research, the 2012 survey also included some questions with an 18-month reference period and some questions about the longest leave. Thus, when we want to compare 2012 results to earlier results, we must use “longest leave in the past 18 months.” Therefore, for some results on leave taken or needed, we report three sets of statistics: (i) for most recent leave in the past 12 months (those with no leave in the past 12 months are dropped); (ii) for longest leave in the past 12 months (again, those with no leave in the past 12 months are dropped); and (iii) for longest leave in the past 18 months (those with no leave in the past 18 months are dropped). As we discuss in this chapter, most people have only one leave in the past 12 months. Even for those who have more than one leave, the most recent leave may be the longest. Finally, two-thirds of the time we would expect the longest leave in the past 18 months to fall within the past 12 months. We would thus expect answers across these three to be similar but not identical.

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<sup>29</sup> In referring to the reference period for the 2000 survey as “18 months,” we follow Cantor et al. (2001). As they note, this description is not precise. The 2000 survey asked respondents to report leaves since January 1999 and the interviews took place July 2000 to September 2000, such that “the reference period covers an 18–20 month period” (Cantor et al., 2001, p. 2-1, fn. 5). The 2012 survey asked about “the last 18 months.” Thus, even if underlying behavior had not changed, this difference in question wording alone would have caused some of the 2012 rates to be lower than the 2000 rates.

With these technical considerations in mind, we turn to reporting results on leave taking. Section 4.1 presents the prevalence of leave taking. We then discuss the number of leave episodes (Section 4.2), followed by the duration of the leave (Section 4.3). Section 4.4 considers the reason for taking leave. Section 4.5 discusses intermittent leave. Finally, Sections 4.6 and 4.7 consider leave taken for a qualifying FMLA reason from the worksite's perspective.

As noted in Chapter 1, unless otherwise noted, when discussing results from the Worksite Survey we focus on estimates weighted by the number of employees at the worksite (not weighted by worksite) for 50/75 worksites (i.e., worksites that have 50 employees within 75 miles and are therefore large enough to have covered employees).

## 4.1 Prevalence of Leave

Leave is not uncommon: 13.2% of our sample of those employed during the last year took leave in the past 12 months, and 17.8% took leave in the past 18 months (see Exhibit 4.1.1 and Exhibit 4.1.2). Slightly more than half (55.8%) of employees who took leave in the past 12 months are female (not shown).

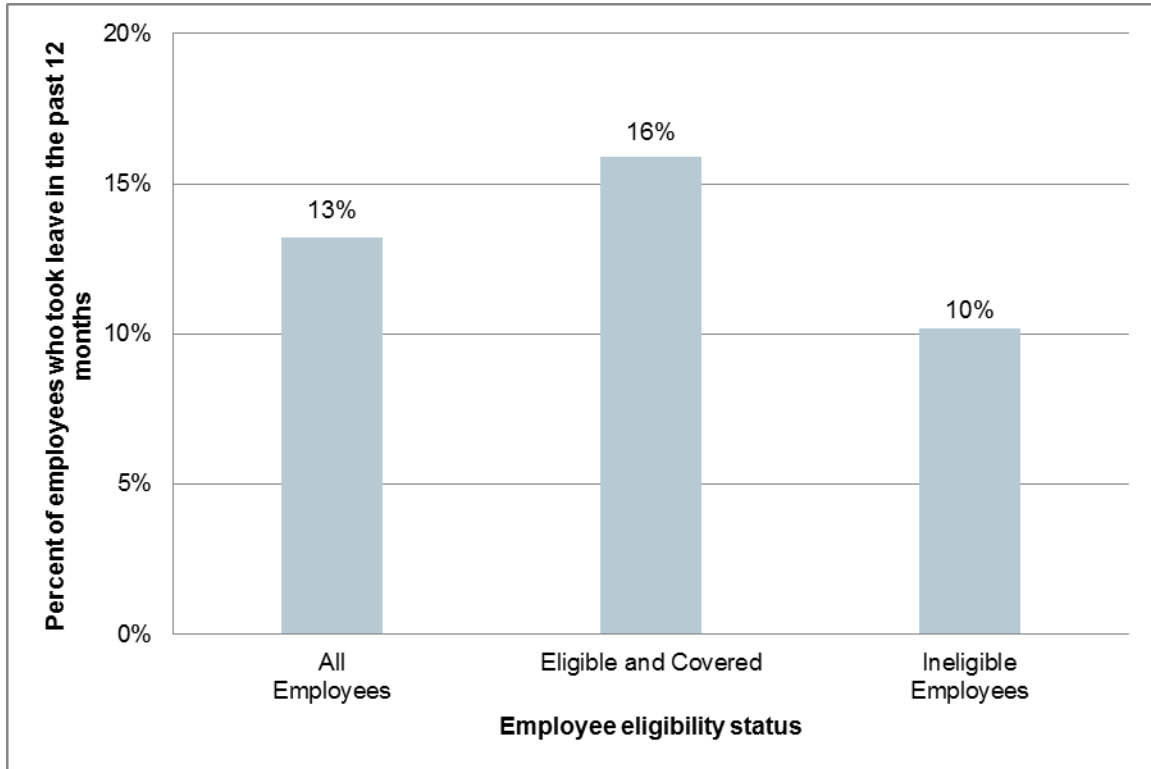
In addition to presenting the pooled results for all employees, Exhibit 4.1.2 also presents results separately by imputed eligibility (see Section 2.2 for a discussion of our imputation methodology). Rates of leave are higher among eligible employees (e.g., 15.9% vs. 10.2% in the past 12 months). In Chapter 1, we noted that differences in outcomes between eligible and ineligible employees may be due to the impact of the FMLA, but they may also be due to chance or to differences between eligible and ineligible workers, such that differences in outcomes would be expected to be present even in the absence of the FMLA. The differences in leave taking between eligible and ineligible employees presented in Exhibit 4.1.2 are large enough to rule out chance (5.7 percentage point difference: 15.9% vs. 10.2%;  $p < 0.01$ ).

Rather, this would suggest that the difference is attributable either to the impact of the FMLA itself, or to systematic differences in the characteristics of the eligible and ineligible populations, or perhaps to a combination of both. In exploring the underlying dynamics of this finding, it is important to reiterate that eligible employees: (i) work for a covered employer; (ii) work in a worksite that satisfies 50/75 (i.e., 50 employees within 75 miles); (iii) satisfy the tenure requirement (12 months), and (iv) satisfy the hours of service requirement (i.e., 1,250 hours in the last year; approximately 24 hours per week).

In an effort to better understand the potential influence of these fundamental differences, we compared the leave taking rate between eligible and ineligible employees who meet the tenure and hours-worked requirements of FMLA (that is, one year and 1,250 hours) but do not work in a worksite that satisfies 50/75 (see column labeled "Not 50/75, would be eligible" in Exhibit 4.1.2). This effectively cut the previously observed eligible/ineligible difference of 5.7 percentage points by nearly half, to 3.4 percentage points (15.9% vs. 12.5%). That is, after eliminating this critical difference in the characteristics of the two populations, the leave taking rate among ineligibles rises to 12.5%, which is only a weakly significant difference relative to the 15.9% rate among eligibles ( $p = 0.07$ , below the  $p = 0.05$  standard used in the body of this report). These results suggest that at least a portion of the initially observed difference is attributable to the inherent differences in the characteristics of the two populations and not the causal effect of the FMLA itself. Additional study

of the causes of the differences between the eligible and ineligible would be useful, but is beyond the scope of this research.

**Exhibit 4.1.1 Percent of employees who took FMLA qualifying leave in the past 12 months, by eligibility**



**Exhibit 4.1.2 Employees who took leave in past 12 and 18 months for a qualifying FMLA reason**

Leave taking	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]	"All other leave takers" subgroups		
				50/75, ineligible* % [95% CI]	Not 50/75, would be eligible* % [95% CI]	Not 50/75, would not be eligible* % [95% CI]
Employees who took leave in past 12 months	13.2 [12.0-14.4]	15.9 [14.2-17.7]	10.2 [8.3-12.1]	6.4 [3.7-9.1]	12.5 [9.3-15.8]	10.6 [7.6-13.6]
Employees who took leave in past 18 months	17.8 [16.3-19.3]	21.0 [18.7-23.3]	14.2 [12.1-16.4]	9.8 [6.5-13.1]	15.8 [12.3-19.4]	15.9 [11.8-20.0]
Employees who are currently on leave	2.7 [2.2-3.2]	3.1 [2.5-3.7]	2.3 [1.6-3.0]	1.0 [0.3-1.7]	1.5 [0.7-2.3]	4.1 [2.3-5.8]
Unweighted N	2,852	1,713	1,139	272	454	413

\*I.e., imposing the FMLA 12 months and 1250 hours rules.

Source: Employee Survey A1, A2, A3.

Sample: All employees.

Exhibit 4.1.3 and Exhibit 4.1.4 presents leave rates over the past 18 months for the 1995, 2000, and 2012 surveys.<sup>30</sup> There is some evidence that rates of leave taking are up over time, particularly from 2000 to 2012. Among all employees, rates of leave taking over the past 18 months have increased from 16.0% in 1995 to 16.5% in 2000 and 17.8% in 2012. However, these results are only weakly statistically significant.<sup>31</sup>

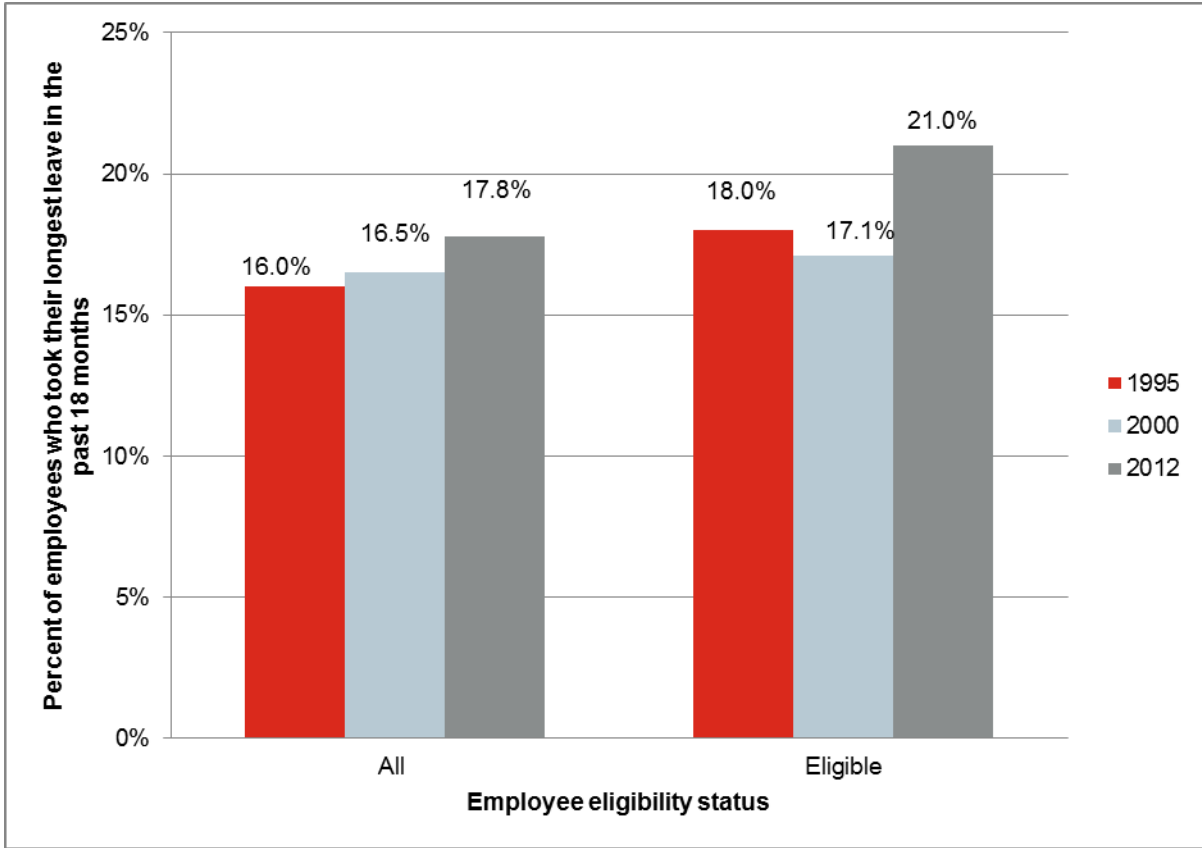
The rate of leave taking also increased among eligible employees: from 18.0% in 1995 to 17.1% in 2000 and 21.0% in 2012. The 2000 Report did not provide enough information (i.e., standard errors) to compute statistical significance of this change. Additional study to understand the underlying dynamics of this change would be particularly valuable in light of the numerous factors that could potentially affect leave taking behavior in both positive and negative directions. Since the earlier surveys, there have been changes in the FMLA regulations, changes in the composition of the workforce, changes in the macro-economy, and changes in survey methods and weighting. This exploratory analysis, however, is beyond the scope of this research.

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<sup>30</sup> The 1995 and 2000 surveys used an 18-month reference period. Therefore, we use the 18-month reference period for comparison. Exhibit 4.1.1 and Exhibit 4.1.2 use the 12-month reference period. The 1995 and 2000 surveys did not ask about 12 months, so it is not possible to create comparable rates for that reference period.

<sup>31</sup>  $p=0.096$  for 1995 to 2012, which is just slightly below the 10% cutoff, but rounds to  $p=0.100$ ;  $p=0.18$  for 2000 to 2012.

**Exhibit 4.1.3 Rates of leave taken the past 18 months: 1995, 2000, and 2012\***



Source: 2012 Employee Survey A1, A2, A3; 2000 Report Table A1-2.1 and Chapter 3.3.  
 Sample: All employees.

**Exhibit 4.1.4 Rates of leave taking in the past 18 months: 1995, 2000, 2012**

Rates of leave taking	All			Eligible and covered employees		
	1995 survey % [95% CI]	2000 survey % [95% CI]	2012 survey % [95% CI]	1995 survey % [95% CI]	2000 survey % [95% CI]	2012 survey % [95% CI]
Percent of employee population	16.0 [14.5-17.5]	16.5 [15.3-17.7]	17.8 [16.3-19.3]	18.0 [N/A]	17.1 [N/A]	21.0 [18.7-23.3]
Unweighted N	N/A	2,558	2,852	N/A	1,625	1,713

Source: 2012 Employee Survey A1, A2, A3; 2000 Report Table A1-2.1 and Chapter 3.3.  
 Cells with "N/A" indicate that the data were not reported in the 2000 Report.  
 Sample: All employees.

Exhibit 4.1.5 reports how leave taking rates vary across demographic subgroups. This and all other exhibits use a 12-month recall period unless otherwise noted. Thus, the entries have the following interpretation: "Percent of individuals in <SUBGROUP> took leave in the last year." The survey fielding period was January through June 2012, so the reference period is approximately January through June 2011. Confidence intervals are wide for subgroups, especially for smaller subgroups. As a result, most differences are not statistically significant.



Women are a third more likely to take leave than men (15.1% vs. 11.4%;  $p < 0.01$ ). Households with children are more likely to take leave than childless households (16.7% vs. 10.5%;  $p < 0.01$ ). There are not strong (or statistically significant) differences by education or family income.

**Exhibit 4.1.5 Rate of leave taking among employees who took leave in the past 12 months, by demographic characteristics**

Leave takers	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]
All	13.2 [12.0-14.4]	15.9 [14.2-17.7]	10.2 [8.3-12.1]
Age:			
18-33	12.7 [10.3-15.1]	14.7 [10.5-18.9]	11.2 [7.8-14.5]
34-49	13.3 [11.5-15.1]	15.6 [13.1-18.1]	10.0 [6.7-13.4]
50-82	13.9 [12.1-15.7]	17.8 [15.0-20.6]	9.2 [7.2-11.2]
Gender:			
Female	15.1 [13.3-16.9]	17.9 [15.3-20.4]	12.1 [9.7-14.5]
Male	11.4 [9.9-12.9]	14.1 [11.7-16.5]	8.3 [6.3-10.4]
Education:			
Less than high school graduate and high school graduate	13.5 [11.4-15.5]	16.5 [13.1-19.9]	11.0 [8.3-13.7]
Some college	14.2 [11.9-16.6]	18.5 [14.7-22.4]	9.9 [6.9-12.9]
College graduate and graduate school	11.9 [10.0-13.9]	13.7 [11.1-16.2]	8.9 [6.1-11.7]
Ethnicity:			
Hispanic	10.7 [7.5-13.8]	14.2 [8.7-19.8]	7.7 [4.2-11.1]
Non-Hispanic	13.6 [12.3-14.8]	16.2 [14.4-17.9]	10.6 [8.6-12.5]
Race:			
White	13.8 [12.4-15.1]	16.0 [14.1-17.9]	11.1 [9.2-13.0]
Non-white	11.6 [9.3-13.8]	15.6 [12.2-19.1]	7.7 [4.5-10.8]
Marital status:			
Married	13.9 [12.4-15.5]	16.8 [14.6-19.0]	10.2 [8.1-12.4]
Not married	12.4 [10.8-14.0]	14.9 [12.3-17.5]	10.1 [7.6-12.5]

Leave takers	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]
Region:			
Northeast	11.6 [9.2-13.9]	16.1 [12.3-19.9]	6.9 [4.5-9.2]
South	13.9 [11.9-15.9]	16.5 [14.2-18.8]	11.0 [7.7-14.3]
Mid-West	13.2 [10.8-15.6]	15.5 [11.7-19.4]	10.3 [6.7-13.8]
West	15.3 [11.8-18.8]	17.0 [11.0-22.9]	13.5 [7.7-19.2]
Children in household:			
0	10.5 [9.3-11.8]	13.2 [11.3-15.1]	7.7 [6.0-9.3]
1 or more	16.7 [14.5-18.8]	19.5 [16.3-22.7]	13.4 [10.0-16.9]
Income:			
<\$35,000	14.4 [11.5-17.4]	15.2 [9.7-20.8]	13.9 [9.7-18.2]
\$34,000-\$75,000	14.4 [12.8-16.1]	17.6 [14.6-20.6]	10.2 [7.4-13.0]
\$>75,000	13.9 [11.7-16.1]	17.4 [14.5-20.3]	8.0 [4.8-11.3]
How paid:			
Salaried	13.9 [11.7-16.1]	15.8 [13.1-18.5]	9.5 [5.9-13.1]
All others	13.2 [11.6-14.7]	16.1 [13.7-18.4]	9.7 [7.2-12.3]
Unweighted N	2,852	1,713	1,139

Source: Employee survey (S7, S8, D1-D8, D10-D11, ZIP).

Sample: Among those who took leave in the past 12 months.

## 4.2 Number of Leaves Taken for a Qualifying FMLA Reason

Section 4.1 considered the percentage of employees taking any leave. In this section, we discuss the number of times leave was taken. Employees can take more than one leave in a year and for more than one condition.

The Employee Survey asked leave takers, “*For how many TOTAL reasons or conditions did you take leave from work in the past year?*” Under this response structure, multiple intermittent leaves for a given condition (e.g., a weekly physical therapy appointment) would count as only one “condition.” Exhibit 4.2.1 presents the distribution of the total number of times an employee took FMLA leave in the past 12 months for *different* medical conditions. Most employees took no leave (86.1%). Among those who took any leave, the modal number of times leave was taken is one (10.7% of employees), while 3.1% of employees took more than one leave.

**Exhibit 4.2.1 Distribution of number of leave episodes taken by employees for different medical conditions in the past 12 months**

Number of leaves taken for different medical conditions in the past 12 months	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]
0	86.1 [84.9-87.3]	83.7 [81.9-85.4]	88.7 [86.8-90.7]
1	10.7 [9.7-11.6]	12.5 [11.1-13.9]	8.6 [7.0-10.3]
2	2.1 [1.6-2.6]	2.5 [1.7-3.3]	1.7 [1.0-2.3]
3	0.5 [0.3-0.7]	0.6 [0.3-0.9]	0.4 [0.1-0.6]
4 or more	0.5 [0.3-0.7]	0.6 [0.3-0.8]	0.4 [0.0-0.7]
Unknown number of leaves taken	0.2 [0.1-0.3]	0.2 [0.1-0.4]	0.2 [0.0-0.4]
Unweighted N	2,852	1,713	1,139

Source: Employee Survey A4a.  
Sample: All employees.

The 1995 and 2000 surveys asked about number of FMLA leaves in the past 18 months. Exhibit 4.2.2 compares the distribution of the number of FMLA leaves taken by employees for different medical conditions for this time period. This comparison suggests that the number of leaves taken by those taking any leave has remained fairly constant over time (the differences are neither large, nor statistically significant).

**Exhibit 4.2.2 Distribution of number of leaves taken by employees for different medical conditions in the past 18 months: 1995, 2000 and 2012**

Number of leaves taken in past 18 months	1995 % [95% CI]	2000 % [95% CI]	2012 % [95% CI]
1	73.8 [72.2-75.3]	75.2 [73.0-77.3]	70.7 [67.7-73.8]
2	16.3 [15.0-17.6]	14.5 [12.81-16.2]	17.3 [14.7-19.8]
3 or more	10.0 [9.0-10.9]	10.2 [8.7-11.6]	11.0 [8.8-13.1]
Unweighted N	1,172	1,229	2,852

2012 column does not include respondents who answered “don’t know” or refused (1.1%).

Source: 2012 Employee Survey A4, 2000 Report Table A2-2.1.

2012 Sample: Among employees who took leave in the past 18 months.

Exhibit 4.2.3 reports the distribution of different medical conditions for which leave was taken in the past 12 months among leave takers *only*; that is, the minimum number of leaves is 1 (this differs from the data presented in Exhibit 4.2.1, which included *all* employees). On average, leave takers took 1.5 leaves in the past 12 months, regardless of eligibility. Three-quarters of leave takers took leave for only one condition (76.7%); one-quarter took leave for two or more conditions (23.3%=16.3%+10.0%). Rates are similar across eligible and ineligible employees.

**Exhibit 4.2.3 Number of FMLA leave episodes taken in past 12 months**

Number of leave episodes	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]
Number of leaves taken for different medical conditions, per employee, in the past 12 months:			
1	76.7 [72.7-80.7]	75.6 [70.1-81.2]	78.6 [72.4-84.8]
2	15.9 [12.5-19.3]	17.0 [11.9-22.1]	14.0 [8.9-19.1]
3	3.7 [1.9-5.5]	3.7 [1.9-5.6]	3.7 [0.8-6.5]
4	1.6 [0.4-2.8]	1.5 [0.4-2.5]	1.9 [-1.2-4.9]
5+	2.1 [1.1-3.1]	2.2 [0.8-3.6]	1.9 [0.4-3.3]
	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>
Average number of leaves taken in past 12 months per leave taker	1.5 [1.4-1.6]	1.5 [1.4-1.7]	1.4 [1.2-1.5]
Unweighted N	802	555	247

Source: Employee Survey A4a.

Sample: Among employees who took leave in the past 12 months.

**4.3 Duration of Leave**

Having considered in Section 4.2 the number of FMLA leaves taken, in this section we consider the total duration of leave taken. We present two analyses of leave duration that vary by how we treat people who are on leave at the time of the interview (i.e., leave takers who are currently on leave). The first analysis codes people who are on leave at the time of the interview by the length of the leave to date. The second analysis proceeds from the assumption that on average, every leave in progress is half-way through its duration. Consistent with this observation, the second analysis doubles the length of leave in progress and treats that doubled duration as the completed duration. Neither approach is perfect. We report both. In general, we prefer the second approach, as the first one clearly underestimates the completed length of a leave.

Exhibit 4.3.1 presents the total length of the most recent leave in the past 12 months using both estimating techniques. Using the first approach (i.e., length of leave among employees who are currently on leave is the length of the leave to date), the average total length of the most recent leave in the past 12 months is just over 5 weeks (27.8 days). The difference between eligible and ineligible employees is neither large nor statistically significant. As expected, using the second approach (i.e., using double the length of the leave in progress), total leave duration is slightly longer (34.5 days vs. 27.8 days).

Exhibit 4.3.1 suggests that most leave is short. Using the second approach, nearly half of all leave events last 10 days or less (42.2%); less than a fifth (17.1%) last more than 60 days. This distribution is similar across eligible and ineligible employees (compared to the ineligibles, the eligibles have slightly fewer leaves of 0-10 days and slightly more leaves of 11-40 days).

**Exhibit 4.3.1 Total length of most recent leave in past 12 months**

Most recent leave	Most recent leave in past 12 months: Method 1*			Most recent leave in past 12 months: Method 2**		
	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]
0-10 days	43.7 [40.0-47.3]	41.4 [36.4-46.4]	47.7 [41.7-53.7]	42.2 [38.8-45.7]	39.2 [34.8-43.6]	47.7 [41.7-53.7]
11-40 days	32.6 [29.2-36.0]	34.7 [30.0-39.4]	28.8 [23.1-34.5]	29.8 [26.6-32.9]	33.1 [28.6-37.6]	23.8 [18.2-29.3]
41-60 days	9.8 [7.1-12.4]	11.6 [8.3-14.9]	6.4 [3.0-9.8]	11.0 [8.0-13.9]	11.9 [8.4-15.4]	9.2 [5.0-13.3]
60+ days	14.0 [10.7-17.3]	12.3 [8.8-15.8]	17.1 [11.5-22.6]	17.1 [13.8-20.3]	15.8 [12.2-19.4]	19.3 [13.8-24.9]
	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>
Average days	27.8 [25.3-30.3]	27.5 [24.6-30.3]	28.3 [23.7-33.0]	34.5 [30.7-38.3]	32.3 [29.0-35.7]	38.4 [29.3-47.4]
Unweighted N	867	609	258	867	609	258

\* Method 1: Length of leave among employees who are currently on leave is reflected as the length of the leave to date.

\*\* Method 2: Length of leave among employees who are currently on leave is imputed by doubling their reported length of leave.

Source: Employee Survey A3, A19.

Duration of leave was truncated at 2 months.

Sample: Among employees who took leave in the past 12 months.

Exhibit 4.3.2 compares the total length of the longest leave taken in the past 18 months across the 2000 and 2012 surveys. The data suggest that the incidence of longer leaves has increased sharply. In 2000, only 9.9% of leaves last 60 or more days; in 2012, 16.5% last 60 days or more.<sup>32</sup>

**Exhibit 4.3.2 Length of longest leave taken in the past 18 months in 2000 and 2012**

Length of longest leave taken in the past 18 months	1995 % [95% CI]	2000 % [95% CI]	2012 % [95% CI]
0-10 days*	54.6 [N/A]	54.1 [N/A]	39.6 [36.1-43.0]
11-40 days*	28.1 [N/A]	26.8 [N/A]	32.6 [29.5-35.8]
41-60 days	8.0 [6.2-9.8]	9.2 [7.5-10.9]	10.9 [8.6-13.1]
60+ days	9.3 [7.8-10.8]	9.9 [7.7-12.1]	16.9 [13.7-20.2]
Unweighted N	1,172	1,229	1,251

\* Categories were combined from the 2000 Report for 1995 and 2000.

Source: 2012 Employee Surveys A3, A19; 2000 Report Table A2-2.2.

Cells with “N/A” indicate that the data were not reported in the 2000 Report.

For 2012 data, duration of leave was truncated at 2 months. Length of leave among employees who are currently on leave is imputed by doubling their reported length of leave.

2012 Sample: Among those with any leave taken in the past 18 months.

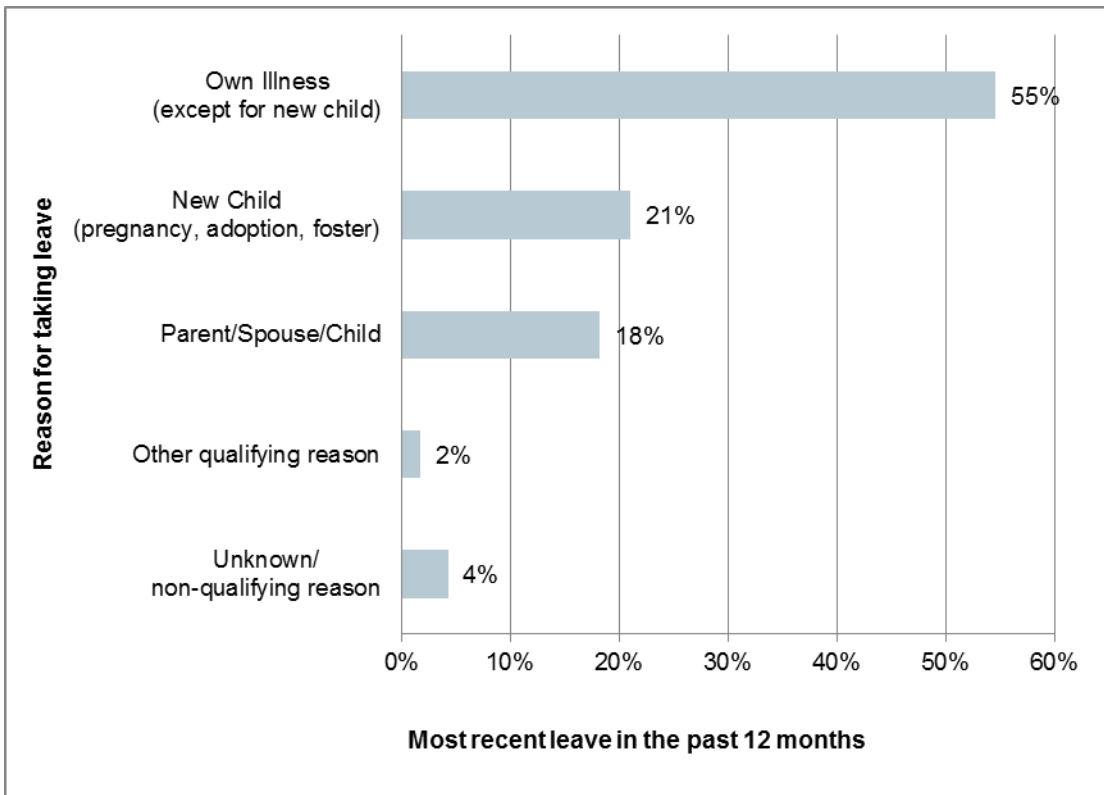
**4.4 Reason for Taking Leave**

Having considered the number of leaves (Section 4.2) and the length of leave (Section 4.3), Exhibits 4.4.1 and Exhibit 4.4.2 consider the reason(s) for taking leave. Unlike nearly all other exhibits, in these exhibits we include non-qualifying FMLA reasons (e.g., a non-relative’s health condition).

The 2012 survey asked the reason for both the most recent leave and the longest leave in the previous year. Nevertheless, these two responses usually refer to the same leave—most employees have only one leave; even when there are two leaves, the most recent one is often the longest. With that caveat, our discussion focuses on the most recent leave. More than half of all leave taken is for the employee’s own illness (54.6%; Exhibit 4.4.2). Responses related to a new child (i.e., pregnancy-related illness, pregnancy/maternity leave, miscarriage, caring for newborn/newly adopted child/new foster child, bonding with newborn/newly adopted child) account for a little less than one-quarter of all leave (21.1%). Other health conditions of a child, spouse, or parent account for about a fifth of all leave (18.2%). Reasons cited for both most recent and longest leave in the past 12 months are similar (as noted above, the two responses usually refer to the same leave).

<sup>32</sup> Due to different groupings of length of leave in the 2000 Report, we do not compute the statistical significance of this difference.

**Exhibit 4.4.1 Reasons for most recent leave in the past 12 months**



Source: Employee Survey A5.

Sample: Among those who took leave in the past 12 months.

**Exhibit 4.4.2 Medical reasons for taking leave**

Medical reason for taking leave	Most recent in past 12 months % [95% CI]	Longest in past 12 months % [95% CI]	Longest in past 18 months % [95% CI]
Own illness	56.6 [51.7-61.6]	56.3 [51.0-61.6]	52.3 [48.0-56.5]
Related to a new child	21.9 [17.2-26.6]	24.3 [19.2-29.3]	23.3 [19.7-26.9]
Parent's, spouse's or child's health condition	18.9 [16.1-21.7]	17.6 [15.0-20.2]	18.4 [16.0-20.8]
Other FMLA covered reason	1.8 [0.5-3.2]	1.8 [0.5-3.2]	1.5 [0.4-2.6]
Non-FMLA covered reason	0.6 [-0.1-1.3]	0.0 [0.0-0.0]	3.4 [2.0-4.7]
Don't know/refused	0.2 [-0.1-0.4]	0.0 [0.0-0.0]	1.1 [0.2-2.0]
Unweighted N	930	880	1,332

Source: Employee Survey A5.

Sample: Among those who took any leave in the past 12 or 18 months.

The Employee Survey did not ask respondents directly about their disability status or leave taken for a disability. However, the survey did ask respondents about the nature of their health condition for which they took leave (see Employee Survey A10):

*What was the nature of the health condition for which you took this leave? Was it:*

*A one-time health matter, such as appendicitis or injury;*

*For treatment of an injury or illness that now requires routine scheduled care, such as chemotherapy or physical therapy; or*

*An ongoing health condition that affects one’s ability to work from time to time, such as diabetes, migraines, depression, or Multiple Sclerosis?*

We would expect disability to be reported as an ongoing health condition. About half of all leave is due to a one-time health matter, but nearly 40% is due to either an ongoing health condition, or an injury or illness that requires routine scheduled care (38.1%=24.8%+13.3%; Exhibit 4.4.3). There are no major differences between the most recent and longest leave.

**Exhibit 4.4.3 Nature of health condition for taking leave**

Nature of health condition	Most recent in past 12 months % [95% CI]	Longest in past 12 months % [95% CI]	Longest in past 18 months % [95% CI]
A one-time health matter	45.6 [41.5-49.7]	46.4 [42.2-50.6]	44.3 [40.7-47.9]
Injury or illness that now requires routine scheduled care	13.3 [9.8-16.8]	13.4 [9.9-16.9]	15.5 [12.4-18.7]
Ongoing health condition	24.8 [20.2-29.3]	24.3 [19.6-29.0]	24.0 [20.3-27.7]
Other	15.3 [11.9-18.7]	15.1 [11.4-18.7]	15.4 [12.0-18.8]
Don't know/refused	1.1 [0.4-1.8]	0.9 [0.1-1.6]	0.8 [0.2-1.3]
Unweighted N	759	703	1,058

Source: Employee Survey A10.

Sample: Among those who took leave in the past 12 or 18 months.

Exhibit 4.4.4 explores how the nature of the health condition varies by for whom the leave was taken. For a parent’s, spouse’s, or child’s health condition, scheduled care and ongoing health condition are more common than a one-time health matter (9.0%=3.3%+5.7% vs. 6.0%). For own illness, they are nearly as common (21.5%=7.3%+14.2% vs. 29.9%). For new child, they are rare (0.6%=0.3%+0.3% vs. 20.4%). There is little difference in length of leave by nature of illness (Exhibit 4.4.5).



**Exhibit 4.4.4 Nature of illness and medical reasons for most recent leave taken in the past 12 months**

Medical reason for taking leave	All leave takers				Eligible and covered employees				All other leave takers			
	One-time health matter % [95% CI]	Injury or illness that now requires routine scheduled care % [95% CI]	Ongoing health condition % [95% CI]	Other % [95% CI]	One-time health matter % [95% CI]	Injury or illness that now requires routine scheduled care % [95% CI]	Ongoing health condition % [95% CI]	Other % [95% CI]	One-time health matter % [95% CI]	Injury or illness that now requires routine scheduled care % [95% CI]	Ongoing health condition % [95% CI]	Other % [95% CI]
Own illness (except for new child)	29.9 [26.1-33.7]	7.3 [5.4-9.3]	14.2 [10.3-18.0]	6.6 [4.3-8.8]	33.2 [28.2-38.1]	7.2 [5.0-9.4]	13.0 [9.5-16.5]	5.8 [3.5-8.1]	24.2 [17.8-30.7]	7.6 [3.8-11.4]	16.2 [8.8-23.6]	7.9 [3.4-12.3]
Related to a new child	20.4 [16.4-24.5]	0.3 [0.0-1.0]	0.3 [0.0-0.8]	1.6 [0.0-3.2]	16.9 [12.6-21.2]	0.0 [0.0-0.0]	0.4 [0.0-1.2]	1.1 [0.0-3.1]	26.5 [19.0-34.0]	0.9 [0.0-2.8]	0.0 [0.0-0.0]	2.3 [0.0-5.3]
Parent's, spouse's or child's health condition	6.0 [4.6-7.5]	3.3 [1.9-4.7]	5.7 [4.4-7.0]	4.3 [2.9-5.8]	7.0 [4.7-9.3]	4.4 [2.2-6.5]	6.6 [4.8-8.5]	4.4 [2.7-6.2]	4.4 [2.1-6.8]	1.4 [0.2-2.6]	4.2 [2.1-6.2]	4.2 [1.4-6.9]
Other qualifying reason	0.0 [0.0-0.0]	0.0 [0.0-0.1]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.1 [0.0-0.3]	0.0 [0.0-0.0]	0.0 [0.0-0.0]
Unweighted N	484	107	179	105	335	74	125	74	149	33	54	31

Source: Employee Survey A5, A10.

Per skip patterns, anyone who answers A5 in (3-10) does not get asked about nature of their illness (A10). They are included in the table above as a one-time health matter.

Sample: Among those who took leave in the past 12 months.

**Exhibit 4.4.5 Nature of illness and duration of most recent leave taken in the past 12 months**

Duration of most recent leave	One-time health matter % [95% CI]	Injury or illness that now requires routine scheduled care % [95% CI]	Ongoing health condition % [95% CI]	Other % [95% CI]
0-10 days	43.3 [38.1-48.4]	37.3 [24.9-49.6]	40.4 [32.4-48.3]	43.0 [31.4-54.6]
11-40 days	27.4 [23.2-31.7]	38.8 [25.5-52.2]	30.1 [20.8-39.4]	30.1 [19.4-40.8]
41-60 days	12.4 [8.3-16.5]	7.3 [2.4-12.3]	8.4 [3.9-12.8]	12.3 [4.0-20.6]
60+ days	16.9 [11.3-22.4]	16.5 [8.6-24.5]	21.2 [14.4-27.9]	14.7 [5.8-23.5]
	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>
Average days	33.8 [28.4-39.3]	33.4 [23.8-43.1]	36.7 [27.2-46.2]	37.2 [21.1-53.4]
Unweighted N	475	100	168	102

Source: Employee Survey A10, A19.

Length of leave among employees who are currently on leave is imputed by doubling their reported length of leave. Duration of leave was truncated at 2 months.

Sample: Among those who took leave in the past 12 months.

For the most recent leave, the overwhelming share of conditions require a doctor’s care (85.7%) and about half of those requiring a doctor’s care also require an overnight stay in a hospital (46.8%; Exhibit 4.4.6).

**Exhibit 4.4.6 Leave taking that requires medical attention**

Medical attention required	Most recent in past 12 months % [95% CI]	Longest in past 12 months % [95% CI]	Longest in past 18 months % [95% CI]
Condition required a doctor's care	85.7 [82.2-89.2]	87.1 [83.7-90.6]	86.2 [83.6-88.8]
Condition required an overnight stay at a hospital	46.9 [43.3-50.6]	47.9 [44.1-51.8]	49.9 [46.9-52.9]
Unweighted N	889	833	1,255

Source: Employee Survey A11, A12.

Sample: Most recent leave in the past 12 months.

For about two-fifths of leave incidents, a second household member also took leave (40.3%; Exhibit 4.4.7). About two-thirds of such dual leave instances are related to a new child (61.3% for most recent leave); about a fifth are due to own illness (16.2%), and another fifth are due to illness of a close relative (20.4%).

**Exhibit 4.4.7 Other household members' leave taking behavior for most recent leave and longest leave**

<b>Other household members' leave taking behavior</b>	<b>Most recent in past 12 months % [95% CI]</b>	<b>Longest in past 12 months % [95% CI]</b>	<b>Longest in past 18 months % [95% CI]</b>
Respondents who had household member who took leave for the same reason	40.3 [30.1-50.6]	46.9 [36.1-57.7]	46.5 [37.8-55.3]
Reason for leave among respondents who had household member take leave for same reason:			
Own illness	16.2 [4.6-27.7]	23.2 [7.3-39.2]	21.7 [9.6-33.8]
Related to a new child	61.3 [43.8-78.8]	60.5 [42.9-78.1]	56.6 [42.6-70.6]
Parent's, spouse's or child's health condition	20.4 [9.1-31.6]	15.0 [6.4-23.7]	20.8 [11.5-30.2]
Address issue of military member's deployment	1.4 [-1.4-4.1]	1.2 [-1.2-3.7]	0.9 [-0.9-2.6]
Don't know/refused	0.8 [-0.8-2.4]	0.0 [0.0-0.0]	0.0 [0.0-0.0]
Unweighted N	160	152	222

Source: Employee Survey A5, A19b.

Sample: Among those with any leave in the past 18 months.

Exhibit 4.4.8 presents the relationship of the other household member who took leave for the same reason. When two household members took leave for the same reason, the other household member was overwhelmingly a spouse (84.5%) with some leave by an unmarried partner (9.2%) or a parent (4.3%).

**Exhibit 4.4.8 Relationship of household member to employees who had other household members take leave for the same reason**

<b>Relationship of household member who took leave for the same reason</b>	<b>Most recent in past 12 months % [95% CI]</b>	<b>Longest in past 12 months % [95% CI]</b>	<b>Longest in past 18 months % [95% CI]</b>
Spouse	84.5 [72.8-96.2]	89.9 [81.3-98.5]	88.8 [80.9-96.6]
Unmarried partner	9.2 [-0.0-18.5]	8.3 [0.0-16.6]	6.0 [0.0-12.0]
Parent	4.3 [-3.6-12.1]	0.0 [0.0-0.0]	0.3 [-0.3-1.0]
Child	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.3 [-0.3-0.9]
Sibling	0.0 [0.0-0.0]	0.0 [0.0-0.0]	2.8 [-2.5-8.0]
Father- or mother-in-law	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.5 [-0.5-1.6]
Other	1.4 [-1.4-4.1]	1.2 [-1.2-3.7]	0.9 [-0.9-2.6]
Don't know/refused	0.6 [-0.5-1.8]	0.6 [-0.5-1.6]	0.4 [-0.4-1.2]
Unweighted N	61	64	98

Source: Employee Survey A19c.

Sample: Among those with any leave in the past 18 months.

## 4.5 Intermittent Leave

While the results presented in Section 4.3 suggest that there has been considerable use of the FMLA for such extended leave, more recently there has also been considerable concern by some worksites that employees use the FMLA for much shorter leave—a day or a few hours. Shorter leave is often part of a broader pattern of “intermittent leave” for chronic medical conditions (e.g., a regular chemotherapy session or occasional bouts of asthma or migraine headaches).

Shorter leaves have been a focus of some of the ongoing discussion related to the FMLA. The comments of the National Association of Manufacturers (as quoted in the preamble to the 2008 FMLA Regulations, 73 FR 67934, 68071) are representative:

*[A]s currently interpreted by DOL, the FMLA has become the single largest source of uncontrolled absences and, thus, the single largest source of all the costs those absences create: Missed deadlines, late shipments, lost business, temporary help, and over-worked staff.*

The Department’s 2007 Report on the RFI also summarized commenters’ concerns about these types of absences (see 72 FR 35550, 35551-35552):

*Commenters consistently stated that the FMLA is generally working well—at least with respect to leave related to the birth or adoption a child or for indisputable “serious” health conditions. Responses to the RFI substantiate that many employees and worksites are not having noteworthy FMLA related problems. ...[F]rustration by worksites about difficulties in maintaining necessary staffing levels and controlling attendance problems in their workplaces as a result of one particular issue—unscheduled intermittent leaves used by employees who have chronic health conditions.*

...

*At the same time, a central defining theme in the comments involves an area that may not have been fully anticipated: The prevalence with which unscheduled intermittent FMLA leave would be taken in certain workplaces or work settings by individuals who have chronic health conditions. This is the single most serious area of friction between worksites and employees seeking to use FMLA leave.*

We made several changes to the survey in order to improve understanding of intermittent leave. Specifically, the Employee Survey asked the following questions to determine whether the leave was taken intermittently:

- A14: *Did you take this time off continuously—that is, all in a row without returning to work—or did you take leave on separate occasions?*
- If so, A15: *How many separate blocks of time did you take off from work during this leave?*

This differs slightly from the 2000 Employee Survey, which asked the following questions about intermittent leave:

- A5b: *Sometimes people alternate between work and leave. That is, they repeatedly take leave for a few hours or days at a time because of ongoing family or medical reasons. Have you taken this kind of leave since January 1, 1999?*

- If yes, A5c: *Was this kind of leave less than half, about half, or more than half of all the time you spent on family or medical leave since January 1, 1999?*

In addition to explicitly asking whether leave was continuous or intermittent (A14), the 2012 Employee Survey asked for the specific number of times leave was taken, rather than the more general categories asked in 2000 (see Chapter 3 of the Methodology Report for more detail on the changes to the 2012 surveys from 2000). This change allowed us to better understand the number of leave episodes among intermittent leave takers.

The survey results do not indicate that intermittent leave is common. Overall, 3.2% of the sample reports taking intermittent leave; they represent 24.1% of all leave takers who took leave in the past 12 months (Exhibit 4.5.1). Among those taking intermittent leave, the median (i.e., the midpoint of the distribution) number of leaves is 2, but the mean is 4.9 (i.e., a small number of workers take leave a large number of times). Exhibit 4.5.1 presents the distribution of the number of leave events among intermittent leave takers. Consistent with the mean being higher than the median, a small number of people have multiple leave incidents; 18.3% of leave takers had seven or more separate leaves for the same condition in the last year. The number of intermittent leave episodes is similar for eligible and non-eligible leave takers.

**Exhibit 4.5.1 Prevalence of intermittent leave for most recent leave in past 12 months**

<b>Intermittent leave taking</b>	<b>All % [95% CI]</b>	<b>Eligible and covered employees % [95% CI]</b>	<b>All other leave takers % [95% CI]</b>
Percent of all leave taken that was intermittent	24.1 [19.6-28.7]	23.1 [19.1-27.1]	25.9 [17.2-34.7]
2 leaves	34.8 [26.3-43.4]	32.5 [23.3-41.7]	38.2 [22.8-53.6]
3 leaves	20.7 [12.7-28.6]	21.6 [14.7-28.6]	19.3 [1.9-36.7]
4 leaves	10.2 [5.3-15.1]	9.0 [4.5-13.4]	11.9 [1.8-21.9]
5 leaves	8.3 [3.3-13.3]	9.9 [2.2-17.7]	6.0 [1.2-10.7]
6 leaves	5.2 [2.0-8.4]	6.4 [1.8-11.0]	3.4 [-0.3-7.1]
7+ leaves	18.3 [11.4-25.2]	19.0 [10.8-27.2]	17.2 [6.6-27.9]
DK/refused	5.7 [2.8-8.5]	4.8 [1.7-7.9]	6.8 [0.0-13.7]
	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>
Average number of separate leaves for the same condition, among those taking intermittent leave	4.9 [4.1-5.7]	4.8 [4.1-5.6]	5.0 [3.5-6.6]
Unweighted N	902	626	276

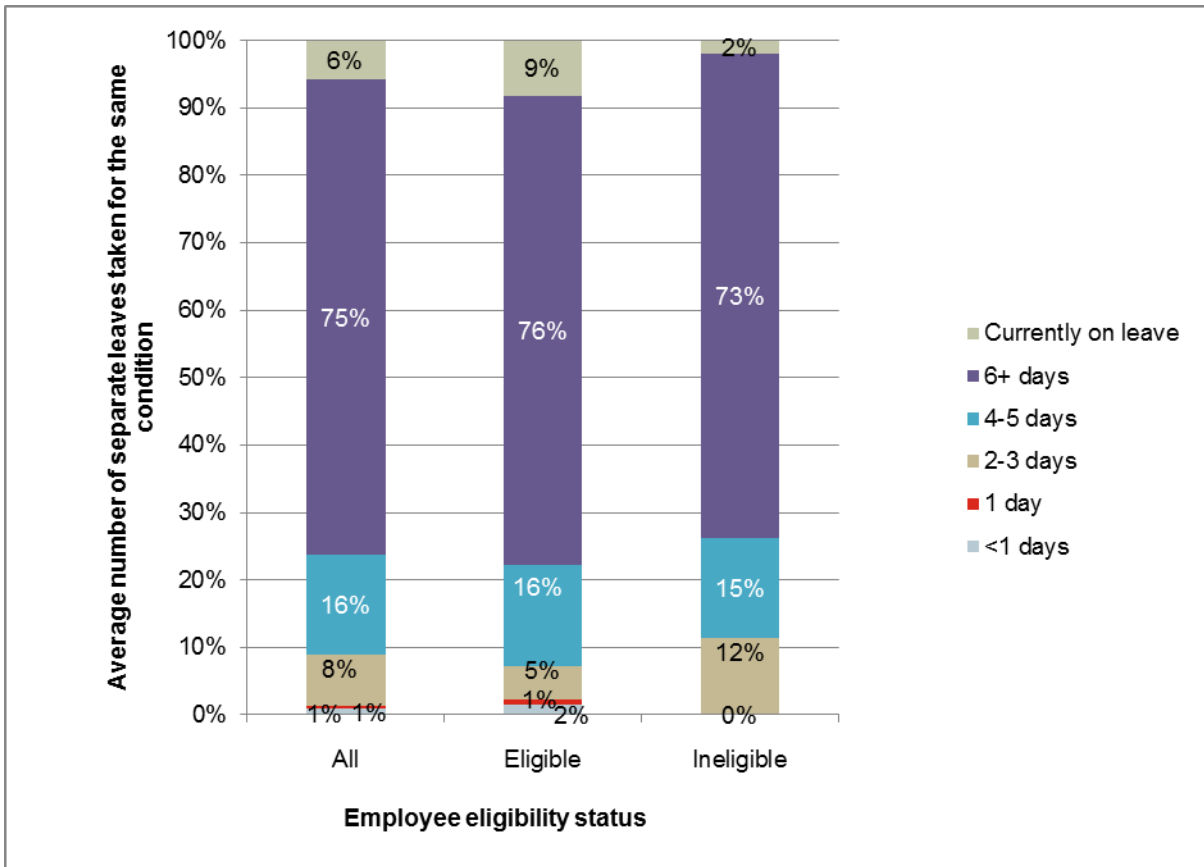
Source: Employee Survey A14, A15.

Sample: Among those with any leave in the past 12 months who took leave on separate occasions.

In 2012, 26.0% of employees who took leave in the past 18 months took intermittent leave at least once, versus 27.8% [24.4+31.2/2] in 2000 (2012 results not shown; 2000 results from Table A1-2.8 in the 2000 report).

Exhibit 4.5.2 displays the length of the most recent leave among intermittent leave takers. Exhibit 4.5.3 provides more detail. Unlike concerns voiced by some employers about excessive use of very short leave (i.e., a day or less), Exhibit 4.5.3 suggests that leave of a day or less occurs less than 2% of the time (1.0%+0.5%). Rather, nearly three-quarters (74.8%) of the most recent leave among intermittent leave takers is 6 or more days. These results are consistent regardless of the leave taker’s eligibility.

**Exhibit 4.5.2 Most recent length of intermittent leave**



**Exhibit 4.5.3 Most recent length of intermittent leave among those taking intermittent leave**

Most recent length of leave	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]
Length:			
<1 day	1.0 [-0.4-2.4]	1.7 [-0.7-4.0]	0.0 [0.0-0.0]
1 day	0.5 [-0.5-1.4]	0.8 [-0.8-2.4]	0.0 [0.0-0.0]
2-3 days	7.9 [4.0-11.8]	5.4 [2.1-8.8]	11.6 [2.7-20.6]
4-5 days	15.8 [9.4-22.1]	16.2 [7.5-24.8]	15.2 [6.6-23.9]
6+ days	74.8 [67.6-82.1]	75.9 [66.5-85.4]	73.1 [61.0-85.3]
Currently on leave	6.1 [3.0-9.3]	8.9 [4.0-13.8]	2.1 [-2.1-6.4]
Unweighted N	262	180	82

Source: Employee Survey A3, A14, A15, A16, A17.

Sample: Among those with any leave in the past 12 months who took intermittent leave.

Exhibit 4.5.4 tabulates the medical reasons for intermittent leave. Note that, for this exhibit, we include non-qualifying FMLA reasons (e.g., other relative’s health condition) to show the small percentage of leave takers who would not be eligible for FMLA. Compared to all leave (Exhibit 4.4.2), intermittent leave is more common for caring for someone else’s medical condition (a parent, spouse, or child; 41.3% vs. 18.2%), but less common for an own medical condition (39.5% vs. 54.6%) or for a new child (16.6% vs. 21.1%).

**Exhibit 4.5.4 Reasons for taking intermittent leave**

Medical reason among those taking intermittent leave	Most recent in past 12 months % [95% CI]	Longest in past 12 months % [95% CI]	Longest in past 18 months	
			2012 survey % [95% CI]	2000 survey % [95% CI]
Own illness	39.5 [31.1-48.0]	41.0 [32.3-49.7]	40.8 [32.1-49.5]	35.1 [27.6-42.6]
Related to a new child*	16.6 [6.7-26.5]	16.8 [6.9-26.8]	16.8 [6.8-26.7]	18.1 [N/A]
Parent’s, spouse’s or child’s health condition	41.3 [33.0-49.6]	40.4 [32.8-48.0]	40.6 [33.1-48.2]	46.7 [N/A]
Other relative’s health condition	0.8 [-0.3-2.0]	0.1 [-0.1-0.3]	0.1 [-0.1-0.3]	N/A
Address issue of military member’s deployment	1.7 [-0.9-4.3]	1.7 [-0.9-4.4]	1.7 [-0.9-4.3]	N/A
Unweighted N	262	258	260	250

\* For 2000, this includes care for newborn, newly adopted, or newly placed foster child, and maternity-related disability.

Source: 2012 Employee Survey B6; 2000 Report Table A1-2.12.

Cells with “N/A” indicate that the data were not reported in the 2000 Report.

2012 Sample: Among those with any leave in the past 12 months who took leave on separate occasions. 1995 and 2000 surveys reflect leave taken in the past 18 months.

Exhibit 4.5.5 presents the nature of the health conditions for intermittent leave and compares them to the reasons for the most recent and longest leave in the past 12 months, and also presents the longest

leave in the past 18 months. Compared to all leave, as would be expected, intermittent leave is more common for ongoing health conditions (39.8% vs. 24.8%; see Exhibit 4.4.3) and an injury or illness requiring routine scheduled care (18.5% vs. 13.3%), but less common for a one-time health matter (20.0% vs. 45.6%).

**Exhibit 4.5.5 Nature of health conditions for intermittent leave**

Health condition	Most recent in past 12 months % [95% CI]	Longest in past 12 months % [95% CI]	Longest in past 18 months % [95% CI]
A one-time health matter	20.0 [13.5-26.6]	20.5 [13.4-27.7]	20.6 [13.4-27.7]
Injury or illness that now requires routine scheduled care	18.5 [11.9-25.2]	21.4 [13.5-29.2]	21.3 [13.5-29.1]
Ongoing health condition	39.8 [31.9-47.8]	37.4 [28.9-45.9]	37.6 [29.1-46.1]
Other	21.2 [12.9-29.5]	20.1 [11.5-28.7]	20.0 [11.5-28.6]
Don't know/refused	0.4 [-0.4-1.2]	0.6 [-0.3-1.4]	0.6 [-0.3-1.4]
Unweighted N	244	240	242

Source: Employee Survey B11.

Sample: Among those with any leave in the past 12 months who took leave on separate occasions.

**4.6 Leave for a Qualifying FMLA Reason at Covered Worksites**

The previous sections present results on leave patterns from the Employee Survey. We now turn to results on leave patterns from the Worksite Survey for covered worksites. (We defer discussion of results on leave at uncovered worksites until the next section). As discussed at the beginning of this chapter, unless otherwise noted, when discussing results from the Worksite Survey, we focus on estimates weighted by the number of employees at the worksite (not weighted by worksite) for 50/75 worksites (i.e., worksites that have 50 employees within 75 miles and are, therefore, large enough to have covered employees).

We find that 76.9% of employees work at 50/75 worksites that report employees taking leave for a qualifying FMLA reason (weighted by employees). Weighting by number of employees, these worksites report that 9.8% of employees take leave for a qualifying reason. More than half of worksites report that an employee has not returned after taking FMLA leave (58.4%); among these worksites, 7.4% of employees choose not to return after taking leave. Finally, worksites report that among employees taking leave, the average number of leaves is 1.3.

The 2000 Report showed that 58.3% (55.3+61.3/2) of covered worksites that had any leave by employees for a qualifying FMLA reason in 2000, which was similar to 1995 (59.5%; [56.4+62.6/2]; see Tables A1-3.1 and A1-3.9 in the 2000 report).



**Exhibit 4.6.1 Use of FMLA designated leave at covered worksites**

Use of FMLA designated leave	Weighted by number of employees		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
Percent of covered worksites that had any leave by employees for a qualifying FMLA reason	76.9 [62.9-90.9]	73.3 [60.6-85.9]	64.7 [53.5-75.9]	41.8 [33.3-50.2]
Percent of employees at covered worksites who took leave for a qualifying FMLA reason in the past 12 months	9.8 [7.2-12.3]	9.4 [7.1-11.7]	4.3 [3.0-5.6]	8.3 [3.3-13.4]
Percent of worksites that report employees not returning after taking FMLA leave	58.4 [39.8-77.1]	58.1 [40.7-75.6]	17.2 [9.4-25.0]	22.7 [9.7-35.7]
Among worksites that report employees taking FMLA leave, percentage of employees choosing not to return to work	7.4 [4.3-10.6]	9.2 [5.5-12.9]	24.8 [17.6-32.0]	42.4 [19.4-65.3]
	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>
Average number of leaves taken per employee for a qualifying FMLA reason (among employees taking any leave)	1.3 [1.0-1.6]	1.3 [1.1-1.6]	1.7 [0.9-2.4]	2.1 [1.2-3.1]
Unweighted N	808	988	808	988

Source: Worksite Survey Q19, Q20, Q23, Q24.

Sample: Asked of all worksites that self-report that they are covered by the FMLA.

Covered worksites were asked about the fraction of leaves taken for a qualifying FMLA reason that are consistent with the worksite’s policy. Deviations from worksite policy might include not providing enough notice of leave, or insufficient documentation. Replies to the 2006 Request for Information suggest considerable concern in the worksite community about employees taking leave that is inconsistent with the company’s policy. However, Exhibit 4.6.2 suggests that more than a third of employees work at worksites that report all leaves are consistent with the employer’s notice policy and another third report that most leaves are consistent with policy (35.0% and 41.2%, respectively).

**Exhibit 4.6.2 Consistency of FMLA designated leave with covered worksites' notice policies**

Percent of leaves for a qualifying FMLA reason that are consistent with worksite's policy	Weighted by number of employees		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
All	35.0 [15.6-54.4]	38.0 [20.2-55.8]	66.6 [53.9-79.4]	71.1 [59.7-82.5]
Most	41.2 [25.5-57.0]	39.3 [24.8-53.9]	22.6 [13.4-31.7]	17.8 [8.7-26.9]
About half	7.1 [3.4-10.9]	6.8 [3.3-10.3]	4.6 [1.3-7.9]	3.2 [1.0-5.4]
Some	15.7 [2.8-28.5]	14.8 [2.7-26.9]	5.2 [2.7-7.8]	2.9 [1.6-4.3]
None	0.6 [-0.1-1.3]	0.6 [-0.0-1.2]	0.9 [0.1-1.7]	4.3 [-1.9-10.5]
Don't know/refused	0.4 [-0.2-1.0]	0.5 [-0.1-1.0]	0.1 [-0.0-0.1]	0.7 [-0.5-1.9]
Unweighted N	563	631	563	631

Source: Worksite Survey Q25.

Sample: Asked of all worksites that self-report that they are covered by the FMLA.

Replies to the 2006 Request for Information also suggest considerable concern in the worksite community about employees taking leave on an intermittent basis. Again focusing on 50/75 worksites and weighting by number of employees, four in five employees work at worksites that report some intermittent leave (82.3%; Exhibit 4.6.3); and a third of the leave taken was intermittent (29.0% of employees work at these worksites). About one in six employees work at worksites that report that more than half of the leave is intermittent (16.1%).

**Exhibit 4.6.3 Characteristics of intermittent leave for a qualifying FMLA reason taken at covered worksites**

Leave characteristics	Weighted by number of employees		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
Percent of worksites that report any intermittent leave among employees	82.3 [74.2-90.3]	80.5 [72.4-88.6]	50.7 [29.8-71.7]	52.4 [34.6-70.2]
Among employees who took leave, average percentage of <i>employees</i> whose leave was intermittent	29.0 [21.0-36.9]	29.3 [21.7-37.0]	24.9 [9.9-40.0]	35.1 [20.5-49.7]
Average percentage of granted <i>leaves</i> for a qualifying FMLA reason that were taken on an intermittent basis:				
None	18.5 [10.2-26.9]	20.3 [12.0-28.6]	51.1 [30.0-72.1]	48.6 [30.8-66.3]
1-5%	15.3 [7.0-23.7]	14.6 [6.9-22.3]	20.6 [4.2-36.9]	16.3 [5.4-27.2]
6-10%	21.4 [-4.3-47.1]	20.0 [-4.1-44.2]	14.4 [-8.5-37.3]	7.6 [-4.6-19.9]
11-15%	2.8 [1.0-4.6]	2.6 [1.0-4.2]	1.2 [0.4-1.9]	0.6 [0.2-1.0]
16-20%	5.8 [-1.2-12.8]	5.4 [-1.1-11.9]	2.1 [0.1-4.2]	1.1 [0.1-2.2]
21-50%	19.8 [8.9-30.7]	18.6 [8.6-28.6]	6.8 [2.6-10.9]	3.9 [1.6-6.2]
More than 50%	16.1 [2.1-30.1]	18.3 [4.6-32.0]	3.7 [1.8-5.5]	21.7 [5.8-37.7]
Don't know/refused	0.2 [-0.1-0.6]	0.2 [-0.1-0.5]	0.2 [-0.1-0.4]	0.2 [-0.0-0.3]
Unweighted N	541	608	541	608

Source: Worksite Survey Q21, Q21b.

Sample: Asked of all worksites that self-report that they are covered by the FMLA.

The Worksite Survey asked about the difficulty of administering intermittent leave. Responses suggest considerable difficulty (Exhibit 4.6.4). Again focusing on 50/75 worksites and weighting by employees, 27.5% of employees work at worksites that report “very difficult” and another 28.9% work at worksites that report “somewhat difficult.” Results weighted by worksites (not by employees) imply considerably less difficulty (8.0% of worksites reporting “very difficult” + 14.7% of worksites reporting “somewhat difficult”). These results suggest that worksites with more employees have more difficulty dealing with intermittent leave.

**Exhibit 4.6.4 Ease or difficulty of administering intermittent leave for a qualifying FMLA reason at covered worksites**

Ease or difficulty	Weighted by number of employees		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
Very easy	2.1 [0.4-3.8]	2.3 [0.6-3.9]	4.4 [0.8-8.0]	18.8 [0.4-37.3]
Somewhat easy	30.5 [1.1-59.9]	29.3 [1.0-57.6]	57.7 [28.7-86.7]	30.8 [5.8-55.7]
Neither easy or difficult	11.0 [2.3-19.6]	10.6 [2.4-18.8]	15.2 [3.1-27.3]	9.0 [4.0-14.1]
Somewhat difficult	28.9 [10.0-47.7]	31.5 [12.4-50.5]	14.7 [4.1-25.2]	36.9 [13.1-60.6]
Very difficult	27.5 [8.0-47.1]	26.4 [7.8-45.0]	8.0 [1.3-14.8]	4.5 [1.4-7.6]
Don't know/refused	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]
Unweighted N	320	345	320	345

Source: Worksite Survey Q21a.

Sample: Asked of all worksites that self-report that they are covered by the FMLA.

Finally, among covered worksites that have shift workers who took leave intermittently, most 50/75 worksites allow their shift workers who take intermittent leave to rejoin mid-shift (49.7% of employees work at these worksites, which is a majority after excluding the 20.8% of employees who work at worksites that do not employ shift workers; Exhibit 4.6.5).

**Exhibit 4.6.5 Policy on intermittent leave for shift workers at covered worksites**

Policy on intermittent leave	Weighted by number of employees		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
Rejoin mid-shift	49.7 [30.0-69.4]	51.4 [32.4-70.3]	50.0 [29.0-71.1]	55.8 [38.6-72.9]
Require entire shift as leave	17.1 [-6.5-40.8]	16.2 [-6.1-38.5]	18.5 [-3.1-40.0]	10.2 [-2.0-22.3]
Depends on supervisor	4.0 [1.7-6.2]	3.7 [1.6-5.8]	3.1 [1.5-4.7]	1.7 [0.8-2.6]
N/A (no shift workers)	20.8 [3.7-38.0]	20.8 [4.6-37.0]	27.0 [8.2-45.9]	31.1 [15.9-46.4]
Don't know/refused	8.4 [-4.3-21.0]	7.9 [-4.0-19.9]	1.4 [0.3-2.4]	1.2 [0.1-2.4]
Unweighted N	563	631	563	631

Source: Worksite Survey Q22.

Sample: Asked of all worksites that self-report that they are covered by the FMLA.

**4.7 Leave for a Qualifying FMLA Reason at Uncovered Worksites**

In contrast to the previous discussion that considered leave for a qualifying FMLA reason at covered worksites, this section examines leave patterns among worksites not covered by the FMLA (Exhibit 4.7.1). According to results from the Worksite Survey, about a third of employees at covered

worksites take leave for a qualifying reason (37.5%). In those worksites, 5.8% of employees took leave in the past year.

**Exhibit 4.7.1 Use of leave for a qualifying FMLA reason at worksites not covered by FMLA**

Use of leave	Weighted by number of employees % 95% CI	Weighted by worksite % 95% CI
Percent of uncovered worksites that had any leave by employees for a qualifying FMLA reason	37.5 [31.7-43.3]	21.9 [16.6-27.1]
Percent of employees at uncovered worksites who took leave for a qualifying FMLA reason	5.8 [4.6-6.9]	6.9 [4.7-9.2]
Unweighted N	824	824

Source: Worksite Survey Q2, Q3, Q58.

Sample: Asked of all worksites that self-report that they are not covered by the FMLA.

## 5. Conditions of Leave Before, During and After Taking Leave

The previous chapter considered leave taken by employees in general. In this chapter, we consider aspects of leave specifically related to the FMLA. Section 5.1 discusses notice required prior to leave, and Section 5.2 discusses activities required before and during leave. Section 5.3 considers worksites' policies with respect to pay and benefits while employees are taking leave for a qualifying FMLA reason, and Sections 5.4 and 5.5 conclude with a discussion of returning to work after taking leave.

As noted in Chapter 1, unless otherwise noted, when discussing results from the Worksite Survey, we focus on estimates weighted by the number of employees at the worksite (not weighted by worksite) for 50/75 worksites (i.e., worksites that have 50 employees within 75 miles and are, therefore, large enough to have covered employees).

### 5.1 Notice Prior to Leave

Under the FMLA, employees are required to give notice of foreseeable leave (Public Law 103-3, § 102(e)) and this was further clarified in the FMLA regulations at 29 C.F.R. 825.302. In response, worksites are required to notify the employee whether the leave qualifies under the FMLA. See 29 C.F.R. § 825.300(d) and § 825.301. Employees are generally required to provide the maximum possible notice to their employer. Less than a fifth (17.9%) of leave takers report not giving notice, with not giving notice less common among eligible employees (14.9% vs. 22.7%; Exhibit 5.1.1). Across eligible and ineligible employees, of those who give notice, the average notice is slightly more than three weeks (22.7 days).

#### Exhibit 5.1.1 Notice given to worksites prior to leave

Notice given prior to leave	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]
Percent who did not provide notice prior to leave	17.9 [14.9-21.0]	14.9 [11.8-18.1]	22.7 [16.8-28.6]
	<b>Average % [95 CI]</b>	<b>Average % [95 CI]</b>	<b>Average % [95 CI]</b>
Mean number days of notice prior to taking leave	22.7 [19.3-26.0]	21.5 [17.4-25.5]	24.8 [19.1-30.5]
Unweighted N	1,284	869	415

Source: Employee Survey A42.

Sample: Asked of employees who took leave in the past 12 or 18 months.

Beyond the requirement to provide notice of the FMLA itself, employers are required to provide three types of notice with respect to specific requests for FMLA leave (see 29 C.F.R. § 825.300): an eligibility notice, a specification of (employee) rights and responsibilities, and a designation notice. Exhibit 5.1.2 tabulates responses to questions about such notice requirements for covered worksites. Almost all worksites report providing written guidance on coordination with existing leave policies and how much leave has been taken (94.4% of employees work at these worksites), and almost as many report providing written notice of leave taken that counted towards the FMLA's annual limit (82.5% of employees work at these worksites). Weighted by employees, more than half of employees work at worksites that require employees to use paid leave concurrently with unpaid leave (56.7%), and about a third (31.0%) work at worksites that report offering alternative work arrangements in place of leave (which the employee may, but is not required to, accept).

**Exhibit 5.1.2 Covered worksites' FMLA notification practices, 2012 and 2000**

FMLA notification practices	2012 50/75 worksites				2012 Covered worksites				2000 Covered Worksites		
	Yes % [95% CI]	Depends on circum- stances % [95% CI]	No % [95% CI]	DK % [95% CI]	Yes % [95% CI]	Depends on circum- stances % [95% CI]	No % [95% CI]	DK % [95% CI]	Yes % [95% CI]	Depends on circum- stances % [95% CI]	No % [95% CI]
<b>Weighted by employees at worksite</b>											
Worksites that provide eligible employees with written guidance on how the Act is coordinated with existing leave and benefits policies	94.4 [92.2-96.7]	2.3 [1.0-3.6]	2.5 [1.0-3.9]	0.8 [0.3-1.3]	91.7 [88.5-95.0]	3.7 [1.7-5.6]	3.5 [1.9-5.0]	1.1 [0.6-1.7]	N/A	N/A	N/A
Worksites that provide eligible employees with written notice of how much of the leave taken was counted as leave for a qualifying FMLA reason	82.5 [72.0-93.0]	8.8 [-1.2-18.7]	7.5 [3.8-11.1]	1.3 [0.5-2.1]	80.3 [70.6-90.0]	10.1 [1.0-19.2]	8.0 [4.6-11.4]	1.6 [0.7-2.4]	N/A	N/A	N/A
Worksites that require eligible employees to use their paid leave before taking unpaid leave	56.7 [39.9-73.5]	25.1 [12.4-37.8]	17.7 [-1.0-36.3]	0.5 [-0.0-1.0]	54.4 [39.0-69.7]	27.8 [15.3-40.3]	16.9 [0.2-33.6]	0.9 [0.3-1.5]	N/A	N/A	N/A
Worksites that ever offer eligible employees alternative work arrangements instead of leave	31.0 [18.1-44.0]	19.3 [11.5-27.1]	48.3 [31.1-65.5]	1.4 [0.5-2.4]	31.0 [19.6-42.4]	21.6 [13.4-29.8]	45.6 [29.6-61.5]	1.8 [0.8-2.8]	N/A	N/A	N/A
Unweighted N	808				988				1,070		
<b>Weighted by worksite</b>											
Worksites that provide eligible employees with written guidance on how the Act is coordinated with existing leave and benefits policies	90.9 [86.4-95.4]	3.9 [1.5-6.3]	3.7 [1.4-6.1]	1.5 [0.5-2.4]	69.2 [61.2-77.1]	12.8 [5.6-20.1]	15.8 [7.4-24.3]	2.2 [0.9-3.4]	92.6 [89.1-96.1]	1.3 [0.5-2.1]	6.1 [2.9-9.3]
Worksites that provide eligible employees with written notice of how much of the leave taken was counted as leave for a qualifying FMLA reason	81.7 [70.9-92.6]	6.6 [3.4-9.7]	5.7 [2.9-8.4]	6.0 [-3.3-15.4]	60.7 [52.3-69.0]	14.4 [5.4-23.4]	21.2 [12.3-30.2]	3.7 [-0.0-7.4]	82.3 [76.1-88.5]	2.7 [1.8-3.6]	15.0 [9.3-20.7]
Worksites that require eligible employees to use their paid leave before taking unpaid leave	50.6 [37.7-63.4]	31.0 [14.7-47.2]	13.3 [0.1-26.5]	5.2 [-4.1-14.5]	40.6 [30.9-50.2]	12.9 [6.6-19.1]	43.4 [33.0-53.8]	3.2 [-0.4-6.8]	63.2 [49-77.4]	5.9 [2.7-9.1]	30.8 [16.7-44.9]
Worksites that ever offer eligible employees alternative work arrangements instead of leave	29.0 [16.3-41.8]	33.3 [20.1-46.5]	31.1 [20.2-42.1]	6.5 [-2.8-15.9]	31.1 [23.4-38.7]	20.7 [12.0-29.5]	43.0 [32.9-53.0]	5.2 [0.7-9.8]	43.4 [32.9-53.9]	23.2 [10.9-35.5]	33.4 [19.5-47.3]
Unweighted N	808				988				1,070		

Source: 2012 Worksite Survey Q44; 2000 Report Table A2-6.3.

2012 Sample: Asked of all worksites that self-report that they are covered by the FMLA.

## 5.2 Medical Certification and Recertification of Need for Leave

The FMLA statute allows worksites to require medical certification and recertification for those taking leave (Public Law 103-3, § 103) and FMLA regulations at 29 C.F.R. 825.305–825.313 clarified those requirements. Employers are allowed to require that an employee provide medical certification of the need for leave. Employees are required to pay the cost of obtaining an initial medical certification and of recertification. An employer may request a second opinion, but the employer pays. Finally, if the leave continues for an extended period of time, the employer may require an updated certification.

Exhibit 5.2.1 tabulates (imputed) eligible leave takers' responses to questions about their use of various certification procedures and/or certification requirements. About half of leave takers report that they were required to provide medical certification for their most recent leave (55.0%). If a worksite doubts the validity of the certification, it may request a second or third opinion (Public Law 103-3, §103(c)). However, few leave takers report that their worksite required multiple doctor visits for that certification<sup>33</sup> (6.3%). Just under half of those required to get medical certification paid for it themselves (45.3%); the others paid nothing out of pocket.

### Exhibit 5.2.1 Medical certification and recertification requirements

Medical leave certification and recertification requirements	% [95% CI]
Employees whose employer required medical certification to take leave	55.0 [51.8-58.3]
Employees whose employer required multiple doctor visits (i.e., second or third opinion) for medical certification	6.3 [4.0-8.7]
Employees who paid out of pocket for certification among employees whose employer required medical certification to take leave	45.3 [40.5-50.2]
Employees whose employer required medical <u>re</u> certification to take leave	17.8 [15.2-20.4]
Employees' who paid out of pocket for <u>re</u> certification among employees whose employer required medical recertification:	48.1 [40.2-55.9]
Unweighted N	1,284

Source: Employee Survey A26, A30, A33, A35, A39.

Sample: Asked of employees who took leave in the past 12 or 18 months.

Worksites are also allowed to require that employees *recertify* their medical need for leave during the time they are out “on a reasonable basis” (Public Law 103-3, § 103(e)). Less than a fifth (17.8%) of leave takers report that they were required to get a medical recertification (Exhibit 5.2.1). Similar to the findings on payment for certification, nearly half (48.1%) of leave takers whose worksite required recertification paid out of pocket for the recertification.

Average time to get a medical certification (among those required to get one) was 3.9 hours (see Exhibit 5.2.2). Average time to get both a certification and a recertification among those required to get both was 4.6 hours.

<sup>33</sup> Q30 of the Employee Survey asked leave takers, “Did your employer require multiple doctor visits—that is, a second or third opinion—to obtain your INITIAL medical certification?”



**Exhibit 5.2.2 Time spent by leave takers on medical certification and recertification**

Time spent	Average [95% CI]
Average time spent by leave takers to obtain medical certification, among leave takers whose worksite required medical certification <u>only</u> (hours)	3.9 [3.2-4.6]
Average time spent by leave takers to obtain medical certification and medical recertification, among leave takers whose worksite required <u>both</u> medical certification and medical recertification (hours)	4.6 [4.0-5.3]
Unweighted N	1,284

Source: Employee Survey A26, A35, A41.

Responses limited to 2 days. If respondent reported taking no extra time off, they were assigned 0 hours.

Sample: Asked of employees who took leave in the past 12 or 18 months and whose worksites required medical certification.

Among leave takers who were required to get a medical certification, only 6.9% report that their first medical certification was rejected. About half the time the rejection was for insufficient information (Exhibit 5.2.3).

**Exhibit 5.2.3 Reason medical certification was not accepted**

Reason	% [95% CI]
Insufficient information	43.8 [26.7-60.8]
Physician not accepted	0.0 [0.0-0.0]
Condition not accepted	2.1 [-2.1-6.3]
Submission not considered timely	7.4 [-3.4-18.2]
Other reason	36.3 [20.9-51.7]
Don't know/refused	12.5 [0.3-24.6]
Unweighted N	45

Source: Employee Survey A28, A29.

Column may sum to >100% since respondent could select more than one category.

Sample: Asked of employees who took leave in the past 12 or 18 months and whose worksites required medical certification.

The previous discussion documents the certification and recertification experience from the employee perspective. We now turn to the worksite's perspective. The Worksite Survey asked covered worksites about their medical certification requirements.<sup>34</sup> Exhibit 5.2.4 shows that medical certification is nearly universal (73.3% of employees work at worksites that always require medical certification; another 16.9% work at worksites that require certification most of the time). About half of employees work at worksites that report never contacting the health provider directly (48.4% of employees work at these worksites). The revised 2008 regulations specify that an employer may contact an employee's health care provider, provided that the contact is made by a member of the company's human resources staff, a leave administrator, a management official, or a health care

<sup>34</sup> As discussed in Chapter 2, 16.6% of all respondents to the 2012 Worksite Survey self-reported being covered by the FMLA.

provider and that the contact complies with the Health Insurance Portability and Accountability Act (HIPAA) privacy regulations. However, under no circumstances can an employee’s direct supervisor contact the employee’s health care provider under the FMLA (U.S. DOL, 2013c). Among worksites that do contact a health provider, most use a member of their HR staff—which was permitted by the 2008 Regulations (63.0% of employees work at these worksites). Contact by the employee’s direct supervisor—which would be inconsistent with the FMLA—is rare (0.2% of employees work at these worksites). Almost all certifications are accepted as complete (92.9% of employees work at these worksites). Approximately a fifth of covered worksites report never requiring medical recertification (22.1% of employees work at these worksites). Among those that require recertification, about a third require it every six months, about a third require it less frequently than every six months, and the final third require it more frequently than every six months (42.4%, 20.0%, and 10.5% of employees work at these worksites, respectively).

**Exhibit 5.2.4 Medical certification practices at covered worksites**

Medical certification practices	Weighted by employees at worksite		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
Frequency that worksite requires medical certification for FMLA designated leave:				
Always	73.3 [55.8-90.7]	69.7 [54.6-84.8]	69.9 [57.0-82.8]	49.7 [39.7-59.6]
Most of the time	16.9 [-1.0-34.8]	17.3 [1.3-33.3]	15.1 [2.3-27.9]	10.6 [3.2-18.1]
Half the time	0.2 [-0.0-0.4]	0.2 [-0.0-0.4]	0.2 [-0.1-0.5]	0.1 [-0.0-0.2]
Sometimes	6.6 [0.6-12.5]	7.7 [2.2-13.3]	5.8 [3.0-8.7]	10.9 [6.4-15.4]
Never	1.6 [0.5-2.6]	3.6 [1.9-5.2]	3.6 [1.3-6.0]	24.6 [16.1-33.1]
Don't know/refused	1.5 [-0.0-3.1]	1.6 [0.1-3.1]	5.3 [-4.0-14.6]	4.1 [-1.6-9.8]
Unweighted N	808	988	808	988
Frequency that worksite requires medical <i>recertification</i> for FMLA designated leave:				
Less frequently than every 6 months	20.0 [12.1-27.9]	19.1 [12.2-26.0]	24.7 [15.1-34.3]	16.2 [8.1-24.3]
Every 6 months	42.4 [25.8-59.0]	40.3 [24.8-55.7]	12.4 [6.9-17.8]	15.3 [9.1-21.4]
More frequently than every 6 months	10.5 [5.7-15.4]	11.8 [6.3-17.3]	10.9 [5.6-16.2]	13.1 [6.7-19.5]
Never	22.1 [4.8-39.4]	23.1 [7.2-39.0]	41.2 [27.9-54.5]	42.4 [33.7-51.0]
Don't know/refused	5.0 [2.5-7.6]	5.8 [2.9-8.6]	10.8 [0.9-20.8]	13.1 [4.5-21.7]
Unweighted N	782	925	782	925

Medical certification practices	Weighted by employees at worksite		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
Employees' health providers are contacted as part of certification process (among employers that require medical certification) :				
Yes	7.6 [4.0-11.1]	7.6 [4.4-10.8]	8.1 [3.9-12.3]	9.6 [5.8-13.4]
No	48.4 [32.7-64.0]	49.8 [35.5-64.1]	57.4 [46.6-68.3]	59.7 [53.6-65.7]
It depends	43.2 [27.0-59.5]	41.5 [26.4-56.7]	28.7 [17.5-40.0]	24.7 [16.0-33.3]
Don't know/refused	0.9 [0.1-1.6]	1.1 [0.2-2.0]	5.7 [-3.9-15.4]	6.1 [-1.7-13.9]
Unweighted N	782	925	782	925
Among worksites that contact employees' health providers as part of certification process, who makes the contact:				
A third-party verification company	7.1 [1.7-12.6]	7.0 [1.9-12.2]	5.3 [1.8-8.8]	4.4 [1.6-7.2]
HR personnel	63.0 [37.9-88.1]	62.3 [38.4-86.2]	80.9 [67.8-93.9]	56.9 [33.1-80.6]
Manager	1.2 [0.1-2.3]	2.9 [0.2-5.6]	4.4 [0.6-8.1]	15.7 [3.6-27.8]
Employees' direct supervisor	0.2 [-0.1-0.6]	0.7 [0.0-1.4]	1.2 [-0.8-3.3]	18.1 [1.7-34.5]
Someone else	28.5 [5.2-51.7]	27.1 [5.2-48.9]	8.2 [-1.5-18.0]	5.0 [-0.3-10.2]
Don't know/refused	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]
Unweighted N	351	407	351	407
Medical certifications accepted at worksite as complete	92.9 [89.2-96.5]	90.3 [85.3-95.4]	94.1 [90.7-97.4]	75.1 [60.0-90.3]
Medical certifications that were returned to employee to provide additional information	23.0 [14.1-32.0]	23.4 [15.0-31.8]	22.9 [7.8-38.1]	25.1 [14.3-36.0]
Unweighted N	538	605	538	605

Source: Worksite Survey Q26, Q26a, Q34, Q35, Q36, Q37.

Note that the two questions on medical certification are separate questions, so will not necessarily sum to 100%. Sample: Asked of worksites that self-report that they are covered by the FMLA.

As noted above, employees are to pay for the initial certification, but employers are required to pay for second and third opinions. At 50/75 worksites, for initial certifications weighted by employees at the worksite, 8.8% were paid for by the employer, 67.9% were paid for by the employee, and 30.0% were paid for by the employee's insurance (Exhibit 5.2.5). Patterns are similar for recertification and certifications returned for insufficient information. Apparently inconsistent with the FMLA, worksites report that nearly half of employees (49.0% weighted by employees) are required to pay for second and third opinions (that is, second and third certifications). However, further review of the question (Q. 39) suggests an alternative explanation. Some respondents may have interpreted the question to refer to additional certifications needed (e.g., due to insufficient information or for recertification) rather than limited only to second and third opinions.

**Exhibit 5.2.5 Covered worksites' payment for certification visits**

Payer for certification visits	50/75 worksites				Covered worksites			
	Employer % [95% CI]	Employee % [95% CI]	Employee's insurance % [95% CI]	Other % [95% CI]	Employer % [95% CI]	Employee % [95% CI]	Employee's insurance % [95% CI]	Other % [95% CI]
<b>Weighted by employees at worksite</b>								
Initial medical certification	8.8 [0.5-17.2]	67.9 [55.1-80.6]	30.0 [20.0-40.0]	1.2 [0.2-2.2]	9.1 [1.4-16.9]	64.8 [52.3-77.3]	32.4 [22.3-42.5]	1.4 [0.4-2.3]
Re-certification	10.4 [2.2-18.5]	69.3 [57.6-81.1]	24.5 [16.7-32.2]	1.0 [0.2-1.7]	10.6 [3.1-18.2]	66.0 [54.4-77.5]	27.2 [19.2-35.2]	1.2 [0.4-1.9]
Second or third certifications	25.2 [13.4-37.0]	49.0 [33.5-64.5]	22.7 [13.5-32.0]	2.3 [0.3-4.3]	24.3 [13.5-35.1]	46.6 [31.9-61.4]	25.3 [16.1-34.4]	2.3 [0.5-4.1]
Insufficient certification correction	5.9 [0.7-11.1]	60.7 [44.2-77.2]	23.3 [13.6-33.0]	9.3 [-1.1-19.8]	6.4 [1.5-11.3]	58.1 [42.6-73.6]	25.6 [16.1-35.1]	8.9 [-0.8-18.6]
Unweighted N	782				925			
<b>Weighted by worksite</b>								
Initial medical certification	8.3 [-1.5-18.1]	59.6 [43.3-75.9]	48.1 [29.3-66.9]	1.2 [-0.0-2.5]	15.7 [5.4-26.0]	41.9 [30.8-53.0]	48.8 [40.0-57.6]	3.5 [-0.9-7.9]
Re-certification	16.3 [3.8-28.7]	53.4 [41.2-65.5]	44.1 [26.1-62.1]	0.8 [0.3-1.4]	19.9 [9.1-30.6]	38.1 [28.7-47.5]	46.2 [37.3-55.0]	3.3 [-1.1-7.7]
Second or third certifications	22.1 [10.3-34.0]	46.6 [34.5-58.7]	37.4 [20.0-54.8]	1.2 [0.4-2.1]	22.9 [12.0-33.8]	31.1 [23.3-38.9]	42.1 [32.4-51.9]	3.3 [-1.1-7.6]
Insufficient certification correction	3.4 [1.4-5.4]	56.9 [38.1-75.7]	38.6 [20.9-56.3]	3.9 [0.6-7.2]	9.9 [0.5-19.4]	44.9 [29.6-60.2]	40.1 [29.1-51.1]	5.2 [0.4-9.9]
Unweighted N	782				925			

Rows may sum to >100% since respondent could select more than one category.

Source: Worksite Survey Q39.

Sample: Asked of worksites that self-report that they are covered by the FMLA.

### 5.3 Pay and Benefits While Taking Leave

As reported in Section 2.4 and repeated in the first row of Exhibit 5.3.1, pooling all worksites—covered and uncovered—almost all employees work at worksites that allow employees to take leave for any qualifying FMLA reason (96.2%). Rates are higher at 50/75 worksites than at uncovered worksites (99.6% vs. 89.1%). The FMLA requires that if an employer has written policies, those policies must include the FMLA. Almost all 50/75 worksites have such written policies with respect to the FMLA (95.9% of employees work at these worksites). As expected, almost all 50/75 worksites guarantee return to the same or an equivalent position as required by the FMLA (98.0% of employees work at these worksites). The figure is slightly lower for uncovered worksites; 81.5% of employees work at uncovered worksites that provide this guarantee.

While the FMLA guarantees reinstatement, there is no requirement that the leave be paid (see the discussion in Section 1.1.2 about state initiatives to provide paid leave). In order to ameliorate the effects of unpaid leave, the FMLA permits an employee to elect to substitute accrued paid leave for the unpaid FMLA leave, i.e., to run FMLA leave and paid leave concurrently. The FMLA also allows the employer to require that accrued paid leave be used. In all instances, the employer's general requirements for the use of accrued paid leave apply. Therefore, some worksites do provide paid leave. Some 50/75 worksites report providing full pay (9.3% of employees work at these worksites), some report providing partial pay (26.3% of employees work at these worksites), some report providing no pay (15.6% of employees work at these worksites), and the largest group report some other policy (47.9% of employees work at these worksites; Exhibit 5.3.1).

**Exhibit 5.3.1 Worksites' policies for taking leave for a qualifying FMLA reason, by coverage**

Leave policies	Weighted by employees at worksite				Weighted by worksite			
	All % [95% CI]	Uncovered % [95% CI]	Covered % [95% CI]	50/75 Worksites % [95% CI]	All % [95% CI]	Uncovered % [95% CI]	Covered % [95% CI]	50/75 Worksites % [95% CI]
Worksites that allow leave for <i>any</i> qualifying FMLA reason	96.2 [94.8-97.5]	89.1 [86.5-91.7]	99.1 [98.3-99.8]	99.6 [99.2-100.0]	83.4 [79.6-87.2]	80.7 [76.1-85.2]	96.9 [93.5-100.3]	99.4 [98.7-100.0]
Worksites that have a written policy for taking leave for a qualifying FMLA reason	80.2 [74.6-85.7]	45.7 [37.0-54.4]	93.8 [90.3-97.2]	95.9 [92.5-99.4]	37.5 [30.3-44.7]	29.2 [21.8-36.6]	73.4 [63.3-83.4]	90.0 [79.5-100.6]
Worksites that guarantee the same or equivalent job upon return	92.9 [90.3-95.5]	81.5 [76.4-86.6]	97.4 [96.0-98.8]	98.0 [96.8-99.2]	84.9 [81.2-88.5]	83.2 [79.4-86.9]	92.3 [86.3-98.3]	98.3 [97.3-99.2]
Worksites' pay policies for leave for a qualifying FMLA reason:								
Provide full pay	13.3 [9.0-17.7]	17.4 [11.9-22.9]	11.7 [6.1-17.3]	9.3 [4.3-14.3]	19.4 [15.5-23.3]	18.9 [15.3-22.5]	21.7 [13.4-29.9]	7.8 [4.1-11.4]
Provide partial pay	20.9 [7.7-34.2]	9.7 [4.6-14.8]	25.4 [8.4-42.4]	26.3 [7.2-45.3]	9.0 [5.8-12.3]	7.1 [4.1-10.0]	17.5 [8.0-27.1]	23.4 [0.3-46.5]
Provide no pay	25.9 [19.4-32.5]	48.5 [42.9-54.1]	17.0 [11.0-23.0]	15.6 [9.4-21.9]	49.9 [45.2-54.6]	54.4 [49.9-59.0]	30.3 [23.7-36.9]	23.0 [13.7-32.2]
Provide other	37.4 [25.9-48.8]	18.5 [13.1-24.0]	44.8 [29.6-60.0]	47.9 [31.0-64.7]	15.9 [14.0-17.8]	13.5 [10.4-16.6]	26.2 [16.9-35.4]	40.3 [23.3-57.3]
Don't know/refused	2.4 [1.3-3.6]	5.9 [2.8-8.9]	1.1 [0.2-1.9]	0.9 [0.2-1.6]	5.8 [2.8-8.8]	6.1 [3.0-9.2]	4.3 [-1.6-10.2]	5.6 [-3.7-14.9]
Worksites' policies for continuing health benefits while employees are on leave for a qualifying FMLA reason:								
Continue health benefits	85.3 [81.3-89.3]	62.1 [57.7-66.5]	94.4 [91.7-97.2]	97.2 [95.9-98.5]	50.5 [44.5-56.6]	45.9 [39.6-52.2]	70.8 [60.6-80.9]	93.7 [90.3-97.0]
Do not continue health benefits	3.1 [2.1-4.1]	7.1 [4.0-10.2]	1.5 [0.7-2.3]	1.1 [0.4-1.8]	5.6 [3.5-7.7]	6.0 [2.9-9.0]	4.2 [-0.0-8.4]	2.4 [0.5-4.2]
No health benefits offered	9.6 [6.4-12.8]	26.2 [21.3-31.1]	3.0 [1.1-4.9]	1.1 [0.3-1.8]	40.1 [34.2-46.0]	44.8 [38.5-51.2]	19.7 [13.2-26.2]	3.2 [1.0-5.4]
Don't know/refused	2.1 [0.9-3.3]	4.6 [1.2-8.0]	1.1 [0.3-1.9]	0.7 [0.1-1.2]	3.7 [1.3-6.1]	3.3 [0.4-6.3]	5.3 [0.1-10.5]	0.8 [0.1-1.5]
Unweighted N	1,812	824	988	808	1812	824	988	808

Source: Worksite Survey Q16X\_3, Q16X\_5, Q16X\_7, Q16X\_8.

Sample: Asked of all worksites. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

Exhibit 5.3.2 presents worksites' leave duration and notification policies. Focusing on the results for 50/75 worksites, the average required notification for a foreseeable absence is 16.3 days. The average reported minimum increment of time permitted for leave is a day (0.9 days). This appears to be inconsistent with the FMLA, which generally requires a minimum increment of no more than an hour. Average reported total time allowed for leave, 58.2 days, is close to the FMLA's 12 weeks (i.e., 60 days); but the average time to care for an injured military service member, 89.3 days, appears to be less than the FMLA's 26 weeks (i.e., 130 days).

**Exhibit 5.3.2 Worksites' time-related policies for taking leave for a qualifying FMLA reason, by coverage**

Time-related policies	Weighted by employees at worksite				Weighted by worksite			
	All % [95% CI]	Uncovered % [95% CI]	Covered % [95% CI]	50/75 worksites % [95% CI]	All % [95% CI]	Uncovered % [95% CI]	Covered % [95% CI]	50/75 worksites % [95% CI]
Average time notification needed for foreseeable absence (days)	12.2 [10.3-14.1]	4.7 [3.6-5.7]	15.3 [12.8-17.8]	16.3 [13.6-19.0]	3.8 [3.2-4.3]	2.9 [2.1-3.7]	7.5 [6.1-9.0]	9.6 [7.4-11.9]
Minimum time increment permitted to take leave for FMLA reason (days)	1.1 [0.7-1.4]	0.8 [0.5-1.1]	1.1 [0.7-1.6]	0.9 [0.5-1.2]	1.1 [0.6-1.6]	0.7 [0.4-1.1]	2.8 [1.3-4.3]	2.4 [0.0-4.8]
Total time allowed to take leave for non-military-related types of leave (days)	68.8 [60.4-77.3]	17.1 [13.0-21.2]	83.6 [72.1-95.1]	58.2 [55.6-60.7]	18.3 [15.7-20.8]	12.8 [8.8-16.7]	36.0 [29.7-42.4]	54.5 [48.8-60.3]
Total time allowed to take leave to care for a military service member, among worksites that allow leave for military service member (days)	47.1 [43.9-50.4]	22.0 [17.8-26.2]	54.9 [51.4-58.4]	89.3 [76.2-102.3]	17.2 [14.6-19.7]	8.9 [6.2-11.5]	44.9 [38.0-51.9]	69.1 [59.7-78.5]
Unweighted N	1,608	678	930	763	1,608	678	930	763

Source: Worksite Survey Q16X\_2, Q16X\_4, Q16X\_6a, Q16X\_6b.

Note that we exclude outlier extreme values for all reported responses (approximately 3% of the responses) due to apparent confusion about the question or the unit of response.

Sample: Asked of all worksites. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.



The Employee Survey also provides information on paid leave (Exhibit 5.3.3). As previously mentioned, the FMLA allows employees to choose, or worksites to require, that employees take accrued paid leave such as vacation or sick leave while taking FMLA leave (Public Law 103-3, § 102(d)(2)). Among eligible employees, more than a third reported that their employers designated their leave as family and medical (36.4%), with some also designating leave as vacation (10.7%), sick leave (22.2%), or short-term disability (9.2%).

**Exhibit 5.3.3 Worksite’s designation of leave reported by employees**

Designation of Leave	All leave takers % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers% [95% CI]
Vacation leave	10.5 [8.7-12.4]	10.7 [8.3-13.2]	10.2 [6.5-13.9]
Sick leave	20.1 [17.4-22.8]	22.2 [19.0-25.5]	16.7 [12.2-21.2]
Family and medical leave	30.7 [27.2-34.1]	36.4 [32.1-40.8]	21.5 [16.9-26.1]
Short-term disability	8.1 [6.2-10.0]	9.2 [6.3-12.1]	6.3 [3.7-8.9]
Long-term disability	0.8 [0.2-1.5]	0.1 [-0.1-0.4]	1.9 [0.2-3.5]
Other	30.5 [26.7-34.3]	26.7 [22.2-31.3]	36.4 [30.0-42.8]
Don't know/refused	9.6 [7.5-11.7]	5.0 [3.2-6.7]	17.0 [12.2-21.7]
Unweighted N	1,284	869	415

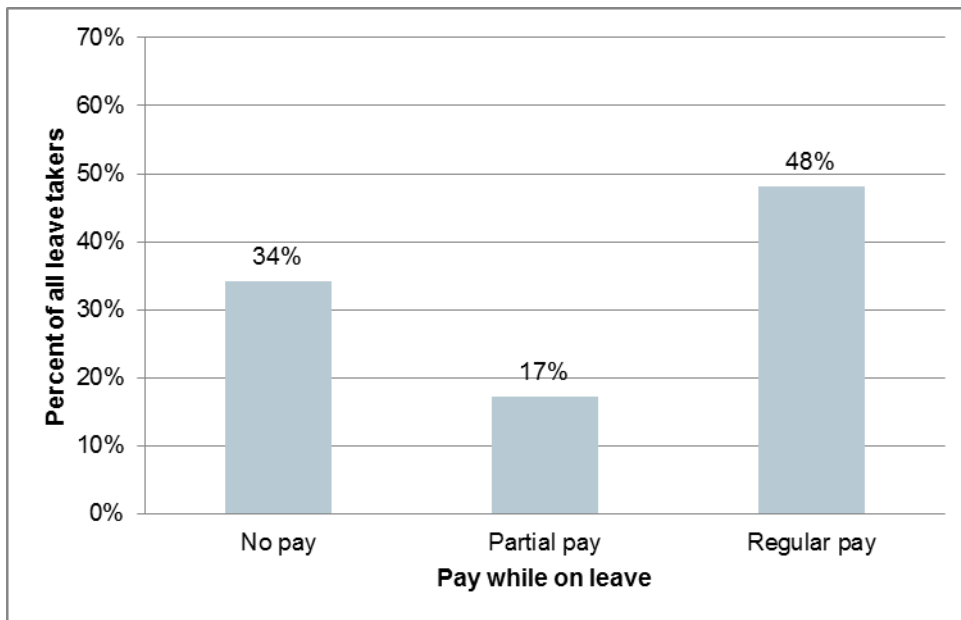
Source: Employee Survey A21.

Columns may sum to >100% since respondent could select more than one category.

Sample: Asked of employees with any leave in the past 12 or 18 months.

The FMLA mandates only job-protected leave. There is no requirement that the leave be paid. Exhibit 5.3.4 shows that among all employees who took leave—eligible and ineligible—in the past 12 months, only a third received no pay (34%); nearly half received full pay (48%). However, Exhibit 5.3.5 shows that those patterns vary sharply by length of leave. Among all leave takers, 60% of those taking leave of 10 days or less receive full pay, vs. only 40% of those taking leaves of more than 10 days.

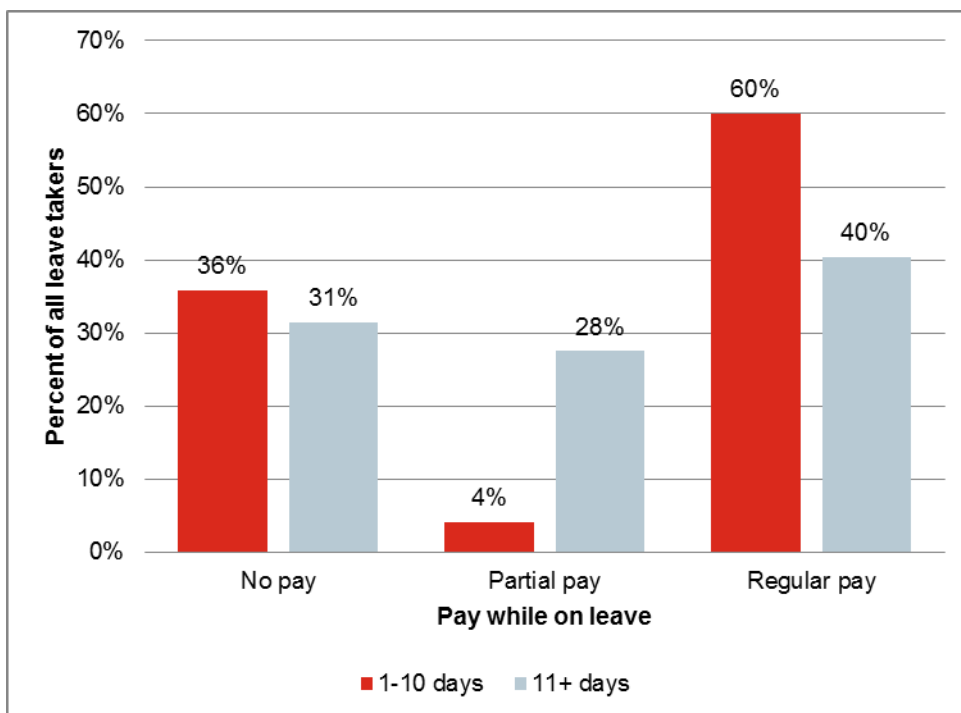
**Exhibit 5.3.4 Pay while on most recent leave in the past 12 months**



Source: Employee Survey A45, A49.

Sample: Asked of employees who took leave most recent leave in the past 12 months.

**Exhibit 5.3.5 Pay while on most recent leave in the past 12 months, by duration of leave**



Source: Employee Survey A19, A45, A49.

Length of leave among employees who are currently on leave is imputed by doubling their reported length of leave. All duration of leave was truncated at 2 months.

Sample: Asked of employees who took leave most recent leave in the past 12 months.

Exhibit 5.3.6 disaggregates pay received by employees who took leave by income. Compared to those with family income below the median, those with family income above the median are much more likely to get full pay (62.7% vs. 33.6%) and much less likely to get no pay (17.6% vs. 53.5%). Exhibit 5.3.7 provides detail on pay received while on leave in the past 18 months and also includes results from the 2000 survey (last column).

**Exhibit 5.3.6 Pay while on most recent leave in the past 12 months, by family income**

Amount of pay received while on leave	< Median family income			≥ Median family income		
	All leave takers % [95% CI]	Leave 1-10 days % [95% CI]	Leave >10 days % [95% CI]	All leave takers % [95% CI]	Leave 1-10 days % [95% CI]	Leave >10 days % [95% CI]
No pay received	53.5 [45.9-61.0]	56.9 [44.4-69.5]	49.1 [39.6-58.7]	17.6 [12.9-22.2]	17.6 [10.3-24.9]	17.1 [11.4-22.8]
Partial pay	12.3 [8.1-16.4]	4.7 [0.2-9.3]	17.3 [11.0-23.7]	19.5 [15.3-23.7]	3.6 [0.9-6.4]	30.7 [24.2-37.3]
Full pay	33.6 [27.0-40.3]	38.3 [24.8-51.9]	32.4 [24.7-40.1]	62.7 [56.8-68.6]	78.7 [71.1-86.3]	51.8 [44.1-59.6]
Don't know/refused	0.6 [-0.2-1.4]	0.0 [0.0-0.0]	1.1 [-0.3-2.6]	0.2 [-0.2-0.6]	0.0 [0.0-0.0]	0.3 [-0.3-1.0]
Unweighted N	318	119	183	497	191	290

Source: Employee Survey A45, A49, A50, D4.

Median income = \$62,500 (imputed as halfway point in the reported \$50,000-\$74,999 range).

Sample: Employees who took most recent leave in the past 12 months.

**Exhibit 5.3.7 Pay while away on leave reported by employees who took leave in the past 18 months: 2012 and 2000**

Amount of pay received while on leave	2012			2000
	All leave takers % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers% [95% CI]	All leave takers % [95% CI]
No pay received	34.2 [30.8-37.5]	22.2 [18.3-26.0]	53.1 [47.6-58.6]	34.2 [30.8-37.6]
One-quarter or less of regular pay	2.6 [1.7-3.6]	2.8 [1.6-4.0]	2.4 [0.9-3.9]	N/A
More than one-quarter but less than half of regular pay*	2.4 [1.2-3.6]	2.5 [0.9-4.1]	2.1 [0.5-3.8]	31.1 [24.1-38.1]
About half of regular pay	3.8 [2.8-4.9]	4.5 [2.7-6.2]	2.9 [1.5-4.2]	25.0 [19.1-30.9]
More than half but less than three-quarters of regular pay**	6.1 [4.2-8.0]	7.4 [4.8-9.9]	4.1 [1.8-6.4]	43.9 [35.8-52.0]
Three-quarters or more of regular pay	3.8 [2.6-5.1]	4.8 [3.1-6.5]	2.3 [0.6-4.1]	N/A
Same amount as regular pay	46.4 [42.8-50.0]	55.3 [50.9-59.8]	32.4 [26.9-37.9]	72.2 [67.4-77.0]
Don't know/refused	0.6 [0.1-1.1]	0.5 [0.1-1.0]	0.7 [-0.2-1.7]	N/A
Unweighted N	1,284	869	415	1,216

\* Less than half of regular pay for the 2000 data only.

\*\* More than half of regular pay for the 2000 data only.

Source: 2012 Employee Survey A45, A49, A50. 2000 data are from Tables A1-4.4, 4.6, and 4.7 in the 2000 Report.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

Sample: Asked of employees who took leave in the past 18 months.

Exhibit 5.3.8 provides detail on sources of pay for all leave takers, including results from the 2000 survey (see first column).<sup>35</sup> Exhibit 5.3.9 and Exhibit 5.3.10 provide detail on source of pay for eligible and ineligible leave takers, respectively.

<sup>35</sup> In the 2012 Employee Survey, respondents who selected "paid time off" were not asked about sick leave or vacation leave since it was assumed that paid time off already included this type of leave. In contrast, the 2000 Employee Survey did not include "paid time off" as a response category. Therefore, the 2012 results are not comparable to the 2000 results.

**Exhibit 5.3.8 Source of pay among all employees who received pay while on leave, 2000 and 2012**

Source of pay	2000 All % [95% CI]	2012 All % [95% CI]	Source of pay, among leave takers who received any pay while on leave			
			Employee's choice % [95% CI]	Employer's choice % [95% CI]	Both % [95% CI]	DK/refused % [95% CI]
Received any pay while away on leave	65.8 [62.4-69.2]	65.9 [62.5-69.2]	N/A	N/A	N/A	N/A
Source of pay among those who received any pay while on leave:						
Paid time off*	N/A	68.0 [64.7-71.2]	38.1 [33.7-42.5]	31.7 [26.9-36.4]	27.0 [22.9-31.2]	3.2 [1.8-4.6]
Sick leave	61.4 [55.9-66.9]	43.4 [35.7-51.0]	35.4 [25.6-45.2]	32.0 [21.2-42.8]	24.4 [16.9-31.9]	8.2 [0.1-16.3]
Vacation leave	39.4 [34-44.8]	17.7 [12.7-22.6]	25.4 [13.3-37.6]	40.2 [22.8-57.6]	21.9 [9.4-34.5]	12.5 [-6.5-31.4]
Personal leave	25.7 [22.3-29.1]	33.9 [30.0-37.8]	41.2 [34.5-48.0]	26.3 [20.9-31.7]	27.5 [21.5-33.4]	5.0 [2.1-7.8]
Maternity leave**	7.7 [4.5-10.9]	11.8 [7.4-16.2]	29.4 [12.5-46.2]	25.0 [4.4-45.6]	40.5 [21.5-59.5]	5.1 [-1.3-11.5]
Paternity leave**	7.7 [4.5-10.9]	6.8 [3.3-10.3]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]
Unweighted N	803	1,284	N/A	N/A	N/A	N/A

\* Respondents who selected "paid time off" were not asked about sick leave or vacation leave since it was assumed paid time off already included this type of leave.

\*\* In the 2000 Report and the table above, maternity and paternity are reported as one category, "Parental Leave."

Source: 2012 Employee Survey A45, A46, A47; 2000 Report Tables A1-4.4 and 4.5.

Columns may sum to >100% since respondent could select more than one category.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

2012 Sample: Asked of employees who took leave in the past 12 or 18 months. The 2000 results reflect the longest leave in the past 18 months.

**Exhibit 5.3.9 Source of pay among *eligible* employees who received pay while on leave**

Source of pay	All % [95% CI]	Source of pay, among eligible leave takers who received any pay while on leave			
		Employee's choice % [95% CI]	Employer's choice % [95% CI]	Both % [95% CI]	DK/refused % [95% CI]
Received any pay while away on leave	77.9 [74.1-81.7]	N/A	N/A	N/A	N/A
Source of pay among those who received any pay while on leave:					
Paid time off*	67.8 [63.7-72.0]	35.8 [31.1-40.4]	32.0 [26.5-37.5]	28.7 [23.7-33.7]	3.5 [1.9-5.1]
Sick leave	46.8 [37.8-55.8]	37.1 [26.4-47.8]	32.8 [20.3-45.3]	26.9 [18.5-35.3]	3.2 [0.4-6.0]
Vacation leave	17.5 [11.9-23.0]	31.4 [15.3-47.5]	44.7 [27.1-62.2]	23.9 [7.0-40.8]	0.0 [0.0-0.0]
Personal leave	34.1 [29.9-38.3]	42.6 [35.7-49.5]	25.3 [19.4-31.2]	26.3 [20.4-32.2]	5.8 [2.2-9.4]
Maternity leave	13.3 [7.9-18.7]	22.5 [5.1-39.8]	31.3 [5.8-56.8]	39.8 [17.9-61.8]	6.4 [-1.6-14.4]
Paternity leave	8.8 [4.3-13.4]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]
Unweighted N	869	N/A	N/A	N/A	N/A

\* Respondents who selected "paid time off" were not asked about sick leave or vacation leave since it was assumed paid time off already included this type of leave.

Source: Employee Survey A45, A46, A47.

Columns may sum to >100% since respondent could select more than one category.

Sample: Asked of employees who took leave in the past 12 or 18 months.

**Exhibit 5.3.10 Source of pay among *ineligible* employees who received pay while on leave**

Source of pay	All % [95% CI]	Source of pay, among ineligible leave takers who received any pay while on leave			
		Employee's choice % [95% CI]	Employer's choice % [95% CI]	Both % [95% CI]	DK/refused % [95% CI]
Received any pay while away on leave	46.8 [41.3-52.3]	N/A	N/A	N/A	N/A
Source of pay among those who received any pay while on leave					
Paid time off*	68.3 [61.0-75.6]	44.3 [34.3-54.3]	30.7 [21.1-40.4]	22.7 [14.8-30.5]	2.3 [-0.7-5.3]
Sick leave	34.1 [20.2-47.9]	29.2 [7.9-50.5]	29.0 [8.3-49.8]	15.2 [-3.5-33.9]	26.6 [-1.1-54.4]
Vacation leave	18.2 [5.2-31.3]	10.0 [-2.1-22.1]	28.6 [1.0-56.2]	16.8 [-1.2-34.9]	44.6 [9.0-80.1]
Personal leave	33.4 [26.2-40.7]	37.7 [21.4-53.9]	29.1 [15.2-43.0]	30.6 [16.2-44.9]	2.6 [-0.7-6.0]
Maternity leave	8.1 [2.7-13.4]	56.8 [26.1-87.6]	0.0 [0.0-0.0]	43.2 [12.4-73.9]	0.0 [0.0-0.0]
Paternity leave	0.5 [-0.5-1.6]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]
Unweighted N	415				

\* Respondents who selected "paid time off" were not asked about sick leave or vacation leave since it was assumed paid time off already included this type of leave.

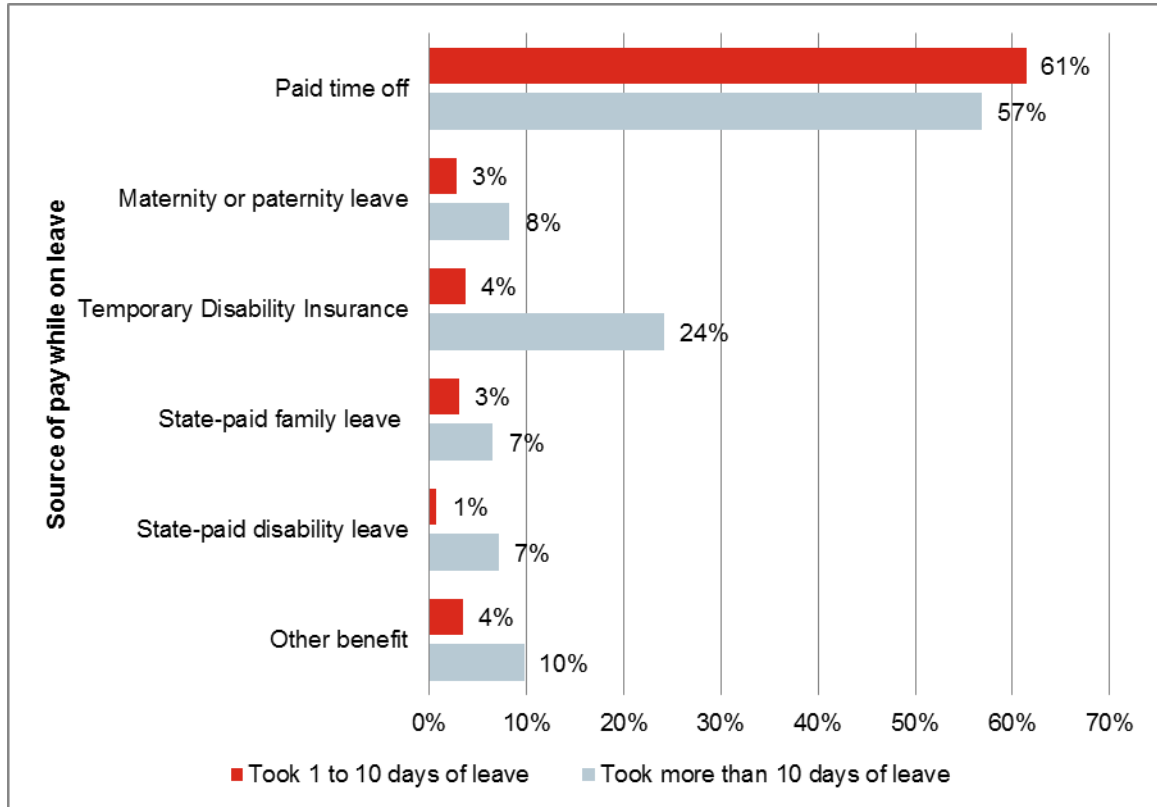
Source: Employee Survey A45, A46, A47.

Columns may sum to >100% since respondent could select more than one category.

Sample: Asked of employees who took leave in the past 12 or 18 months.

Sources of pay also vary by length of leave (Exhibit 5.3.11): private maternity or paternity leave is more common for long leaves (8% vs. 3%), as is private disability leave (24% vs. 4%).

**Exhibit 5.3.11 Sources of pay while on most recent leave in the past 12 months, by duration of leave**



Source: Employee Survey A45, A46, A48, A19.

Length of leave among employees who are currently on leave is imputed by doubling their reported length of leave. All duration of leave was truncated at 2 months.

The following categories from A46 were combined to reflect "Paid time off": sick leave, vacation leave, personal, leave, and paid time off.

Sample: Asked of employees who took leave most recent leave in the past 12 months.

Among all leave takers—eligible and ineligible—about one-fifth of those who received some pay while on leave received pay through temporary disability insurance (21.6%; Exhibit 5.3.12). Ten percent received pay through some other benefit (10.0%), and a small percentage through state-paid disability leave or state-paid family leave (6.8% for each). These patterns are similar to those reported for the 2000 survey.



**Exhibit 5.3.12 Additional source of pay among leave takers who received pay while on leave**

Some of pay received as part of:	2012			2000
	All leave takers % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]	All leave takers % [95% CI]
Temporary disability insurance	21.6 [18.3-24.9]	22.6 [18.1-27.0]	19.0 [13.3-24.6]	18.0 [15-21]
State-paid family leave	6.8 [4.4-9.1]	7.7 [4.6-10.8]	4.2 [2.3-6.0]	N/A
State-paid disability leave	6.8 [4.5-9.1]	7.1 [4.1-10.1]	6.0 [3.4-8.6]	N/A
Some other benefit	10.0 [7.1-12.9]	10.0 [6.7-13.2]	10.1 [4.9-15.3]	11.4 [8.3-14.5]
Unweighted N	936	711	225	240

Source: 2012 Employee Survey A48; 2000 Report Table A1-4.5.

Columns may sum to >100% since respondent could select more than one category.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

2012 Sample: Asked of employees who took leave in the past 18 months.

Leave takers who received partial or no pay while on leave (52.9% of all leave takers; see Exhibit 5.3.7) were asked how they covered their lost wages (Exhibit 5.3.13).<sup>36</sup> The most common responses are limiting spending (84.4%), using savings earmarked for this situation (48.1%), using savings earmarked for something else (36.9%), put off paying bills (36.2%), cutting leave time short (30.9%), and borrowing money (30.0%). Less than 20% report going on public assistance (14.7%). Responses are similar to those in the 1995 and 2000 surveys.

<sup>36</sup> For each of the rows presented in Exhibit 5.3.13, the Employee Survey question A53 says, "In order to cover lost wages or salary during your leave, did you..."

**Exhibit 5.3.13 Characteristics of finances for employees who received partial or no pay while on leave**

To cover lost wages during leave, employee:	2012			2000	1995
	All leave takers % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]	All leave takers % [95% CI]	All leave takers % [95% CI]
Used savings had earmarked for this situation	48.1 [43.0-53.2]	46.5 [39.9-53.2]	49.8 [41.9-57.6]	47.0 [41.6-52.4]	43.7 [38.8-48.6]
Used savings earmarked for something else	36.9 [31.2-42.6]	39.6 [32.1-47.0]	34.1 [26.3-41.9]	35.6 [31.2-40]	40.6 [36.4-44.8]
Borrowed money	30.0 [24.8-35.3]	28.1 [20.8-35.5]	32.1 [23.5-40.7]	29.0 [24.9-33.1]	25.1 [21.4-28.8]
Went on public assistance	14.7 [11.2-18.2]	9.8 [6.0-13.5]	20.0 [13.0-27.0]	8.7 [6-11.4]	8.9 [6.8-11]
Limited spending	84.4 [80.3-88.4]	85.7 [80.8-90.5]	83.0 [76.3-89.6]	70.1 [65.7-74.5]	75.4 [71.1-79.7]
Put off paying bills	36.2 [30.0-42.5]	32.1 [25.4-38.9]	40.6 [31.6-49.7]	38.5 [34.1-42.9]	38.7 [34.2-43.2]
Cut leave time short	30.9 [24.8-36.9]	31.5 [23.1-39.8]	30.2 [22.0-38.4]	37.0 [31.9-42.1]	40.3 [34.9-45.7]
Something else	8.4 [5.6-11.3]	8.6 [5.2-12.0]	8.2 [3.5-12.9]	9.7 [6.9-12.5]	13.0 [10-16]
Unweighted N	602	340	262	1,834	1,769

Source: 2012 Employee Survey A53; 2000 Report Table A1-4.8.

Columns may sum to >100% since respondent could select more than one category.

2012 Sample: Asked of employees who took leave in the past 12 or 18 months.

Employees were also asked how hard it was to make ends meet (Exhibit 5.3.14). Two-thirds report some level of difficulty (29.9% “very difficult,” 32.1% “somewhat difficult”). Nearly half report that they would have taken longer leave if more (or any) pay had been available (43.1%). Results are similar to those in the 2000 Report.

**Exhibit 5.3.14 Ease of making ends meet among employees who received partial or no pay while on leave**

Ease of making ends meet	2012			2000
	All leave takers % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]	
Ease of making ends meeting while on leave with partial pay:				
Very easy	6.9 [4.1-9.7]	7.5 [4.5-10.6]	6.2 [2.4-10.0]	13.5 [8.7-18.3]
Somewhat easy	14.3 [11.1-17.4]	15.4 [10.9-20.0]	13.0 [8.5-17.6]	13.8 [10.2-17.4]
Neither easy nor difficult	16.1 [12.7-19.5]	16.9 [11.0-22.9]	15.3 [10.9-19.7]	14.5 [11.7-17.3]
Somewhat difficult	32.1 [27.8-36.5]	36.8 [30.2-43.3]	27.2 [21.7-32.7]	35.7 [31.2-40.2]
Very difficult	29.9 [24.8-35.0]	22.9 [17.2-28.7]	37.3 [29.1-45.5]	22.5 [18.8-26.2]
Don't know/refused	0.7 [-0.1-1.5]	0.4 [-0.1-0.9]	1.0 [-0.6-2.6]	N/A
Would have taken longer leave if received additional/some pay	43.1 [38.9-47.2]	42.2 [36.3-48.2]	44.0 [36.7-51.3]	N/A
Unweighted N	602	340	262	658

Source: 2012 Employee Survey A54, A55; 2000 Report Table A2-4.2.

Cells with “N/A” indicate that the data were not reported in the 2000 Report.

2012 Sample: Asked of employees who took leave in the past 12 or 18 months.

Finally, under the FMLA, worksites are required to continue group health insurance benefits (if offered prior to leave) on the same terms, e.g., the employee and worksite each continues to be responsible for their pre-leave share of premium payments (Public Law 103-3, § 104(c)). Exhibit 5.3.15 reports that loss of health insurance is rare among leave takers: only 3.5% report losing all health insurance benefits and 1.9% report losing part of their health insurance benefits. Rates of loss of health insurance are lower for eligible employees relative to ineligible employees (loss of all insurance: 0.7% vs. 7.8%; loss of part of insurance: 0.8% vs. 3.6%).

**Exhibit 5.3.15 Health insurance benefits while on leave**

Health insurance benefits while on leave	All leave takers % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]
Kept all	78.7 [73.6-83.8]	89.9 [86.0-93.7]	61.2 [51.2-71.1]
Lost part	1.9 [0.2-3.5]	0.8 [-0.0-1.6]	3.6 [-0.1-7.4]
Lost all	3.5 [1.3-5.7]	0.7 [-0.0-1.5]	7.8 [2.7-13.0]
Did not have this benefit	15.7 [11.5-19.8]	8.6 [5.0-12.2]	26.8 [18.3-35.3]
Don't know/refused	0.2 [-0.1-0.5]	0.0 [0.0-0.0]	0.6 [-0.2-1.4]
Unweighted N	572	378	194

Source: Employee Survey A44.

Sample: Asked of employees who took leave in the past 12 or 18 months.

**5.4 Fitness-for-Duty Certification before Return to Work**

With some conditions, the FMLA statute also allows worksites that have a uniformly applied requirement that an employee who took leave for her own medical condition get a doctor’s certification of “fitness-for-duty” before returning to work in certain situations (Public Law 103-3, § 104(a)(4); see *also* 29 C.F.R. § 825.312).

About half of employees report that their worksite required a fitness-for-duty certification before return to work (44.4%; see Exhibit DR5.4.1 in the Detailed Results Appendix [Pozniak et al., 2012]). Exhibit 5.4.1 tabulates worksite reports as to fitness-for-duty requirements. Three-fifths of employees work at 50/75 worksites that report that they always require a fitness-for-duty certificate (60.0%); few report that they never require such certification (3.7% of employees work at these worksites). Furthermore, most 50/75 worksites report that the employee’s insurance pays for the fitness-for-duty certification (26.7% of employees work at these worksites) or the employee pays (50.0% of employees work at these worksites) (see Exhibit DR5.4.2 in the Detailed Results Appendix [Pozniak et al., 2012]).

**Exhibit 5.4.1 Covered worksites' fitness-for-duty requirements**

Frequency that worksite requires fitness-for-duty for FMLA leave	Weighted by employees at worksite		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
Always	60.0 [44.7-75.3]	58.6 [44.2-72.9]	57.0 [44.0-69.9]	47.0 [35.3-58.8]
Most of the time	12.7 [2.0-23.4]	13.6 [3.4-23.8]	6.3 [2.9-9.8]	9.3 [1.6-16.9]
Half the time	0.3 [-0.0-0.6]	0.3 [0.0-0.6]	0.9 [-0.3-2.2]	4.0 [-0.8-8.8]
Sometimes	22.5 [9.9-35.1]	21.9 [10.3-33.6]	20.1 [8.5-31.7]	18.2 [8.2-28.2]
Never	3.7 [1.5-5.9]	4.4 [1.9-6.8]	14.9 [-0.9-30.7]	17.3 [8.0-26.6]
Don't know/refused	0.9 [0.4-1.4]	1.2 [0.4-1.9]	0.8 [0.2-1.4]	4.2 [-2.0-10.4]
Unweighted N	782	925	782	925

Source: Worksite Survey Q38.

Sample: Asked of worksites that self-report that they are covered by the FMLA.

**5.5 Return to Work After Leave**

The FMLA requires that the employee be restored to the same or equivalent position as prior to leave. Exhibit 5.5.1 shows that employees report that they almost always return to their same employer (90.0%); more among eligible employees (94.4%), fewer among other employees (82.7%). Fewer than one in ten leave takers do not return to work at all (7.7%). Return to work for a different employer is quite rare (1.7%). Results are similar to those reported in the 1995 and 2000 surveys.

**Exhibit 5.5.1 Employees return to work**

Returning to work after leave	2012			2000	1995
	All leave takers % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]	All leave takers % [95% CI]	All leave takers % [95% CI]
Returned to work for same employer	90.0 [87.6-92.3]	94.4 [92.7-96.1]	82.7 [77.2-88.2]	94.4 [93-95.8]	93.8 [92.3-95.3]
Returned to work for different employer	1.7 [0.5-2.9]	0.2 [-0.1-0.5]	4.1 [1.0-7.1]	1.9 [1.1-2.7]	3.1 [2.2-4]
Did not return to work	7.7 [5.7-9.6]	4.8 [3.2-6.4]	12.4 [8.0-16.7]	3.8 [2.6-5]	3.0 [2-4]
Don't know/refused	0.7 [0.1-1.3]	0.6 [-0.0-1.3]	0.9 [-0.3-2.0]	N/A	N/A
Unweighted N	1,230	833	397	1,075	1,040

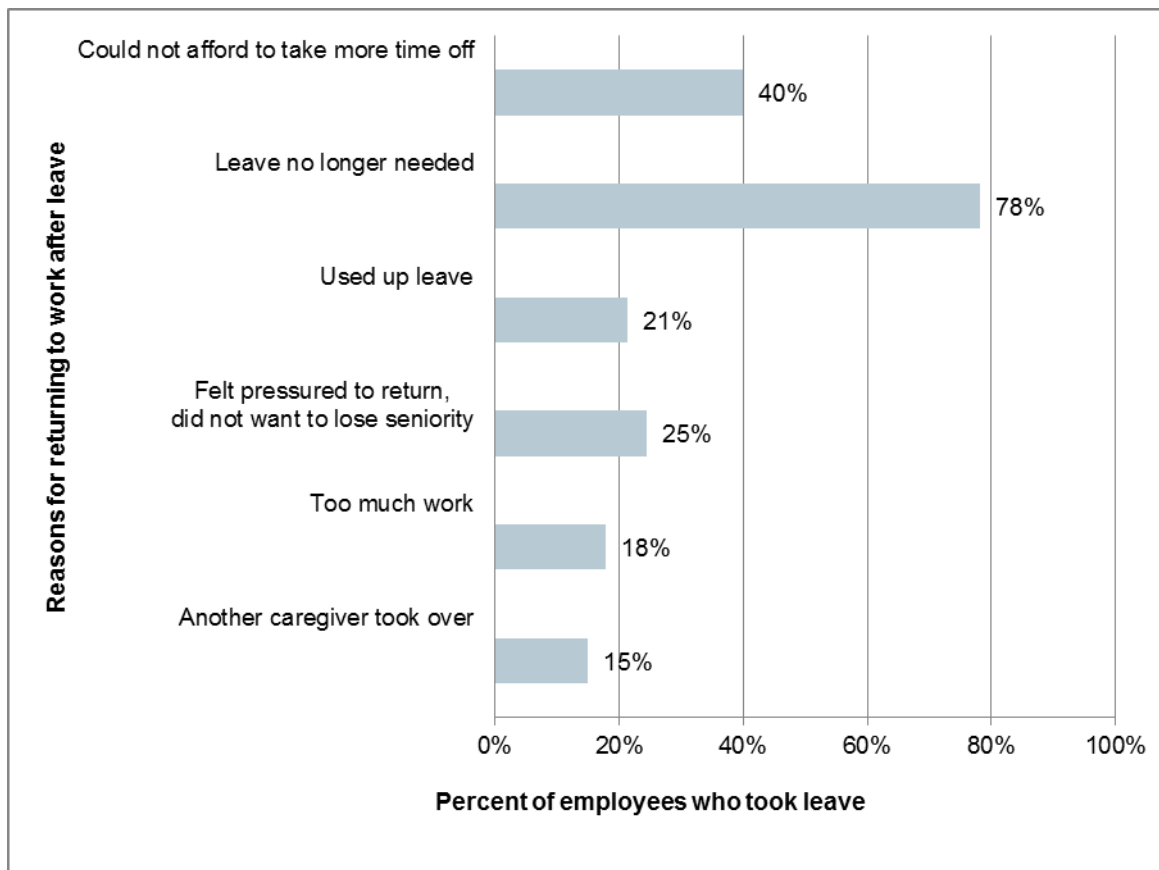
Source: 2012 Employee Survey A59; 2000 Report Table A1-4.12.

2012 Sample: Asked of employees who took leave in the past 12 or 18 months.

The Employee Survey asked leave takers why they returned to work (“I’m going to read some reasons that people give for returning to work after taking leave. Did you return to work because...”; the question is asked regardless of whether the leave taker returned to the same or a different employer). Exhibit 5.5.2 reports reasons for return to work for collapsed categories. Exhibit 5.5.3 provides additional detail. About half of leave takers report that they returned because they could not afford more leave (49.6%; Exhibit 5.5.3); this response was less common among eligible leave takers (43.6% vs. 60.3%). Other common reasons given include wanted to get back to work (77.0%), doctor said ready to return to work (70.1%), no longer needed to be on leave (68.9%), care recipient’s doctor said it was safe to return to work (50.9%), and someone else took over care giving responsibilities (41.8%).

Under the FMLA, employers are not allowed to pressure employees to return to work. Nevertheless, 12.4% of eligible employees report such pressure as a reason why they returned. Similarly, under the FMLA, employees on leave should not lose seniority or potential for job advancement. Nevertheless, 22.2% of eligible employees report such concern as a reason why they returned to work. The corresponding rates for ineligible workers were similar (i.e., not statistically significantly different; 17.3% and 21.6%, respectively). Results were similar to those in the 2000 survey.

**Exhibit 5.5.2 Reasons for returning to work with collapsed response categories**



Source: 2012 Employee Survey A62.

Leave no longer needed reflects wanted to get back, no longer needed, doctor said ready to return to work, doctor said it was safe to return to work.

Sample: Asked of employees who took leave in the past 12 months.

**Exhibit 5.5.3 Reasons for returning to work**

Reasons for returning to work after leave	2012			2000
	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]	All % [95% CI]
Could not afford financially to take more time off	49.6 [45.7-53.6]	43.6 [38.8-48.4]	60.3 [54.8-65.9]	50.4 [45.8-55]
Wanted to get back to work	77.0 [73.1-81.0]	75.5 [71.4-79.5]	79.8 [72.6-87.0]	66.1 [62.3-69.9]
Used up all the leave time you were allowed	27.7 [24.4-31.0]	28.2 [24.3-32.2]	26.7 [19.8-33.6]	33.7 [29.2-38.2]
Felt pressured by your boss or co-workers to return	14.1 [11.7-16.5]	12.4 [10.0-14.8]	17.3 [11.8-22.8]	24.2 [20-28.4]
Had too much work to do to stay away longer	22.0 [19.3-24.7]	21.3 [18.1-24.4]	23.3 [17.7-28.8]	30.1 [26.1-34.1]
Someone else took over care-giving responsibilities	41.8 [36.4-47.2]	43.8 [37.4-50.2]	38.8 [26.0-51.6]	23.6 [19.7-27.5]
No longer needed to be on leave	68.9 [64.6-73.2]	69.7 [65.4-74.0]	67.5 [59.7-75.3]	77.1 [73.7-80.5]
Doctor told you that you were ready to return to work	70.1 [65.4-74.7]	72.8 [67.0-78.6]	64.6 [56.2-73.1]	N/A
Care recipient's doctor told you that it was safe for you to return to work	50.9 [46.0-55.7]	49.3 [42.3-56.2]	53.4 [45.2-61.7]	N/A
Did not want to lose your seniority or potential for job advancement	21.9 [19.3-24.6]	22.2 [18.5-25.8]	21.6 [16.1-27.1]	26.2 [23-29.4]
Unweighted N	1,127	787	340	3,360

Source: 2012 Employee Survey A62; 2000 Report Tables A1-4.1 and 4.14.

Columns may sum to >100% since respondent could select more than one category.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

2012 Sample: Asked of employees with any leave in the past 12 or 18 months.

The FMLA guarantees return to the same employer and the same or an equivalent position. As discussed above in Section 5.3, almost all worksites report that they guarantee the same or an equivalent job on return from leave (see Exhibit 5.3.1). Exhibit 5.5.4 tabulates conditions of return as reported by leave takers. Most employees returned to the same or a similar position (95.3%). Unless the change is voluntary, under the FMLA, employees must be restored to the same or an equivalent position. Restoration to a worse position appears to be rare: less than 2% (1.2%; samples are not large enough to reliably report the rate at which this is voluntary). These rates are similar regardless of the leave taker's eligibility/coverage status. Responses are similar to those in the 1995 and 2000 surveys.

**Exhibit 5.5.4 Return to work at same employer**

Position	2012			2000	1995
	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]	All % [95% CI]	All % [95% CI]
Position upon returning to work:					
Same position*	95.3 [93.4-97.1]	95.6 [93.4-97.9]	94.6 [91.8-97.4]	97.1 [96.1-98.1]	96.8 [95.8-97.8]
Similar position*	1.5 [0.6-2.4]	1.6 [0.3-2.9]	1.4 [0.3-2.5]		
Better position	1.5 [0.2-2.8]	1.6 [-0.1-3.4]	1.2 [-0.3-2.8]	1.1 [0.5-1.7]	1.3 [0.7-1.9]
Worse position	1.2 [0.5-1.9]	0.9 [0.4-1.3]	1.9 [0.1-3.7]	1.8 [1-2.6]	1.8 [0.9-2.7]
Don't know/refused	0.5 [0.1-0.9]	0.3 [-0.0-0.6]	0.8 [-0.2-1.9]	N/A	N/A
Reason for different position among those who had a similar, better, or worse position after returning to work:					
Chose a different position	15.6 [2.8-28.4]	13.1 [1.3-24.9]	19.8 [-9.6-49.2]	N/A	N/A
Worksite asked	19.9 [5.8-33.9]	16.6 [1.6-31.6]	25.3 [-5.6-56.2]	N/A	N/A
Assigned a different position	41.9 [21.8-62.1]	40.7 [12.1-69.3]	43.9 [11.9-75.9]	N/A	N/A
Don't know/refused	22.6 [-0.3-45.5]	29.6 [-5.5-64.7]	11.0 [-5.6-27.5]	N/A	N/A
Unweighted N	1,113	785	328	1,005	966

\* 2000 report combines "same position" and "similar position" into one category called "same or equal position."

Source: 2012 Employee Survey A63, A64; 2000 Report Table A1-4.13.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

2012 Sample: Asked of employees with any leave in the past 12 or 18 months.

Among those returning to a different position, the most common reasons reported are being assigned a different position (41.9%) and because the employer asked (19.9%). These findings are similar (i.e., not statistically significantly different) regardless of the leave taker's eligibility/coverage status (Exhibit 5.5.4).

For those who did not return to their pre-leave employer, Exhibit 5.5.5 tabulates their reported reasons for their decision. The only common specified reasons are laid off/fired/replaced (23.3%) and continued health condition (17.3%). Exhibit 5.5.4 also presents the reasons disaggregated between leave takers who returned to work for a different employer and leave takers who did not return to work at all; only the latter group report continued health condition as a reason for not returning to work.<sup>37</sup>

<sup>37</sup> QA15a of the 2000 Employee Survey asked a similar question about why employees did not return to work, but had fewer and different response categories. Furthermore, respondents could select only one category whereas A61 in the 2012 Employee Survey was select all that apply (see Appendix C of the Methodology Report for more detail). Therefore, the 2012 results are not comparable to the 2000 results.



**Exhibit 5.5.5 Reason for not returning to same employer after leave**

<b>Reason did not return to work for same employer:</b>	<b>All % [95% CI]</b>	<b>Return to different employer % [95% CI]</b>	<b>Did not return to work % [95% CI]</b>
Health condition continued	17.3 [10.4-24.1]	0.0 [0.0-0.0]	21.0 [13.1-29.0]
Laid off/fired/replaced	23.3 [13.6-33.0]	17.7 [-13.2-48.6]	24.5 [14.4-34.6]
Did not want to return to work	3.4 [-0.1-6.9]	0.0 [0.0-0.0]	4.2 [-0.1-8.4]
Could not find childcare	0.8 [-0.8-2.5]	0.0 [0.0-0.0]	1.0 [-1.0-3.1]
Did not pass fitness-for-duty certification	2.1 [-0.0-4.2]	2.2 [-2.4-6.7]	2.1 [-0.3-4.5]
Other	53.4 [40.5-66.3]	77.2 [46.5-107.9]	48.2 [34.8-61.7]
Don't know/refused	0.5 [-0.5-1.5]	2.9 [-2.9-8.7]	0.0 [0.0-0.0]
Unweighted N	109	14	95

Source: 2012 Employee Survey A61.

Columns may sum to >100% since respondent could select more than one category. 2012 survey response categories that were not selected by any respondents (i.e., obtained other income source, could not find eldercare, found a better job, and change in schedule or job responsibilities) are not included in the table above. Sample: Asked of employees with any leave in the past 12 or 18 months.

Finally, leave takers were asked if they experienced a variety of outcomes resulting from their leave (*“I’m going to read you some possible effects from taking leave from work that you may or may not have experienced. As a result of taking leave...”*); the results are presented in Exhibit 5.5.6. Most leave takers report that they were able to maintain health insurance (79.4%); this was more common among eligible covered employees than other leave takers (86.9% vs. 67.5%, respectively). Over half of leave takers report that personal information was revealed (52.3%) and a third report being unable to afford unpaid leave (36.9%); these reports were similar regardless of eligibility/coverage status. Very few eligible, covered leave takers lost their job (1.1%); more reported losing seniority (8.0%). These negative outcomes were more common among ineligible workers (14.7% and 13.5%, respectively).

**Exhibit 5.5.6 Possible effects from taking leave**

<b>As a result of taking leave, employee:</b>	<b>% [95% CI]</b>	<b>Eligible and covered employees % [95% CI]</b>	<b>All other leave takers % [95% CI]</b>
Lost job	6.3 [4.2-8.5]	1.1 [0.2-2.0]	14.7 [9.4-20.0]
Lost seniority or potential for advancement	10.1 [8.1-12.1]	8.0 [5.7-10.2]	13.5 [8.7-18.3]
Was unable to afford an unpaid leave	36.9 [33.5-40.2]	35.2 [31.1-39.2]	39.6 [33.3-45.8]
Revealed personal information	52.3 [49.0-55.6]	54.3 [50.3-58.2]	49.2 [43.2-55.2]
Was treated differently because of the reason took leave	15.3 [13.1-17.5]	13.9 [10.8-17.0]	17.5 [12.3-22.7]
Was able to maintain or pay for health insurance	79.4 [76.3-82.6]	86.9 [83.6-90.2]	67.5 [62.3-72.8]
Other outcome	9.1 [7.4-10.9]	9.5 [7.4-11.6]	8.6 [5.8-11.3]
Unweighted N	1,284	869	415

Source: Employee Survey A23.

Columns may sum to >100% since respondent could select more than one category.

Sample: Asked of employees who took leave in the past 12 or 18 months.

## 6. Employee's Unmet Need for Leave

The previous two chapters considered leave actually taken. However, not every employee who feels that she (or he) needs leave actually takes leave. Causes of unmet need for leave include: (i) the individual is not eligible for FMLA (e.g., the employee works at an uncovered worksite, or she has not worked long enough at a covered worksite); (ii) the reason for the leave is not covered by the FMLA; and (iii) the individual has exhausted her available entitlement for the leave year.

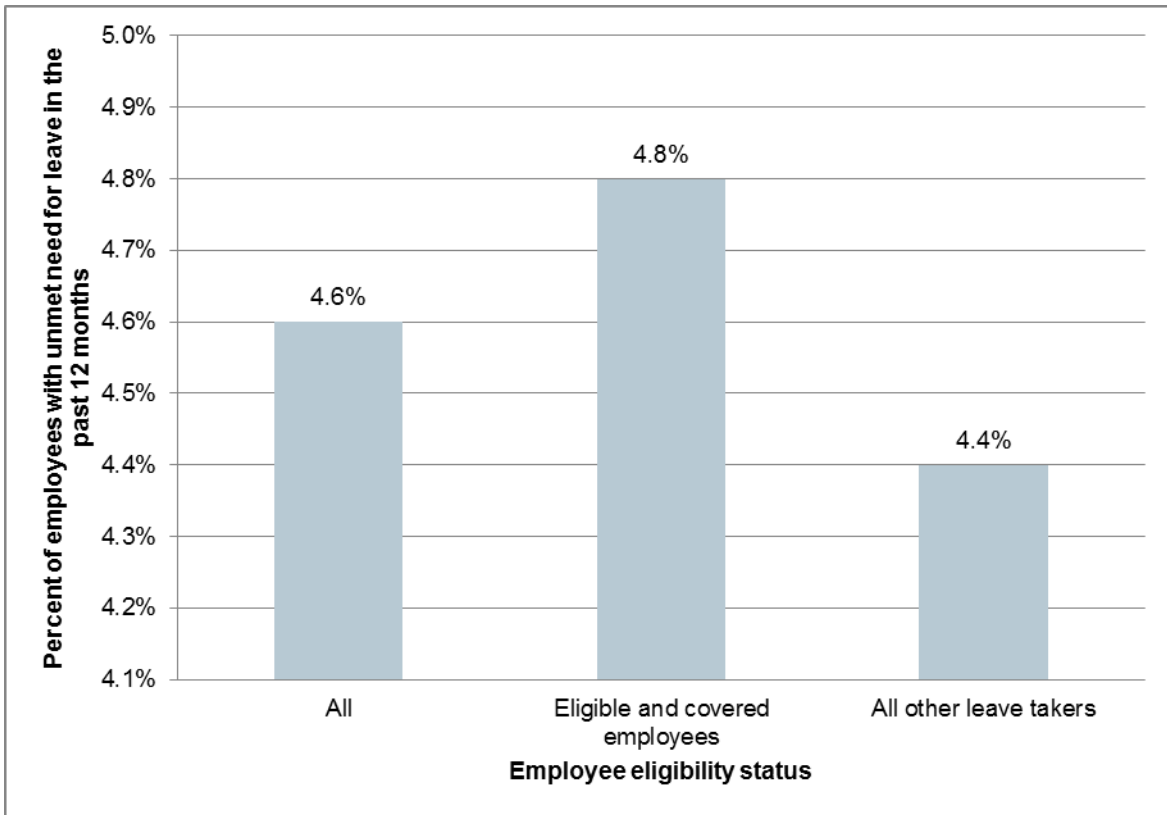
This chapter explores the prevalence of such unmet need for leave as well as its underlying causes. Section 6.1 considers the prevalence of unmet need for leave. Section 6.2 considers the number of instances of unmet need for leave. The third section considers the reasons for needing leave, and the fourth section considers the reasons for not taking needed leave. Section 6.5 considers actions taken in lieu of leave. The final section briefly discusses the results.

As noted in Chapter 1, unless otherwise noted, when discussing results from the Worksite Survey, we focus on estimates weighted by the number of employees at the worksite (not weighted by worksite) for 50/75 worksites (i.e., worksites that have 50 employees within 75 miles and are, therefore, large enough to have covered employees).

### 6.1 Leave Needed but Not Taken

Among all workers, 4.6% report that they had an unmet need for leave in the past year. (Recall from Chapter 1 that some of these employees both took leave and report an unmet need for leave.) The rates are similar among eligible and ineligible employees (4.8% and 4.4%; Exhibit 6.1.1). Exhibit 6.1.2 provides more detail.

**Exhibit 6.1.1 Rate of unmet need for leave in the past 12 months, by eligibility**



Source: Employee Survey B3.

Sample: Employees with unmet need for leave in the past 12 months.

**Exhibit 6.1.2 Rate of unmet need for leave for a qualifying FMLA reason in the past 12 and 18 months, by eligibility**

Employees with unmet need for leave	All % [95% CI]	Eligible and covered employees % [95% CI]	All other employees with unmet need for leave % [95% CI]	"All other leave takers" subgroups		
				50/75 ineligible* % [95% CI]	Not 50/75, would be eligible* % [95% CI]	Not 50/75, would not be eligible* % [95% CI]
Employees with unmet need for leave in the past 12 months	4.6 [3.9-5.3]	4.8 [3.8-5.8]	4.4 [3.3-5.5]	5.9 [3.3-8.6]	3.5 [2.2-4.7]	4.3 [2.8-5.8]
Employees with unmet need for leave in the past 18 months	6.1 [5.1-7.0]	6.1 [5.1-7.2]	6.0 [4.3-7.6]	8.9 [4.2-13.6]	4.1 [2.6-5.7]	5.7 [3.9-7.5]
Unweighted N	2,852	1,713	1,139	272	454	413
Weighted N	129,992,426	67,999,329	61,993,097	16,532,284	22,707,031	22,753,781

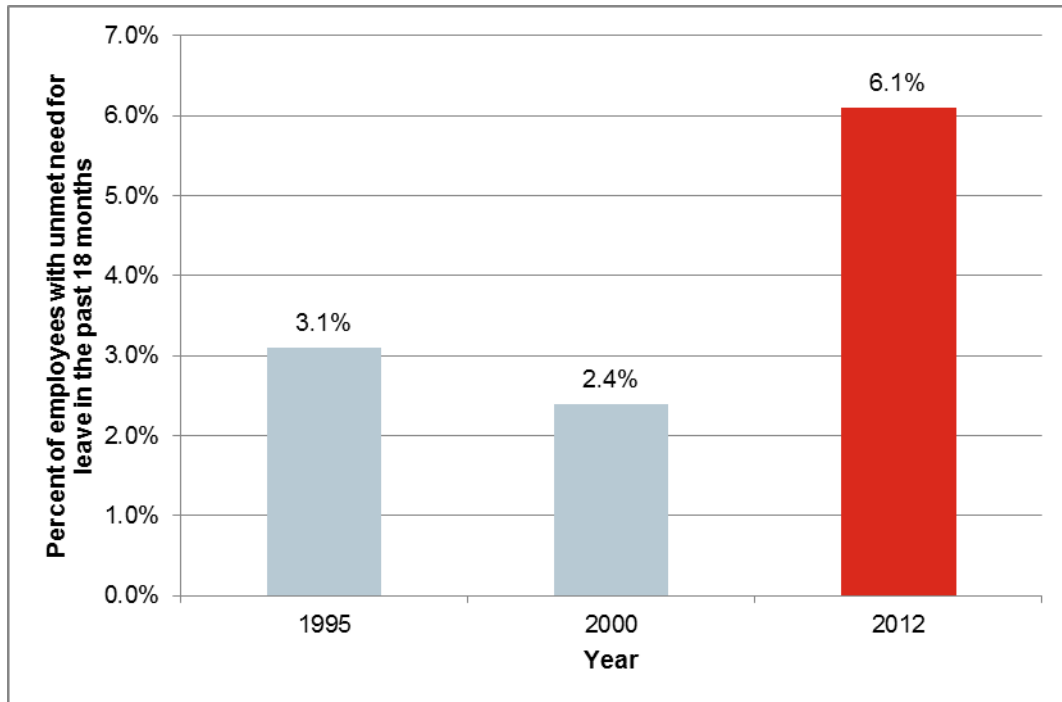
\*I.e., imposing the FMLA 12 months and 1250 hours rules.

Source: Employee Survey B1, B3.

Sample: Employees with unmet need for leave in the past 12 or 18 months.

The 2000 survey asked a similar question about the past 18 months. For that reference period, rates of unmet need for leave are about double those found in the two earlier surveys, increasing from 2.4% in 2000 to 6.1% in 2012 (Exhibit 6.1.3). One possible reason is concern induced by the weak economy (though we have no direct evidence to support that conjecture). See Exhibit 6.1.4 for more detail.

**Exhibit 6.1.3 Change in rate of unmet need for leave in the past 18 months**



Source: 2012 Employee Survey B1; 2000 Report, Table A1-2.14.

Sample: Employees with unmet need for leave in the past 18 months.

**Exhibit 6.1.4 Rate of unmet need for leave in the past 18 months, 1995, 2000, 2012**

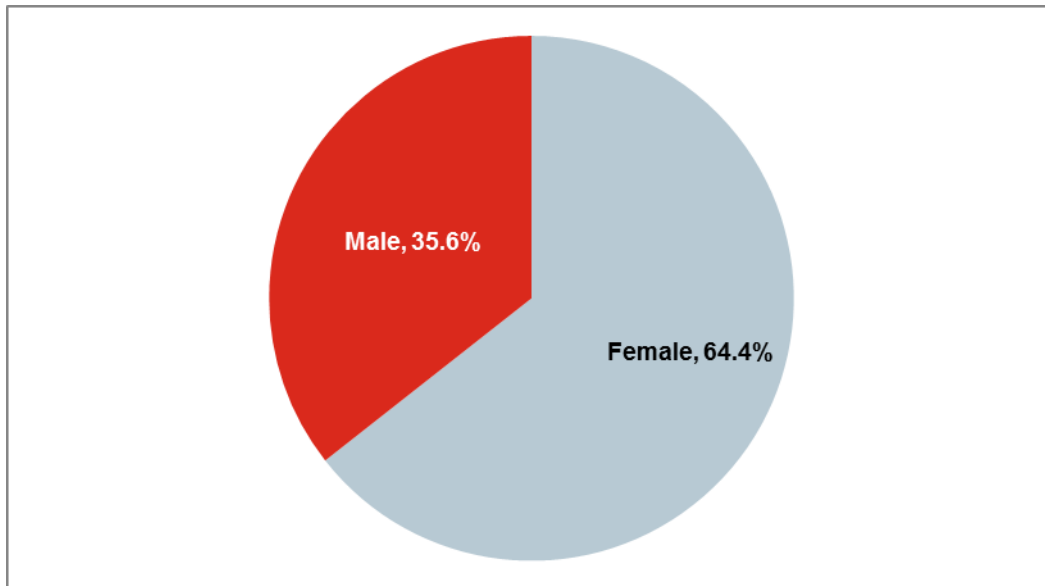
Rate of unmet need	All			Eligible and covered employees 2012 % [95% CI]	All other employees with unmet need for leave 2012 % [95% CI]
	1995 % [95% CI]	2000 % [95% CI]	2012 % [95% CI]		
Rate of needing leave in the past 18 months	3.1 [2.6-3.6]	2.4 [2.0-2.8]	6.1 [5.1-7.0]	6.1 [5.1-7.2]	6.0 [4.3-7.6]

Source: Employee Survey B1; 2000 Report, Table 2.14. The 2000 Report did not present rates of unmet need for leave by employee eligibility status.

Sample: Employees with unmet need for leave in the past 18 months.

Exhibit 6.1.5 shows that 64.4% of employees who needed but did not take leave in the past 12 month are female; 35.6% are male.

**Exhibit 6.1.5 Employees who needed but did not take leave in the past 12 months by gender**



Source: Employee Survey S8, B3.

Sample: Employees with unmet need for leave in the past 12 months.

Exhibit 6.1.6 reports how unmet leave rates vary across demographic subgroups. As in Chapter 4, the entries have the following interpretation: “Percent of individuals in <SUBGROUP> with unmet need for leave in the last year.” The prevalence of unmet need for leave varies widely across some of the demographic groups. More women than men report unmet need for leave (6.1% vs. 3.2%). Unlike leave taking, rates of unmet need for leave are higher for non-whites than whites (6.7% vs. 3.8%), for unmarried than married respondents (5.8% vs. 3.7%), and for low-income individuals (8.2% for those with earnings below \$35,000 vs. rates below 3.4% for those with higher earnings). Rates of unmet need for leave are higher for those with children than for those without children (6.3% vs. 3.4%). The results are similar regardless of employee eligibility status.

**Exhibit 6.1.6 Rate of unmet need for leave in the past 12 months, by demographic characteristics**

<b>Employees who needed but did not take leave in the past 12 months</b>	<b>All % [95% CI]</b>	<b>Eligible and covered employees % [95% CI]</b>	<b>All other employees with unmet need for leave % [95% CI]</b>
All	4.6 [3.9-5.3]	4.8 [3.8-5.8]	4.4 [3.3-5.5]
Age:			
18-33	4.3 [3.1-5.5]	3.5 [1.7-5.3]	4.8 [2.9-6.8]
34-49	6.1 [4.4-7.7]	6.6 [4.3-8.9]	5.3 [3.2-7.5]
50-82	3.6 [2.7-4.4]	4.0 [2.7-5.2]	3.1 [2.1-4.1]
Gender:			
Female	6.1 [4.8-7.4]	6.4 [4.4-8.4]	5.7 [4.0-7.5]
Male	3.2 [2.4-4.0]	3.3 [2.2-4.3]	3.2 [2.0-4.4]
Education:			
Less than High School Graduate and High School Graduate	4.2 [2.9-5.4]	4.8 [2.6-7.1]	3.6 [2.2-5.1]
Some College	6.3 [4.7-8.0]	6.1 [4.0-8.3]	6.6 [4.2-8.9]
College Graduate and Graduate School	3.5 [2.7-4.4]	3.8 [2.8-4.8]	3.1 [1.5-4.6]
Ethnicity:			
Hispanic	5.6 [3.1-8.0]	5.9 [1.9-10.0]	5.2 [2.5-8.0]
Non-Hispanic	4.5 [3.7-5.2]	4.6 [3.7-5.6]	4.2 [3.0-5.5]
Race:			
White	3.8 [3.2-4.5]	4.0 [3.1-5.0]	3.6 [2.6-4.7]
Non-white	6.7 [4.9-8.4]	7.0 [4.3-9.6]	6.4 [3.8-8.9]
Marital status:			
Married	3.7 [2.9-4.4]	3.6 [2.8-4.4]	3.8 [2.5-5.1]
Not married	5.8 [4.6-7.0]	6.5 [4.5-8.5]	5.1 [3.5-6.7]
Region:			
Northeast	4.0 [2.5-5.5]	4.7 [2.7-6.7]	3.3 [1.7-4.8]
South	5.8 [4.3-7.2]	5.8 [4.0-7.7]	5.7 [3.2-8.2]
Mid-West	4.4 [3.1-5.7]	4.7 [2.3-7.1]	4.0 [1.8-6.2]
West	4.5 [2.8-6.1]	4.5 [1.8-7.2]	4.5 [2.5-6.4]



Employees who needed but did not take leave in the past 12 months	All % [95% CI]	Eligible and covered employees % [95% CI]	All other employees with unmet need for leave % [95% CI]
Children in household:			
0	3.4 [2.6-4.1]	3.3 [2.4-4.2]	3.5 [2.3-4.7]
1 or more	6.3 [4.9-7.6]	6.8 [4.8-8.8]	5.6 [3.6-7.7]
Income:			
<\$35,000	8.2 [6.1-10.3]	11.2 [6.0-16.3]	6.4 [4.1-8.6]
\$35,000-\$75,000	4.2 [3.0-5.5]	4.2 [2.6-5.8]	4.4 [2.3-6.4]
>\$75,000	3.4 [2.5-4.3]	3.4 [2.3-4.4]	3.5 [1.9-5.2]
How paid:			
Salaried	3.8 [2.9-4.7]	3.7 [2.8-4.6]	4.0 [1.9-6.1]
All others	5.0 [3.9-6.1]	5.6 [4.0-7.1]	4.3 [2.7-5.9]
Unweighted N	2,852	1,713	1,139

Source: Employee Survey S7, S8, E9, D1, D5, D4, D7, D10, ZIP.

Sample: Employees with unmet need for leave in the past 12 months.

## 6.2 Number of Leaves Needed but Not Taken

The previous section considered the prevalence of any need for leave that did not result in leave taken. Exhibit 6.2.1 considers the number of leaves needed but not taken. The average number of leaves needed but not taken for different medical conditions is 4.4. The results are similar regardless of employee eligibility status. Among those who had unmet need for leave, most needed leave for only one condition (89.2%).

**Exhibit 6.2.1 Number of leaves needed but not taken in the past 12 months**

Number of leaves needed but not taken for different medical conditions, per employee, in the past 12 months	All [95% CI]	Eligible and covered employees [95% CI]	All other employees with unmet need for leave [95% CI]
Total number of leaves needed but not taken for different medical conditions in past 12 months	4.4 [3.2-5.5]	4.2 [3.0-5.5]	4.5 [2.0-6.9]
Single condition	89.2% [85.1-93.3]	91.0% [86.2-95.7]	87.1% [79.9-94.3]
Multiple condition	10.8% [6.7-14.9]	9.0% [4.3-13.8]	12.9% [5.7-20.1]
Unweighted N	297	169	128

Source: Employee Survey B5, B5a, B5b.

Sample: Employees with unmet need for leave in the past 12 months.

Exhibit 6.2.2 presents the distribution of leaves needed but not taken in the past 18 months for 2000 and 2012. In 2012, the most common response was one unmet need for leave (40.1%) and a quarter needed two leaves (26.1%). Responses are stable from 2000 to 2012.

**Exhibit 6.2.2 Distribution of number of leaves needed but not taken by employees for different medical conditions in the past 18 months: 2000 and 2012**

Number of leaves needed but not taken in past 18 months	2000 % [95% CI]	2012 % [95% CI]
1	44.4 [36.2-52.6]	40.1 [33.2-47.0]
2	25.0 [18.6-31.4]	26.1 [20.3-31.9]
3-4	18.9 [12.8-25]	17.8 [12.7-22.9]
5+	11.8 [7.4-16.2]	16.0 [11.3-20.8]

Source: 2012 Employee Survey B4; 2000 Report Table A1-2.15.

Sample: Employees with unmet need for leave in the past 18 months.

Employees who needed but who did not take leave were also asked how many different times they needed leave for a particular medical reason or condition; that is, did they need continuous or intermittent leave. A fifth report needing leave for their condition just one time (20.6%); nearly 40% needed it twice (39.5%; Exhibit 6.2.3).

**Exhibit 6.2.3 Number of times leave was needed but not taken for a particular medical reason in the past 12 months**

Number of times leave needed for particular medical reason in past 12 months	All employees with unmet need for leave % [95% CI]	Eligible and covered employees % [95% CI]	All other employees with unmet need for leave % [95% CI]
1	20.6 [14.1-27.2]	19.6 [11.0-28.2]	21.9 [11.3-32.5]
2	39.5 [31.4-47.6]	37.7 [28.2-47.1]	41.6 [28.4-54.8]
3-4	23.8 [15.0-32.7]	25.3 [14.7-35.9]	22.2 [9.2-35.2]
5+	16.0 [10.7-21.3]	17.5 [11.1-24.0]	14.3 [4.8-23.8]
	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>
Average number of times leave needed for particular medical reason in past 12 months	3.3 [2.7-3.9]	3.8 [2.7-4.9]	2.7 [2.0-3.4]
Unweighted N	212	124	88

Source: Employee Survey B14a.

Sample: Employees with unmet need for leave in the past 12 months.

### 6.3 Reasons for Needing Leave

Exhibit 6.3.1 tabulates the reasons for unmet need for leave among workers. Unlike nearly all other exhibits, in this exhibit we include non-qualifying FMLA reasons (e.g., a non-relative's health condition) to show the small percentage of employees with unmet need for leave whose reason for

taking leave would not be covered by FMLA. As with leave taken, nearly half of unmet leave is for the employee’s own illness (49.7%). Leave related to a new child is less common among workers with unmet need for leave than among leave takers (9.2% vs. 21.1%; Exhibit 4.4.2), whereas leave for a parent’s, spouse’s, or child’s health condition is more common for this group than for leave takers (35.8% vs. 18.2%; Exhibit 4.4.2). Unmet need for leave for a new child is less common among the eligible than the ineligible (4.3% vs. 15.3%). Otherwise, reasons are fairly consistent regardless of the worker’s eligibility status (see last two columns of Exhibit 6.3.1).

**Exhibit 6.3.1 Medical reasons for unmet need for leave in the past 12 months**

Medical reasons for needing leave in past 12 months	All employees with unmet need for leave % [95% CI]	Eligible and covered employees % [95% CI]	All other employees with unmet need for leave % [95% CI]
Own illness	49.7 [42.1-57.2]	49.5 [39.8-59.3]	49.8 [39.4-60.2]
Related to a new child	9.2 [4.6-13.9]	4.3 [1.0-7.5]	15.3 [5.9-24.8]
Parent's, spouse's or child's health condition	35.8 [29.1-42.5]	38.5 [29.5-47.5]	32.4 [22.9-41.9]
Other relative's health condition	5.0 [2.6-7.4]	5.5 [2.0-9.0]	4.4 [0.8-7.9]
Other non-relative's health condition	1.4 [-0.0-2.8]	2.3 [-0.2-4.7]	0.4 [-0.4-1.2]
Domestic partner's health condition	0.8 [-0.2-1.9]	1.2 [-0.5-3.0]	0.3 [-0.3-0.9]
Address issue of military member's deployment	0.9 [-0.3-2.1]	1.6 [-0.6-3.8]	0.0 [0.0-0.0]
Don't know/refused	1.7 [-0.3-3.7]	1.6 [-0.3-3.6]	1.9 [-1.8-5.6]
Unweighted N	297	169	128

Source: Employee Survey B6.

Columns may sum to >100% since respondent could select more than one category.

Sample: Employees with unmet need for leave in the past 12 months.

As discussed in Chapter 4, the Employee Survey did not ask respondents directly about their disability status. However, just as was done with leave takers, the survey asked employees with unmet need for leave about the nature of their health condition. We would expect disability to be reported as an ongoing health condition. Two-fifths of employees with unmet need for leave had an ongoing health condition for which they needed to take leave (42.2%; Exhibit 6.3.2) and nearly a third had a one-time health matter (31.2%). These reasons were consistent regardless of employees’ eligibility status. In contrast, nearly half of leave takers took leave for a one-time health matter (45.6%) and only a quarter for an ongoing health condition (24.8%; see Exhibit 4.4.3).

**Exhibit 6.3.2 Nature of health condition for unmet need for leave in the past 12 months**

Nature of health condition	All employees with unmet need for leave % [95% CI]	Eligible and covered employees % [95% CI]	All other employees with unmet need for leave % [95% CI]
A one-time health matter	31.2 [22.9-39.6]	29.0 [17.8-40.2]	34.0 [22.9-45.2]
Injury or illness that now requires routine scheduled care	19.2 [13.2-25.2]	24.2 [15.4-32.9]	13.0 [6.6-19.4]
Ongoing health condition	42.2 [33.3-51.0]	41.8 [30.9-52.8]	42.6 [31.0-54.1]
Other	11.1 [6.3-15.9]	8.8 [3.6-14.1]	13.9 [4.5-23.2]
Don't know/refused	1.2 [-0.1-2.4]	1.1 [-0.6-2.9]	1.2 [-0.5-2.9]
Unweighted N	279	160	119

Source: Employee Survey B11.

Columns may sum to >100% since respondent could select more than one category.

Sample: Employees with unmet need for leave in the past 12 months.

Exhibit 6.3.3 reports that a quarter of unmet need for leave was due to one's own ongoing health condition (25.0%) and another tenth was due to the ongoing health condition of another family member (11.8%).

**Exhibit 6.3.3 Nature of illness and medical reasons for unmet need for leave in the past 12 months**

Medical reason for unmet need for leave	One-time health matter % [95% CI]	Injury or illness that now requires routine scheduled care % [95% CI]	Ongoing health condition % [95% CI]	Other % [95% CI]
Own illness (except for new child)	16.7 [9.8-23.6]	7.0 [3.5-10.4]	25.0 [18.6-31.3]	3.0 [0.8-5.3]
Related to a new child	8.4 [3.5-13.3]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	1.6 [0.0-4.3]
Parent's, spouse's or child's health condition	13.6 [7.2-20.0]	9.5 [5.0-13.9]	11.8 [7.1-16.5]	3.3 [1.7-4.9]
Other qualifying reason	0.2 [0.0-0.5]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]
Unweighted N	91	55	130	31

Source: Employee Survey B6, B11.

Anyone who reported an unmet need for leave related to a new child (i.e., B6=3-10) was not asked the nature of their illness (i.e., B11). These respondents are included in the table above as a one-time health matter.

Sample: Employees with unmet need for leave in the past 12 months.

The Employee Survey asked about whether the condition for which the employee had unmet need for leave required a doctor's care. Similar to leave takers (see Exhibit 4.4.6), the majority of employees with unmet need for leave required a doctor's care (92.1%) but only 37.1% required an overnight

hospital stay. See Exhibit DR6.3.2 in the Detailed Results Appendix (Pozniak et al., 2012) for more detail.

Exhibit 6.3.4 reports incidence and reasons cited in the Worksite Survey for denial of leave at covered worksites. Half of 50/75 worksites report never denying leave for any reason (48.2% of employees work at these worksites). Among 50/75 worksites reporting denials (unweighted N=188), most reported some denials for using up all allotted time under the FMLA (89.7% of employees work at these worksites; 89.7%=0.5% “all” + 1.8% “most” + 87.4% “some”), and no denials for not meeting notice requirements (73.7% of employees work at worksites that reported “none”). Nearly 90% of employees work at 50/75 worksites that report denying leave to some eligible employees because the FMLA did not cover the employee’s reason for leave (87.1% of employees work at these worksites).

**Exhibit 6.3.4 Denial of leave for a qualifying FMLA reason at covered worksites**

Denial of leave	All % [95% CI]	Most % [95% CI]	Some % [95% CI]	None % [95% CI]	DK % [95% CI]
<b>50/75 worksites, weighted by employees at worksite</b>					
Percent of applications for leave for a qualifying FMLA reason denied for <i>any</i> reason	0.1 [-0.1-0.3]	0.0 [0.0-0.0]	49.7 [34.0-65.5]	48.2 [32.4-64.0]	2.0 [0.7-3.2]
Eligible employees denied leave because:					
Used entire time allotment covered by FMLA	0.5 [-0.3-1.2]	1.8 [-1.6-5.3]	87.4 [80.4-94.5]	9.9 [4.5-15.2]	0.4 [-0.2-1.0]
FMLA did not cover the reason for their leave	0.0 [0.0-0.0]	0.0 [0.0-0.0]	87.1 [79.6-94.7]	12.8 [5.2-20.3]	0.1 [-0.1-0.3]
Did not meet notice requirements	0.1 [-0.1-0.2]	0.0 [0.0-0.0]	26.2 [6.0-46.4]	73.7 [53.5-94.0]	0.0 [0.0-0.0]
Unweighted N	188				
<b>All covered worksites, weighted by employees at worksite</b>					
Percent of applications for leave for a qualifying FMLA reason denied for <i>any</i> reason	0.1 [-0.1-0.3]	0.0 [0.0-0.0]	44.6 [30.0-59.3]	53.5 [38.8-68.1]	1.8 [0.7-2.9]
Eligible employees denied leave because:					
Used entire time allotment covered by FMLA	0.5 [-0.3-1.2]	1.8 [-1.6-5.2]	87.3 [80.3-94.4]	10.0 [4.6-15.4]	0.4 [-0.2-1.0]
FMLA did not cover the reason for their leave	0.0 [0.0-0.0]	0.0 [0.0-0.0]	87.0 [79.4-94.7]	12.9 [5.3-20.5]	0.1 [-0.1-0.3]
Did not meet notice requirements	0.1 [-0.1-0.2]	0.0 [0.0-0.0]	26.2 [6.0-46.3]	73.8 [53.6-94.0]	0.0 [0.0-0.0]
Unweighted N	190				
<b>50/75 worksites, weighted by worksite</b>					
Percent of applications for leave for a qualifying FMLA reason denied for <i>any</i> reason	0.2 [-0.1-0.4]	0.0 [0.0-0.0]	8.7 [4.6-12.9]	90.3 [86.0-94.6]	0.8 [0.3-1.3]
Eligible employees denied leave because:					
Used entire time allotment covered by FMLA	0.4 [-0.2-1.1]	0.4 [-0.2-1.1]	53.8 [35.3-72.4]	44.9 [26.6-63.1]	0.4 [-0.2-1.1]
FMLA did not cover the reason for their leave	0.0 [0.0-0.0]	0.0 [0.0-0.0]	62.1 [45.5-78.8]	37.6 [21.0-54.3]	0.2 [-0.2-0.7]
Did not meet notice requirements	0.8 [-0.8-2.5]	0.0 [0.0-0.0]	9.6 [3.8-15.4]	89.6 [82.9-96.3]	0.0 [0.0-0.0]
Unweighted N	188				

Denial of leave	All % [95% CI]	Most % [95% CI]	Some % [95% CI]	None % [95% CI]	DK % [95% CI]
<b>All covered worksites, weighted by worksite</b>					
Percent of applications for leave for a qualifying FMLA reason denied for <i>any</i> reason	0.1 [-0.0-0.1]	0.0 [0.0-0.0]	3.2 [1.5-4.9]	96.2 [94.4-98.1]	0.5 [0.0-1.0]
Eligible employees denied leave because:					
Used entire time allotment covered by FMLA	0.4 [-0.2-1.0]	0.4 [-0.2-1.0]	51.4 [32.7-70.2]	47.3 [28.8-65.8]	0.4 [-0.2-1.0]
FMLA did not cover the reason for their leave	0.0 [0.0-0.0]	0.0 [0.0-0.0]	59.4 [42.1-76.6]	40.4 [23.2-57.7]	0.2 [-0.2-0.6]
Did not meet notice requirements	0.8 [-0.8-2.4]	0.0 [0.0-0.0]	9.1 [3.6-14.6]	90.1 [83.7-96.5]	0.0 [0.0-0.0]
Unweighted N	190				

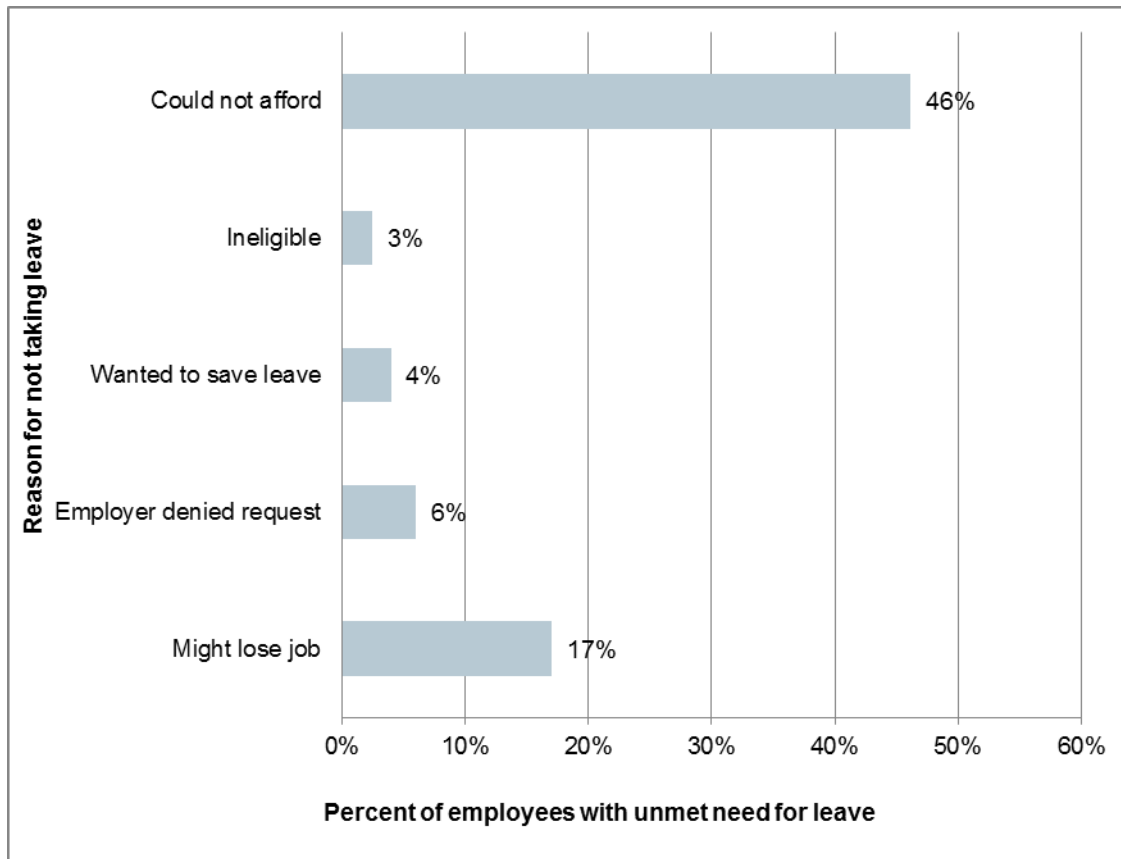
Source: Worksite Survey Q27, Q28, Q30, Q32.

Sample: Asked of all worksites that self-report that they are covered by the FMLA.

## 6.4 Reasons for Not Taking Leave

Why would someone who felt that they needed leave not take leave? Exhibit 6.4.1 tabulates the most commonly cited responses to that question from workers who needed but did not take leave. Consistent with the fact that the FMLA allows for an unpaid absence, about half of employees with unmet need report that they cannot afford to take leave (46%). The only other common response is fear of losing one’s job (17%).

**Exhibit 6.4.1 Commonly cited reasons for not taking leave**



Source: Employee Survey B15.

Sample: Employees with unmet need for leave in the past 12 months.

Exhibit 6.4.2 provides more detail, including results from the 1995 and 2000 surveys. For the most part, the results are similar regardless of the eligibility status of the employee with unmet need for leave (see the second and third two columns of Exhibit 6.4.2). Note, however, that ineligibility for leave is less common among eligible employees (1.2% vs. 4.0%).

Responses are very different from those in the 1995 and 2000 surveys; in particular, there is much less concern about losing a job or seniority. In addition, ineligibility is less common. It is not clear why. The questions are similar, but not identical. For example, respondents to the 2000 survey were read aloud each response category, whereas in 2012 the respondent’s “free text” responses were coded to the expanded response categories by the interviewer. We also note that rates of unmet need for leave are much higher in 2012 than in earlier years.



**Exhibit 6.4.2 Non-medical reasons for not taking leave in the past 12 months by eligibility in 2012, past 18 months for 1995 and 2000**

Reason needed leave was not taken by employee	2012			1995	2000
	All employees with unmet need for leave % [95% CI]	Eligible and covered employees % [95% CI]	All other employees with unmet need for leave % [95% CI]	All employees with unmet need for leave % [95% CI]	All employees with unmet need for leave % [95% CI]
You thought you might lose your job	17.0 [11.2-22.9]	17.3 [9.4-25.1]	16.8 [9.1-24.5]	29.7 [23.1-36.3]	31.9 [25.3-38.5]
You thought you would lose your seniority or potential for job advancement*	1.9 [0.6-3.3]	2.6 [0.5-4.8]	1.1 [-0.6-2.9]	37.9 [N/A]	70.4 [N/A]
You were ineligible**	2.5 [0.4-4.5]	1.2 [-0.2-2.6]	4.0 [-0.1-8.1]	14.3 [9.3-19.3]	30.7 [N/A]
Your worksite denied your request	6.0 [2.4-9.5]	6.1 [0.9-11.4]	5.8 [1.3-10.3]	9.9 [5.5-14.3]	20.8 [15-26.6]
You couldn't afford to take an unpaid leave	46.1 [39.1-53.1]	45.7 [37.7-53.7]	46.6 [35.3-57.9]	65.9 [57.8-74.0]	77.6 [71-84.2]
You wanted to save your leave time	4.0 [1.0-6.9]	3.2 [0.6-5.8]	4.9 [-0.8-10.6]	28.5 [21.8-35.2]	34.3 [27.6-41]
Your work is too important	3.7 [1.5-5.9]	4.2 [1.3-7.0]	3.2 [-0.2-6.5]	40.8 [33.6-48]	52.6 [44.6-60.6]
You were worried about revealing personal information about yourself, your care recipient, or family relationships	0.2 [-0.1-0.6]	0.2 [-0.2-0.7]	0.3 [-0.3-0.8]	N/A	N/A
You thought you would be treated differently because of the reason you needed to take leave	2.1 [1.1-3.1]	1.6 [-0.2-3.5]	2.6 [-0.6-5.9]	N/A	N/A
You thought that the person you wanted to take leave to care for was not considered a covered family member	1.2 [-1.2-3.6]	2.2 [-2.2-6.7]	0.0 [0.0-0.0]	N/A	N/A
You thought that the health condition did not qualify	0.6 [-0.1-1.4]	0.3 [-0.3-0.9]	1.0 [-0.4-2.5]	N/A	N/A
Your worksite's process for taking leave was too complicated	0.4 [-0.2-1.1]	0.8 [-0.4-2.0]	0.0 [0.0-0.0]	N/A	N/A

Reason needed leave was not taken by employee	2012			1995	2000
	All employees with unmet need for leave % [95% CI]	Eligible and covered employees % [95% CI]	All other employees with unmet need for leave % [95% CI]	All employees with unmet need for leave % [95% CI]	All employees with unmet need for leave % [95% CI]
You were unable to meet your worksite's notice requirement for taking leave	1.0 [-0.2-2.1]	0.6 [-0.6-1.8]	1.4 [-0.7-3.4]	N/A	N/A
You were unaware of the availability of leave	0.2 [-0.2-0.6]	0.4 [-0.3-1.1]	0.0 [0.0-0.0]	N/A	N/A
Other reason	30.1 [24.4-35.7]	29.8 [22.2-37.4]	30.4 [20.3-40.5]	N/A	13.2 [8.6-17.8]
Unweighted N	297	169	128	406	598

\* Reported as two categories in the 2000 Report for both 1995 and 2000. The sum of the two categories is reported above. However, we note that because employees could select more than one category, this may over-estimate the percentage for 1995 and 2000.

\*\* Reported as two categories in the 2000 report for 2000. The sum of the two categories is reported above. However, we note that because employees could select more than one category, this may over-estimate the percentage for 2000. In 1995, this was reported as “not eligible—worked part time,” and the other not eligible category was not asked.

Source: 2012 Employee Survey B15; 2000 Report Table 2.17.

Columns may sum to >100% since respondent could select more than one category.

Cells with “N/A” indicate that the data were not reported in the 2000 Report.

2012 Sample: Employees with unmet need for leave in the past 12 months. 1995 and 2000 reflect employees with unmet need for leave in the past 18 months.

For the most part, the results are similar regardless of income (Exhibit 6.4.3). Higher income families are more likely to report being unable to afford more unpaid leave (53.3% vs. 36.6%). Additionally, higher income families are less likely to report that their work is too important (1.2% vs. 8.9%) and that they would be treated differently because they took leave (0.4% vs. 5.4%).

**Exhibit 6.4.3 Non-medical reasons for not taking leave in the past 12 months, by family income**

Reason needed leave was not taken by employee	< Median family income % [95% CI]	>= Median family income % [95% CI]
You thought you might lose your job	17.8 [9.0-26.6]	16.9 [8.6-25.3]
You thought you would lose your seniority or potential for job advancement	2.7 [-0.1-5.6]	1.7 [-0.1-3.5]
You were ineligible	2.7 [-1.5-7.0]	1.0 [-0.2-2.2]
Your employer denied your request	8.5 [3.4-13.6]	5.2 [-0.0-10.5]
You couldn't afford to take an unpaid leave	36.6 [26.9-46.3]	53.3 [43.5-63.0]
You wanted to save your leave time	3.7 [0.1-7.2]	3.8 [-0.7-8.3]
Your work is too important	8.9 [3.6-14.1]	1.2 [-0.6-3.0]
You were worried about revealing personal information about yourself, your care recipient, or family relationships	0.7 [-0.3-1.7]	0.0 [0.0-0.0]
You thought you would be treated differently because of the reason you needed to take leave	5.4 [2.7-8.1]	0.4 [-0.4-1.3]
You thought that the person you wanted to take leave to care for was not considered a covered family member	0.0 [0.0-0.0]	2.1 [-2.0-6.2]
You thought that the health condition did not qualify	0.5 [-0.5-1.6]	0.8 [-0.4-1.9]
Your employer's process for taking leave was too complicated	0.4 [-0.4-1.3]	0.5 [-0.5-1.5]
You were unable to meet your employer's notice requirement for taking leave	0.7 [-0.7-2.1]	1.2 [-0.5-3.0]
You were unaware of the availability of leave	0.6 [-0.6-1.8]	0.0 [0.0-0.0]
Other reason	35.5 [25.9-45.2]	26.1 [16.4-35.8]
Unweighted N	133	135

Source: Employee Survey B15, D4.

Columns may sum to >100% since respondent could select more than one category.

Median income = \$62,500 (imputed as halfway point in the reported \$50,000-\$74,999 range).

Sample: Employees with unmet need for leave in the past 12 months.

## 6.5 Actions in Lieu of Leave

Finally, Exhibit 6.5.1 tabulates actions taken in lieu of leave for employees who needed but did not take leave.<sup>38</sup> The results suggest that employees with unmet need for leave use multiple strategies. The most common reported strategies are: someone else took over care-giving responsibilities (65.4%), deferring or forgoing medical care (52.3% and 50.3% respectively), some other family member(s) took leave (41.1%), and paying others to provide care (31.6% for childcare; 35.1% for eldercare). The results stratified by eligibility and coverage status suggest similar strategies are used by both groups of workers who needed but did not take leave.

**Exhibit 6.5.1 Action taken in lieu of taking leave**

Action taken in lieu of leave	All employees with unmet need for leave % [95% CI]	Eligible and covered employees % [95% CI]	All employees with unmet need for leave % [95% CI]
Recipient forewent medical treatment	50.3 [41.7-58.9]	51.7 [40.3-63.0]	48.7 [35.5-61.9]
Recipient postponed treatment	52.3 [44.5-60.0]	55.8 [46.5-65.2]	47.8 [35.1-60.5]
Someone else in the family took leave	41.1 [27.5-54.8]	44.4 [26.6-62.1]	37.1 [22.2-51.9]
Someone else took over care-giving responsibilities	65.4 [55.8-75.0]	63.7 [52.8-74.6]	67.5 [51.5-83.5]
Paid for eldercare	35.1 [19.6-50.5]	21.9 [4.2-39.7]	44.4 [21.8-67.0]
Paid for childcare	31.6 [17.1-46.1]	31.5 [13.2-49.8]	31.9 [14.3-49.5]
Other solution	22.0 [16.3-27.6]	19.8 [12.5-27.0]	24.5 [16.1-33.0]
Unweighted N	297	169	128

Source: Employee Survey B20.

Columns may sum to >100% since respondent could select more than one category.

Sample: Employees with unmet need for leave in the past 12 months.

<sup>38</sup> The 2000 survey asked a similar question: “B4: Since you did not take leave, what did you do to take care of the situation?” However, it was an open-ended question which was then summarized by the authors to five mutually exclusive categories: “just lived with it/suffered through it,” “got help from others (family, friends),” altered work (schedule, duties, etc.), “took some time off,” “did something else” (see Table 2.19 in the 2000 Report). Because of the different methodology, the results are not comparable between 2000 and 2012.

## 7. Subpopulation Analyses

The previous three chapters reported broad patterns of behavior among leave takers and employees with unmet need for leave, with some disaggregation by FMLA eligibility. In this chapter, we report tabulations for subgroups of particular interest. Specifically, Section 7.1 provides evidence from the Worksite Survey on leaves taken for military-related reasons and Section 7.2 examines differential patterns of leave by gender and, in particular, paternity leave.

The Detailed Results Appendix presents additional results from the Employee Survey for military leave (i.e., leave to care for a military service member with a serious injury or illness and leave for reasons related to the deployment of a military service member) and unmet need for leave, as well as leave taking and leave needing based on a worker's sexual orientation. We did not oversample either of these groups. As a result, there are simply too few cases to provide useful results.<sup>39</sup>

As noted in Chapter 1, unless otherwise noted, when discussing results from the Worksite Survey we focus on estimates weighted by the number of employees at the worksite (not weighted by worksite) for 50/75 worksites (i.e., worksites that have 50 employees within 75 miles and are, therefore, large enough to have covered employees).

### 7.1 Leave for Military Personnel

In this section, we provide evidence from the Worksite Survey on leaves taken for military-related reasons. Attention to these groups rose with the increased level of military operations after the terrorist attacks on September 11, 2001.

Members of the Active Components of the military do not need leave for military service since the Department of Defense is their worksite. However, the Reserve Components are citizen soldiers; they hold civilian jobs and are also subject to call to active duty as needed by the military. The Uniformed Services Employment and Reemployment Rights Act (USERRA) guarantees activated reservists the right to return to the job they would have attained had they not been absent for military service ("escalator" clause).<sup>40</sup>

Among the groups needing military-related leave are family members of deploying service members and family members caring for an injured service member. The 2008 National Defense Authorization Act (NDAA) expanded the qualifying reasons for FMLA-protected leave to include leave for qualifying exigencies related to the deployment of a close relative (spouse, son, daughter, or parent) with the National Guard or Reserves. The 2008 NDAA also provided eligible employees who are the spouse, parent, son, daughter, or next of kin of a covered service member with a serious injury or

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<sup>39</sup> There were only 16 cases of leave for a military deployment and 2 cases of unmet need for leave for a military deployment. Similarly, there were only 8 cases of leave to care for an injured service member and 4 cases of unmet need to care for leave for an injured service member. Finally, there were only 80 cases where the individual self-reported being lesbian/gay or bisexual, of which 29 took leave and 13 had unmet need for leave. It follows that those results should be interpreted with extreme care.

<sup>40</sup> On USERRA, see [http://www.dol.gov/vets/programs/userra/userra\\_fs.htm](http://www.dol.gov/vets/programs/userra/userra_fs.htm).

illness with up to 26 workweeks of leave in a single 12-month period to care for the service member. The 2010 NDAA further expanded leave for qualifying exigencies to cover employees with close family members serving in the Regular Armed Forces, and also expanded FMLA-protected leave to care for a covered service member to include certain veterans with a serious injury or illness and to include a serious injury or illness that existed prior to service and that was aggravated in the line of duty on active duty. Given these changes to the FMLA, the 2012 surveys introduced new questions specific to leave related to military personnel.

The Worksite Survey asked worksites about their leave policy related to care for a military service member with a serious injury or illness as well as their leave policy for reasons related to family members of deployed military service members. Across all worksites—covered and uncovered—the vast majority report that they allow leave for both types of military family reasons (Exhibit 7.1.1): 90.8% of employees work for worksites that allow leave for reasons related to the care of a military service member, and 84.3% work for worksites that allow leave for reasons related to the deployment of a military service member. As expected, rates are higher for covered worksites than for uncovered worksites (for serious injury/illness: 97.1% vs. 75.8%; for deployment: 88.7% vs. 73.6%). As reported in Exhibit 5.3.2, average leave allowed by worksites to take care of a service member with a serious injury or illness is 47.1 days for all worksites, but much higher for covered worksites than uncovered worksites (54.9 days vs. 22.0 days, respectively).<sup>41</sup>

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<sup>41</sup> The Worksite Survey did not ask worksites about the total time allowed for reasons related to deployment of a military member.

**Exhibit 7.1.1 Worksites that allow leave to care for military personnel, by coverage**

Leave to care for military personnel	All worksites % [95% CI]	Uncovered % [95% CI]	Covered % [95% CI]	50/75 worksites % [95% CI]
<b>Weighted by employees at worksite</b>				
Worksite allows leave for the care of a military service member with a serious injury or illness:				
Yes	90.8 [88.0-93.6]	75.8 [71.4-80.2]	97.1 [95.5-98.6]	98.4 [97.4-99.3]
Depends	3.0 [2.1-4.0]	8.7 [6.2-11.3]	0.6 [0.0-1.2]	0.1 [-0.0-0.3]
No	4.8 [3.0-6.6]	11.5 [8.5-14.4]	2.0 [0.9-3.2]	1.3 [0.5-2.2]
Don't know/refused	1.4 [0.8-1.9]	4.0 [2.5-5.5]	0.3 [0.0-0.5]	0.2 [-0.0-0.4]
Worksite allows leave for reasons related to the deployment of a military service member:				
Yes	84.3 [77.6-91.0]	73.6 [69.1-78.1]	88.7 [78.8-98.6]	89.1 [78.2-100.0]
Depends	3.7 [2.6-4.9]	10.0 [7.6-12.4]	1.1 [0.2-1.9]	0.6 [0.1-1.1]
No	8.7 [1.8-15.6]	11.4 [8.4-14.5]	7.6 [-1.8-16.9]	7.5 [-2.8-17.8]
Don't know/refused	3.3 [0.5-6.2]	4.9 [2.9-7.0]	2.6 [-1.2-6.5]	2.8 [-1.6-7.2]
<b>Weighted by worksite</b>				
Worksite allows leave for the care of a military service member with a serious injury or illness:				
Yes	69.7 [63.9-75.4]	65.9 [60.3-71.5]	88.5 [80.1-96.8]	96.7 [94.9-98.6]
Depends	16.6 [13.1-20.1]	18.9 [14.4-23.4]	5.0 [-0.4-10.5]	0.6 [-0.3-1.5]
No	10.7 [7.4-14.1]	11.7 [8.0-15.3]	6.0 [0.3-11.7]	1.8 [0.7-2.9]
Don't know/refused	3.0 [1.4-4.7]	3.5 [1.7-5.4]	0.5 [0.0-1.0]	0.9 [-0.1-1.9]
Worksite allows leave for reasons related to the deployment of a military service member:				
Yes	67.6 [61.5-73.6]	63.7 [57.5-70.0]	86.8 [78.1-95.4]	92.2 [87.7-96.7]
Depends	17.8 [14.6-21.1]	20.3 [15.9-24.7]	5.5 [-0.1-11.0]	1.7 [0.1-3.2]
No	10.5 [7.0-14.0]	11.2 [7.4-15.0]	6.8 [0.9-12.7]	4.0 [0.9-7.2]
Don't know/refused	4.1 [2.1-6.1]	4.7 [2.4-7.1]	0.9 [0.2-1.7]	2.2 [-0.2-4.5]
Unweighted N	1,812	824	988	808

Source: Worksite Survey Q16.

Sample: Worksite Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

## 7.2 Leave for Paternity and Maternity Reasons

Prior to the FMLA, some states passed legislation providing job-protected maternity leave, i.e., leave for mothers, often due to the disability late in a pregnancy and the rigors of childbirth. However, the federal FMLA legislation is drawn much more broadly than maternity leave alone. It is gender neutral and covers circumstances well beyond childbirth. Given the evidence of increasing (though far from complete) balance in gender roles in the United States since the 2000 survey (Donze, 2005; Prohaska and Zipp, 2009), this section reports tabulations of leave taking and unmet need for leave by gender—overall and in particular for parental (paternity/maternity) responsibilities. Section 7.2.1 uses the Worksite Survey to compare worksite policies on maternity leave and paternity leave. Section 7.2.2 uses the Employee Survey to compare leave taking and unmet need for leave, overall and by gender. Note that throughout this section, we use the term “parental leave” to refer to leave taken either by mothers (i.e., maternity leave) or by fathers (i.e., paternity leave).

### 7.2.1 Worksite Offers of Paid Parental Leave

Worksite Survey responses suggest that *paid* parental leave is not common (Exhibits 7.2.1 and 7.2.2). Over all worksites—covered and uncovered—about a third of employees work at worksites that offer paid maternity leave to all or most female employees (21.6% for all employees + 13.5% for most employees). Paid paternity leave is slightly less common (9.0% for all employees + 11.0% for most employees).



**Exhibit 7.2.1 Worksites that offer paid maternity and paternity leave to employees, weighted by employees at worksite**

Paid maternity/paternity leave	All worksites, weighted by employees at worksite					Uncovered worksites, weighted by employees at worksite				
	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/refused % [95% CI]	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/refused % [95% CI]
Worksites that offer paid maternity leave	21.6 [14.1-29.2]	13.5 [8.2-18.9]	23.2 [9.4-37.0]	39.3 [30.4-48.2]	2.3 [0.3-4.4]	17.6 [11.1-24.2]	7.1 [1.7-12.4]	7.4 [3.8-10.9]	62.4 [54.0-70.8]	5.5 [0.4-10.6]
Worksites that offer paid paternity leave	9.0 [5.9-12.1]	11.0 [5.9-16.2]	20.8 [6.4-35.2]	55.2 [43.9-66.5]	3.9 [1.0-6.8]	9.4 [5.6-13.3]	6.0 [0.8-11.2]	3.9 [1.9-5.9]	74.7 [67.5-82.0]	6.0 [1.5-10.4]
Worksites that offer paid paternity and maternity leave	8.9 [5.7-12.0]	11.2 [5.9-16.5]	21.3 [6.8-35.8]	56.6 [44.5-68.7]	2.1 [-0.3-4.5]	9.6 [5.6-13.7]	6.2 [0.7-11.7]	4.2 [2.1-6.4]	78.5 [71.7-85.3]	1.4 [-0.2-3.0]
Unweighted N	1,812					824				

Paid maternity/paternity leave	Covered worksites, weighted by employees at worksite					50/75 worksites, weighted by employees at worksite				
	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/refused % [95% CI]	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/refused % [95% CI]
Worksites that offer paid maternity leave	23.3 [12.6-34.1]	16.2 [8.4-24.0]	29.8 [11.9-47.8]	29.6 [19.5-39.7]	1.0 [0.3-1.7]	23.3 [11.5-35.1]	17.0 [8.2-25.8]	31.6 [12.0-51.2]	27.3 [16.6-38.0]	0.8 [0.2-1.5]
Worksites that offer paid paternity leave	8.8 [5.0-12.7]	13.1 [5.9-20.3]	28.0 [9.6-46.3]	47.0 [32.4-61.6]	3.1 [-0.0-6.2]	7.5 [3.6-11.4]	13.6 [5.5-21.6]	30.0 [10.1-50.0]	45.7 [29.7-61.7]	3.2 [-0.3-6.6]
Worksites that offer paid paternity and maternity leave	8.5 [4.7-12.4]	13.2 [6.0-20.5]	28.1 [9.6-46.6]	47.8 [32.9-62.7]	2.3 [-0.8-5.5]	7.2 [3.3-11.2]	13.7 [5.6-21.8]	30.1 [10.0-50.2]	46.5 [30.1-62.8]	2.5 [-0.9-5.9]
Unweighted N	988					808				

Source: Worksite Survey Q11.

Sample: Asked of all worksites. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

**Exhibit 7.2.2 Worksites that offer paid maternity and paternity leave to employees, weighted by worksite**

Paid maternity/paternity leave	All worksites, weighted by worksite					Uncovered worksites, weighted by worksite				
	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/refused % [95% CI]	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/refused % [95% CI]
Worksites that offer paid maternity leave	17.6 [12.4-22.9]	3.4 [1.3-5.6]	4.1 [1.5-6.7]	72.6 [66.9-78.3]	2.3 [0.5-4.1]	14.6 [8.9-20.3]	2.4 [0.6-4.3]	2.5 [0.6-4.4]	78.3 [72.6-83.9]	2.2 [0.3-4.1]
Worksites that offer paid paternity leave	11.4 [6.8-16.0]	2.6 [0.7-4.5]	2.5 [0.8-4.1]	80.6 [75.4-85.8]	2.9 [1.1-4.8]	9.0 [4.6-13.5]	1.7 [0.3-3.0]	1.2 [-0.1-2.5]	85.6 [80.5-90.7]	2.5 [0.7-4.4]
Worksites that offer paid paternity and maternity leave	11.2 [6.3-16.0]	2.6 [0.7-4.6]	2.6 [0.9-4.2]	82.4 [77.0-87.7]	1.2 [-0.0-2.5]	8.8 [4.0-13.5]	1.7 [0.3-3.1]	1.3 [-0.1-2.6]	87.4 [82.2-92.6]	1.0 [-0.3-2.2]
Unweighted N	1,812					824				

Paid maternity/paternity leave	Covered worksites, weighted by worksite					50/75 worksites, weighted by worksite				
	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/refused % [95% CI]	All employees % [95% CI]	Most employees % [95% CI]	Some employees % [95% CI]	No employees % [95% CI]	DK/refused % [95% CI]
Worksites that offer paid maternity leave	32.7 [25.1-40.2]	8.6 [3.0-14.3]	12.2 [4.3-20.1]	43.9 [36.8-51.0]	2.6 [-0.3-5.4]	32.5 [18.4-46.5]	9.3 [4.9-13.7]	16.9 [4.7-29.0]	40.5 [24.6-56.5]	0.9 [0.2-1.6]
Worksites that offer paid paternity leave	23.2 [16.4-30.0]	7.6 [2.0-13.1]	8.9 [1.9-15.9]	55.4 [46.3-64.4]	5.0 [0.3-9.7]	12.5 [2.9-22.1]	6.6 [3.3-9.8]	15.5 [2.9-28.0]	58.1 [37.4-78.9]	7.3 [-3.2-17.9]
Worksites that offer paid paternity and maternity leave	23.4 [16.1-30.8]	7.6 [2.0-13.2]	9.1 [2.1-16.2]	57.1 [47.7-66.5]	2.7 [-1.6-7.0]	12.0 [2.3-21.7]	6.5 [3.3-9.7]	15.7 [3.1-28.3]	59.1 [37.9-80.2]	6.7 [-3.9-17.4]
Unweighted N	988					808				

Source: Worksite Survey Q11.

Sample: Asked of all employees. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

**7.2.2 Employees' Take-Up and Need of Leave**

Exhibit 7.2.3 presents rates of leave taking and unmet need for leave in the past 12 months for different medical reasons, by gender. Overall and for many of the specific reasons for taking leave, women are more likely to take leave and more likely to have unmet need for leave.

**Exhibit 7.2.3 Rates of leave taking and unmet need for leave in the past 12 months for different medical reasons, by gender**

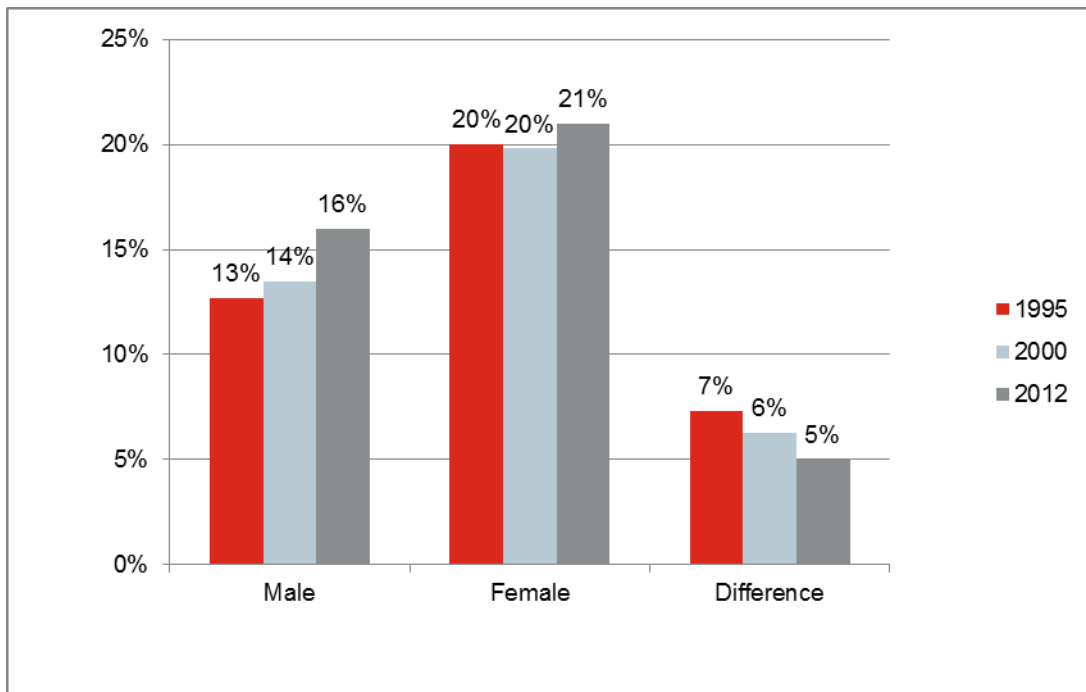
Medical reason for taking or needing leave	Leave takers		Employees with unmet need for leave	
	Males % [95% CI]	Females % [95% CI]	Males % [95% CI]	Females % [95% CI]
All FMLA qualifying reasons	11.4 [09.9-13.0]	15.2 [13.4-17.0]	3.2 [2.4-4.0]	6.1 [4.8-7.3]
Own illness	7.2 [6.0-8.3]	8.7 [7.4-10.0]	1.9 [1.3-2.5]	3.1 [2.3-3.8]
Related to a new child	2.5 [1.7-3.2]	3.9 [2.6-5.1]	0.4 [0.1-0.7]	0.5 [0.1-0.8]
Parent's, spouse's or child's health condition	2.0 [1.4-2.5]	3.5 [2.8-4.3]	0.9 [0.6-1.3]	2.6 [1.8-3.5]
Other relative's health condition	0.0 [-0.0-0.0]	0.3 [0.0-0.5]	0.0 [-0.0-0.1]	0.1 [-0.0-0.1]
Other non-relative's health condition	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [-0.0-0.0]	0.0 [-0.0-0.0]
Domestic partner's health condition	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	0.0 [0.0-0.0]
Address issue of military member's deployment	0.4 [0.0-0.7]	0.1 [0.0-0.2]	0.0 [-0.0-0.1]	0.0 [-0.0-0.1]
Other reason	0.0 [-0.0-0.1]	0.0 [-0.0-0.1]	0.0 [0.0-0.0]	0.1 [-0.1-0.3]
Unweighted N	1,262	1,589	1,262	1,589

Source: Employee Survey S8, A1, B1, B2, A5, B6.

Sample: Asked of all employees with any leave taken or needed in the past 12 months.

Exhibit 7.2.4 plots rates of leave taking in the past 18 months by gender for 1995, 2000, and 2012. The rate of leave taking has increased significantly for men (between 1995 and 2012), but not for women. Exhibit 7.2.5 provides more detail.

**Exhibit 7.2.4 Rates of leave taking in the past 18 months by gender for 1995, 2000, 2012**



Source: Employee Survey A1; 2000 Report Table A2-2.7.  
 Sample: Employees who took leave in the past 18 months.

**Exhibit 7.2.5 Rates of leave taking in the past 18 months by gender, 1995, 2000, 2012**

Rate of taking leave in the past 18 months	1995 % [95% CI]	2000 % [95% CI]	2012 % [95% CI]
Males	12.7 [11-14.4]	13.5 [11.9-15.1]	16.0 [14.1-17.9]
Females	20.0 [17.6-22.4]	19.8 [17.8-21.8]	21.2 [19.0-23.3]
Difference	7.3% pts	6.3% pts	5.2% pts
Unweighted N	1,172	1,229	2,852h

Source: Employee Survey A1; 2000 Report Table A2-2.7.  
 Sample: Employees who took leave in the past 18 months.

Again, with the caveat that sample sizes are small for such comparisons, Exhibit 7.2.6 compares the nature of the health condition for men and women. The rate of taking or needing leave is lower for males than females across all health conditions. In particular, females are more likely to take leave for an illness or injury that requires routine or scheduled care (2.2% vs. 1.1%).

**Exhibit 7.2.6 Rates of leave takers and employees with unmet need for leave, for the nature of the health condition in the past 12 months, by gender**

Nature of health condition	Leave takers		Employees with unmet need for leave	
	Males % [95% CI]	Females % [95% CI]	Males % [95% CI]	Females % [95% CI]
A one-time health matter	4.7 [3.7-5.6]	5.9 [4.9-7.0]	1.1 [0.5-1.6]	1.6 [0.9-2.3]
Injury or illness that now requires routine scheduled care	1.1 [0.7-1.5]	2.2 [1.5-2.8]	0.5 [0.2-0.7]	1.2 [0.7-1.7]
Ongoing health condition	2.3 [1.5-3.2]	3.3 [2.5-4.0]	1.1 [0.7-1.6]	2.5 [1.8-3.1]
Other	1.2 [0.7-1.8]	2.2 [1.6-2.8]	0.2 [0.1-0.3]	0.8 [0.4-1.2]
Don't know/refused	0.1 [-0.0-0.1]	0.2 [0.0-0.3]	0.0 [-0.0-0.1]	0.1 [-0.0-0.2]
Unweighted N	1,262	1,589	1,262	1,589

Source: Employee Survey A10, B11.

Sample: Asked of all employees with any leave taken or needed in the past 12 months.

Exhibit 7.2.7 plots the distribution of leave lengths for non-parental and parental reasons (parental reasons defined as caring for or bonding with a newborn, newly adopted child, or new foster child or for maternity-related disability/illness; *i.e.*, a new child). Exhibit 7.2.8 presents additional detail. The distribution of durations is relatively similar between males and females for non-parental reasons (top panel of Exhibit 7.2.7). However, for parental reasons (that is, related to a new child), the distributions are very different (bottom panel of Exhibit 7.2.7). Women are much less likely to take a leave of 10 days or less (22.8% vs. 70.4%) and much more likely to take a much longer leave (see Exhibit 7.2.8).

**Exhibit 7.2.7 Length of leave for non-parental and parental reasons, by gender**



Source: Employee Survey A5, A19.

Length of leave among employees who are currently on leave is imputed by doubling their reported length of leave. All duration of leave was truncated at 2 months.

Parental reason defined as caring for or bonding with a newborn, newly adopted child, or new foster child, or maternity-related disability/illness.

Non-parental reason defined as own illness (excluding maternity-related disability/illness), caring for parent, spouse or child, or military deployment or injury.

Sample: All employees with most recent leave taken in the past 12 months.

**Exhibit 7.2.8 Length of leave taken reasons in the past 12 months for non-parental and parental reasons, by gender**

Duration of leave	For non-parental reasons				For parental reasons			
	Most recent in past 12 months		Longest in past 12 months		Most recent in past 12 months		Longest in past 12 months	
	Males % [95% CI]	Females % [95% CI]	Males % [95% CI]	Females % [95% CI]	Males % [95% CI]	Females % [95% CI]	Males % [95% CI]	Females % [95% CI]
0-10 days	47.3 [39.9-54.8]	38.8 [32.9-44.7]	46.1 [37.8-54.3]	39.1 [33.0-45.3]	70.4 [55.1-85.7]	22.8 [11.2-34.4]	69.4 [54.0-84.9]	22.6 [10.8-34.4]
11-40 days	25.2 [20.2-30.2]	39.4 [33.1-45.8]	25.2 [19.9-30.5]	40.4 [34.1-46.7]	14.6 [5.1-24.0]	21.5 [10.0-32.9]	17.7 [6.2-29.2]	19.4 [9.7-29.2]
41-60 days	9.4 [3.6-15.2]	10.4 [7.1-13.7]	10.1 [3.9-16.4]	10.3 [6.9-13.7]	9.2 [-0.7-19.2]	17.6 [9.0-26.1]	7.9 [-0.8-16.6]	19.0 [10.0-27.9]
60+ days	18.1 [13.1-23.1]	11.3 [8.2-14.5]	18.6 [13.3-23.8]	10.1 [6.9-13.4]	5.8 [-5.8-17.4]	38.2 [24.6-51.8]	5.0 [-5.0-14.9]	39.0 [25.4-52.5]
	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>	<b>Average [95% CI]</b>
Average days	34.0 [26.8-41.1]	29.7 [25.4-34.0]	35.8 [28.0-43.5]	27.4 [23.8-30.9]	21.8 [1.4-42.1]	57.5 [45.8-69.2]	20.5 [3.1-37.9]	59.0 [47.1-70.8]
Unweighted N	297	426	279	391	50	93	55	92

Source: Employee Survey A5, A19.

Length of leave among employees who are currently on leave is imputed by doubling their reported length of leave. All duration of leave was truncated at 2 months.

Parental reason defined as caring for or bonding with a newborn, newly adopted child, or new foster child, or maternity-related disability/illness.

Non-parental reason defined as own illness (excluding maternity-related disability/illness), caring for parent, spouse or child, or military deployment or injury.

Sample: Asked of all employees with any leave taken in the past 12 months.

Finally, Exhibit 7.2.9 presents the percentage of pay received by parental leave takers, stratified by gender. Females are more than twice as likely as males to receive pay for parental leave (7.6% vs. 3.6%). For male parental leave takers who received pay, nearly half report it being the employee’s choice (47.9%), while half of female parental leave takers who received pay report it being a joint decision with their worksite (50.6%).

**Exhibit 7.2.9 Pay received by employees who took leave in the past 12 months for parental reasons, by gender**

Pay receipt	Male % [95% CI]	Female % [95% CI]
Pay received by employees for parental leave	3.6 [1.5-5.6]	7.6 [3.8-11.4]
Choice of pay:		
Employee's choice	47.9 [16.8-79.0]	26.8 [10.3-43.2]
Required by worksite	26.2 [-0.3-52.6]	20.8 [4.2-37.5]
Both employee and worksite choice	22.1 [-1.9-46.0]	50.6 [28.8-72.5]
Unweighted N	360	541

Source: Employee Survey A5, A45, A46, A47.

Parental reason defined as caring for or bonding with a newborn, newly adopted child, or new foster child or for maternity-related disability/illness.

Sample: Employees who took leave for parental reasons in the past 12 months.

**7.3 Leave by Sexual Orientation**

As noted at the start of the chapter, sample sizes are too small to present reliable estimates of variation in leave taking by sexual orientation. The Detailed Results Appendix presents some limited tabulations. Given the very small sample sizes, even these tabulations should be interpreted with extreme care.



## 8. Worksite Responses and Perceptions

The FMLA attempts to balance the need for leave by employees against the disruption (and cost) of leave incurred by worksites. The FMLA statute's "purposes" explicitly discuss this balance (Public Law 103-3 § 2(b):

- (1) to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity;*
- (2) to entitle employees to take reasonable leave for medical reasons, for the birth or adoption of a child, and for the care of a child, spouse, or parent who has a serious health condition;*
- (3) to accomplish the purposes described in paragraphs (1) and (2) in a manner that accommodates the legitimate interests of worksites*

This chapter considers evidence of such costs, the reported disruption that leave causes, and how worksites deal with that disruption. Section 8.1 reports worksites' descriptions of how they handle the work of those on leave. Section 8.2 reports employees' descriptions of how their work was handled while they or their coworkers were on leave. Section 8.3 tabulates worksites' responses regarding the difficulty of dealing with various types of leave. Section 8.4 concludes with a discussion of worksites' perceptions of misuse of the FMLA.

As noted in Chapter 1, unless otherwise noted, when discussing results from the Worksite Survey we focus on estimates weighted by the number of employees at the worksite (not weighted by worksite) for 50/75 worksites (i.e., worksites that have 50 employees within 75 miles and are, therefore, large enough to have covered employees).

### 8.1 Worksites' Perspective on How Work is Covered

When an employee is out on leave, the worksite faces an ongoing challenge to deploy available personnel in a manner that sustains the worksite's overall productivity. Columns of Exhibit 8.1.1 tabulate worksite responses to a question about the most frequently used methods to cover the tasks of employees on long leave (i.e., a week or longer). Considering all worksites—covered and uncovered—the most common response, by far, was to temporarily assign the work to other employees (74.1% of employees work at these worksites). This is the most frequently used method regardless of coverage and is reported by 64.5% of worksites. The only other common response is to hire a temporary replacement (11.5% of employees work at these worksites overall; not different between covered and uncovered). This is reported by 3.2% of worksites. Results are similar to those from the 2000 survey.

**Exhibit 8.1.1 Most frequently used method by worksites to cover work when employees take leave for a week or longer, by coverage**

Method most frequently used by employers to cover work when employees take week or longer leave	2012 Weighted by employees at worksite				2012 Weighted by worksite				2000 Weighted by worksite
	All worksites % [95% CI]	Uncovered worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	All worksites % [95% CI]	Uncovered worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	All worksites % [95% CI]
Assign work temporarily to other employees	74.1 [64.3-84.0]	80.9 [76.5-85.2]	71.3 [58.2-84.3]	69.6 [55.2-84.1]	64.5 [58.7-70.2]	61.8 [55.5-68.0]	75.6 [65.2-85.9]	83.3 [72.5-94.0]	74.5 [66.1-82.9]
Hire a temporary replacement	11.5 [3.4-19.5]	4.2 [1.9-6.6]	14.6 [3.7-25.5]	15.9 [3.8-28.0]	3.2 [1.5-4.8]	2.2 [1.1-3.2]	7.3 [1.0-13.5]	6.3 [2.2-10.4]	18.0 [10.7-25.3]
Call-in an employee on vacation	0.3 [-0.1-0.6]	0.3 [-0.1-0.7]	0.3 [-0.2-0.7]	0.3 [-0.2-0.8]	0.1 [-0.0-0.2]	0.1 [-0.0-0.2]	0.2 [-0.2-0.7]	0.7 [-0.5-1.8]	N/A
Hire a permanent replacement	0.4 [-0.1-0.9]	1.0 [-0.2-2.2]	0.2 [-0.0-0.4]	0.1 [-0.0-0.3]	0.6 [-0.2-1.5]	0.7 [-0.3-1.7]	0.3 [-0.2-0.9]	0.3 [-0.1-0.6]	N/A
Put the work on hold until the employee returns from leave	3.2 [1.4-5.0]	6.3 [4.5-8.0]	1.9 [-0.5-4.3]	2.1 [-0.6-4.8]	17.8 [13.1-22.4]	21.5 [15.7-27.4]	2.3 [-1.1-5.7]	1.5 [-0.0-3.1]	2.4 [0.3-4.5]
Have the employee perform some work while on leave	0.3 [0.0-0.5]	0.5 [0.0-1.0]	0.1 [-0.1-0.4]	0.0 [-0.0-0.1]	1.7 [0.6-2.8]	1.8 [0.5-3.1]	1.3 [-1.1-3.7]	0.2 [-0.1-0.4]	N/A
Cover work some other way	9.4 [1.9-17.0]	5.7 [3.1-8.3]	11.0 [0.5-21.6]	11.4 [-0.4-23.2]	10.7 [6.4-15.0]	10.2 [5.3-15.1]	12.7 [3.6-21.8]	7.4 [-2.4-17.2]	4.3 [0-8.6]
Don't know/refused	0.8 [0.3-1.2]	1.2 [0.3-2.1]	0.6 [0.1-1.0]	0.6 [0.1-1.1]	1.5 [0.0-2.9]	1.8 [-0.0-3.6]	0.2 [0.0-0.5]	0.4 [0.0-0.8]	N/A
Unweighted N	1,623	704	919	755	1,623	704	919	755	643

Source: 2012 Worksite Survey Q61bX; 2000 Report Table A2-6.5.

Sample: Asked of all worksites. 2012 Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

Worksite strategies for covering work vary with the nature of the leave (see Exhibits 8.1.2 and Exhibits 8.1.3). Short leaves are more likely to be handled by putting the work on hold until the employee returns; longer leaves are more likely to be handled by assigning the work temporarily to other employees, hiring a temporary replacement, or calling in an employee on vacation. For long leaves (i.e., a week or more), 70.5% of worksites report that employees are frequently asked to perform some work while on leave. This is common for both covered (74.7%) and uncovered (69.3%) worksites. This may be inconsistent with the FMLA, which prohibits employers from interfering with employees while on leave.

**Exhibit 8.1.2 Methods used by worksites to cover work when employees take leave for worksites, by coverage and length of leave, weighted by employees at worksite**

Percent of worksites that use the following methods to cover work when employees take leave	All worksites, weighted by employees at worksite					Uncovered worksites, weighted by employees at worksite				
	Overall* % [95 CI]	Leave for week or longer % [95 CI]	Scheduled leave <=1 day % [95 CI]	Unscheduled leave for <=1 day % [95 CI]	Other % [95 CI]	Overall* % [95 CI]	Leave for week or longer % [95 CI]	Scheduled leave <=1 day % [95 CI]	Unscheduled leave for <=1 day % [95 CI]	Other % [95 CI]
Assign work temporarily to other employees	91.8 [88.9-94.6]	88.8 [78.4-99.2]	53.1 [41.8-64.4]	56.9 [45.2-68.6]	15.7 [8.3-23.1]	83.0 [78.8-87.2]	94.3 [91.2-97.3]	65.4 [58.2-72.5]	66.4 [59.3-73.4]	14.8 [10.5-19.1]
Hire a temporary replacement	52.1 [41.3-62.9]	70.7 [60.7-80.6]	7.5 [3.9-11.2]	5.2 [2.9-7.4]	8.6 [3.8-13.3]	32.9 [25.8-39.9]	57.4 [45.8-69.0]	7.3 [3.2-11.5]	6.7 [2.3-11.2]	6.6 [2.9-10.3]
Call-in an employee on vacation	18.0 [11.7-24.4]	59.6 [46.0-73.3]	36.5 [18.5-54.5]	44.2 [24.7-63.7]	4.6 [2.1-7.2]	13.2 [8.5-17.9]	47.5 [27.8-67.2]	19.3 [7.2-31.4]	21.3 [8.8-33.8]	12.1 [3.2-20.9]
Hire a permanent replacement	14.4 [7.3-21.5]	61.7 [43.4-79.9]	0.1 [-0.1-0.3]	0.1 [-0.1-0.4]	8.5 [3.4-13.6]	10.8 [7.9-13.6]	22.7 [9.4-35.9]	0.5 [-0.5-1.5]	0.6 [-0.4-1.7]	10.3 [1.8-18.8]
Put the work on hold until the employee returns from leave	46.2 [34.7-57.8]	28.3 [14.5-42.1]	72.9 [52.8-93.0]	72.4 [52.4-92.5]	13.1 [-0.2-26.5]	38.6 [31.4-45.7]	39.9 [30.2-49.6]	73.8 [64.6-83.1]	73.9 [64.5-83.2]	11.0 [4.7-17.2]
Have the employee perform some work while on leave	16.1 [8.6-23.6]	74.9 [59.8-90.0]	16.2 [5.2-27.2]	16.2 [5.3-27.1]	7.4 [0.7-14.2]	15.3 [9.2-21.4]	76.3 [64.8-87.8]	36.8 [12.1-61.5]	34.7 [10.1-59.3]	5.5 [-0.4-11.5]
Cover work some other way	24.6 [13.8-35.4]	95.0 [91.1-98.9]	53.0 [20.3-85.8]	53.6 [14.9-92.3]	22.9 [-0.6-46.3]	15.5 [10.2-20.8]	90.7 [85.0-96.4]	56.6 [40.5-72.6]	63.5 [49.6-77.5]	16.2 [6.9-25.5]
Unweighted N			1,812			824				

Percent of worksites that use the following methods to cover work when employees take leave	Covered worksites, weighted by employees at worksite					50/75 worksites, weighted by employees at worksite				
	Overall* % [95 CI]	Leave for week or longer % [95 CI]	Scheduled leave <=1 day % [95 CI]	Unscheduled leave for <=1 day % [95 CI]	Other % [95 CI]	Overall* % [95 CI]	Leave for week or longer % [95 CI]	Scheduled leave <=1 day % [95 CI]	Unscheduled leave for <=1 day % [95 CI]	Other % [95 CI]
Assign work temporarily to other employees	95.4 [92.1-98.8]	86.8 [72.8-100.8]	48.6 [34.3-62.9]	53.4 [38.7-68.2]	16.0 [6.0-26.1]	95.5 [91.7-99.2]	85.6 [69.9-101.2]	48.1 [32.0-64.3]	51.6 [35.6-67.7]	15.1 [4.4-25.8]
Hire a temporary replacement	60.2 [44.5-75.9]	73.7 [61.8-85.7]	7.6 [3.0-12.2]	4.8 [2.3-7.3]	9.0 [3.4-14.7]	61.5 [43.6-79.5]	73.8 [61.4-86.2]	7.5 [2.6-12.3]	4.4 [1.8-6.9]	6.2 [3.4-9.0]
Call-in an employee on vacation	20.1 [11.3-28.8]	63.0 [46.6-79.4]	41.3 [19.1-63.4]	50.6 [27.0-74.1]	2.6 [0.8-4.4]	20.8 [10.8-30.7]	63.1 [45.5-80.8]	43.3 [19.9-66.7]	53.0 [28.3-77.7]	2.6 [0.7-4.6]
Hire a permanent replacement	15.9 [5.9-25.9]	72.8 [57.0-88.5]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	7.9 [2.2-13.7]	14.6 [4.0-25.3]	71.6 [53.8-89.4]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	6.6 [1.4-11.9]
Put the work on hold until the employee returns from leave	49.5 [33.3-65.6]	24.5 [7.0-42.0]	72.6 [46.2-99.0]	72.0 [45.6-98.4]	13.8 [-3.7-31.3]	53.0 [35.7-70.2]	24.0 [5.9-42.1]	72.3 [44.7-100.0]	71.9 [44.2-99.6]	13.9 [-4.3-32.2]
Have the employee perform some work while on leave	16.4 [5.9-26.9]	74.4 [55.3-93.4]	8.1 [2.7-13.6]	8.9 [3.2-14.7]	8.2 [0.4-16.0]	15.9 [5.0-26.8]	73.1 [49.1-97.1]	5.2 [0.7-9.7]	5.5 [0.9-10.1]	9.3 [0.2-18.4]
Cover work some other way	28.4 [12.0-44.8]	96.0 [91.4-100.5]	52.2 [4.8-99.7]	51.3 [4.5-98.2]	24.4 [-6.5-55.3]	27.4 [9.1-45.8]	95.9 [90.5-101.4]	49.0 [-6.0-104.1]	48.0 [-6.1-102.2]	27.1 [-10.8-64.9]
Unweighted N			988					808		

\* Worksites that report “yes” or “depends” to using the method listed (reported in the “Overall” column) were asked the length of leave that worksites used the method.

Source: Worksite Survey Q61X, Q61aX.

Rows within panels may sum to >100% since respondent could select more than one category.

Sample: Asked of all worksites. Covered/Uncovered stratification reflects worksites’ self-reported coverage under the FMLA.

**Exhibit 8.1.3 Methods used by worksites to cover work when employees take leave for worksites, by coverage and length of leave, weighted by worksite**

Percent of worksites that use the following methods to cover work when employees take leave	All worksites, weighted by worksite					Uncovered worksites, weighted by worksite				
	Overall* % [95 CI]	Leave for week or longer % [95 CI]	Scheduled leave <=1 day % [95 CI]	Unscheduled leave for <=1 day % [95 CI]	Other % [95 CI]	Overall* % [95 CI]	Leave for week or longer % [95 CI]	Scheduled leave <=1 day % [95 CI]	Unscheduled leave for <=1 day % [95 CI]	Other % [95 CI]
Assign work temporarily to other employees	64.0 [58.9-69.0]	91.0 [85.6-96.3]	64.3 [58.3-70.2]	68.7 [62.1-75.3]	12.4 [7.4-17.5]	58.8 [53.0-64.7]	89.8 [83.8-95.8]	68.6 [63.1-74.1]	71.7 [66.2-77.3]	12.9 [7.9-17.9]
Hire a temporary replacement	24.7 [20.9-28.4]	61.0 [53.2-68.8]	11.0 [5.8-16.2]	9.4 [3.3-15.6]	11.8 [7.9-15.6]	19.9 [15.1-24.8]	55.2 [46.3-64.1]	8.9 [2.3-15.4]	8.7 [0.4-16.9]	9.1 [4.4-13.7]
Call-in an employee on vacation	7.5 [5.0-9.9]	58.5 [40.1-76.9]	31.9 [13.0-50.9]	35.0 [15.7-54.2]	11.0 [0.3-21.7]	6.6 [3.9-9.4]	58.9 [37.5-80.3]	31.6 [9.2-53.9]	32.4 [10.0-54.9]	14.1 [0.6-27.5]
Hire a permanent replacement	7.9 [6.2-9.6]	34.2 [11.6-56.8]	0.1 [-0.1-0.2]	0.2 [-0.1-0.5]	20.0 [6.9-33.1]	6.4 [4.2-8.7]	24.0 [5.1-43.0]	0.1 [-0.1-0.3]	0.3 [-0.2-0.8]	15.5 [1.8-29.2]
Put the work on hold until the employee returns from leave	43.1 [38.0-48.2]	53.0 [46.8-59.1]	74.9 [67.3-82.4]	76.6 [69.5-83.8]	11.0 [6.4-15.6]	45.4 [39.3-51.5]	54.7 [48.2-61.1]	74.6 [67.2-82.0]	76.7 [69.9-83.5]	11.4 [7.0-15.8]
Have the employee perform some work while on leave	15.1 [11.7-18.4]	70.5 [59.0-82.1]	32.6 [19.0-46.3]	36.1 [22.4-49.8]	8.7 [1.4-16.0]	13.9 [9.7-18.2]	69.3 [55.4-83.2]	37.6 [19.9-55.3]	40.3 [23.5-57.2]	10.7 [1.1-20.3]
Cover work some other way	17.9 [13.4-22.5]	89.2 [82.9-95.6]	62.6 [53.2-72.0]	60.7 [51.9-69.6]	20.5 [8.4-32.5]	15.7 [10.4-21.0]	86.3 [77.7-94.9]	65.1 [54.0-76.3]	62.6 [51.0-74.1]	26.3 [11.7-41.0]
Unweighted N			1,812					824		

Percent of worksites that use the following methods to cover work when employees take leave	Covered worksites, weighted by worksite					50/75 worksites, weighted by worksite				
	Overall* % [95 CI]	Leave for week or longer % [95 CI]	Scheduled leave <=1 day % [95 CI]	Unscheduled leave for <=1 day % [95 CI]	Other % [95 CI]	Overall* % [95 CI]	Leave for week or longer % [95 CI]	Scheduled leave <=1 day % [95 CI]	Unscheduled leave for <=1 day % [95 CI]	Other % [95 CI]
Assign work temporarily to other employees	89.8 [83.6-96.0]	94.8 [89.6-99.9]	50.0 [41.0-59.1]	58.6 [48.6-68.7]	10.9 [3.9-17.9]	92.8 [83.4-102.2]	94.5 [90.9-98.1]	45.7 [27.8-63.7]	61.9 [51.9-71.9]	15.5 [5.6-25.4]
Hire a temporary replacement	48.5 [38.9-58.0]	73.0 [63.5-82.6]	15.3 [2.1-28.5]	11.0 [0.3-21.7]	17.4 [7.2-27.6]	57.1 [44.6-69.6]	65.9 [44.2-87.6]	16.2 [0.1-32.2]	5.1 [1.7-8.5]	15.5 [-3.4-34.4]
Call-in an employee on vacation	11.7 [7.4-16.0]	57.5 [34.7-80.3]	32.9 [9.8-56.0]	42.1 [18.7-65.5]	2.3 [0.5-4.1]	13.7 [7.6-19.8]	66.7 [57.1-76.2]	34.3 [24.5-44.1]	53.6 [43.6-63.6]	4.1 [1.1-7.1]
Hire a permanent replacement	15.3 [8.8-21.7]	55.9 [27.2-84.5]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	29.7 [0.3-59.2]	10.5 [5.8-15.3]	43.8 [25.8-61.9]	0.0 [0.0-0.0]	0.0 [0.0-0.0]	12.5 [3.6-21.5]
Put the work on hold until the employee returns from leave	31.7 [22.1-41.2]	40.8 [21.6-60.0]	76.7 [62.1-91.3]	76.2 [61.7-90.8]	8.4 [-2.0-18.8]	36.7 [15.7-57.7]	25.3 [-2.7-53.2]	83.3 [65.0-101.7]	83.6 [65.6-101.7]	3.6 [-0.5-7.7]
Have the employee perform some work while on leave	20.7 [10.4-31.1]	74.7 [50.1-99.4]	15.8 [1.7-30.0]	21.9 [6.6-37.1]	1.9 [0.5-3.4]	16.1 [6.9-25.4]	80.3 [57.5-103.2]	8.3 [-2.6-19.1]	10.3 [-2.6-23.1]	5.9 [-1.0-12.7]
Cover work some other way	29.1 [22.3-36.0]	97.2 [94.7-99.6]	55.8 [37.9-73.8]	55.7 [37.8-73.5]	4.7 [1.7-7.6]	22.4 [8.6-36.3]	96.3 [91.7-100.8]	44.8 [-6.6-96.2]	42.8 [-7.6-93.2]	6.0 [-0.9-13.0]
Unweighted N	988					808				

\* Worksites that report “yes” or “depends” to using the method listed (reported in the “Overall” column) were asked the length of leave that worksites used the method.

Source: Worksite Survey Q61X, Q61aX.

Rows within panels may sum to >100% since respondent could select more than one category.

Sample: Asked of all worksites. Covered/Uncovered stratification reflects worksites’ self-reported coverage under the FMLA.

## 8.2 Employee's Perspective on How Work is Covered

Section 8.1 discussed worksites' reports of how work was covered while employees were on leave. This section considers the same issue from the employee's perspective.

Exhibit 8.2.1 tabulates employees' reports of how work was covered during their leave (asked of leave takers) and Exhibit 8.2.2 tabulates employees' reports of how the leave of coworkers affected them (asked of all employees). Three-quarters of employees who took leave report that their work was covered by another employee (76.3%). Another quarter reported that their work went undone until they returned (24.5%). Results are similar to those from the 1995 and 2000 surveys.

### Exhibit 8.2.1 How work was covered while on leave among leave takers

How work was covered while the employee was on leave	2012			2000	1995
	All leave takers % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]	All leave takers % [95% CI]	All leave takers % [95% CI]
Cover your work by assigning it to other employees?	76.3 [73.1-79.6]	76.6 [73.6-79.6]	75.8 [70.0-81.6]	76.5 [73.1-79.9]	72.3 [69.1-75.5]
Hire a permanent employee to cover your work?	8.5 [6.4-10.5]	6.0 [3.6-8.3]	12.4 [8.6-16.3]	9.0 [7.4-10.6]	6.3 [4.8-7.8]
Hire a temporary employee to cover your work?	13.4 [11.1-15.7]	13.0 [10.3-15.6]	14.1 [10.0-18.1]	12.7 [10.5-14.9]	16.8 [13.8-19.8]
Let your work go undone until you returned?	24.5 [21.6-27.4]	24.5 [21.1-27.9]	24.5 [19.1-29.9]	47.1 [43.9-50.3]	N/A
Cover your work in some other way?	18.7 [15.8-21.7]	17.2 [13.9-20.6]	21.2 [15.8-26.6]	N/A	N/A
Don't know/refused	0.6 [-0.3-1.4]	0.2 [-0.1-0.4]	1.2 [-0.8-3.2]	N/A	N/A
Unweighted N	1,284	869	415	1,739	1,097

Columns may sum to >100% since respondent could select more than one category.

Source: 2012 Employee Survey A52; 2000 Report Table A2-6.7.

2012 Sample: Employees who took leave in the past 12 months.

2000 and 1995 Sample: Employees who took leave in the past 18 months.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

In addition to those questions asked of employees who took leave, all employees were asked how their work changed when their coworkers took leave (Exhibit 8.2.2). Half report none of the above; that is, there was presumably no change in their work (51.0%). A third report that they took on more duties (34.1%) and a quarter report that they worked more hours (26.0%) or took on different job responsibilities (25.7%). Each of these responses is less common than in 2000. We note, however, that the 2012 survey added response categories (in particular, "none of the above"), so the questions are not exactly comparable.



**Exhibit 8.2.2 How employee’s work changed when coworkers took leave**

How respondents work changed when coworker took leave	2012			2000
	All % [95% CI]	Eligible and covered employees % [95% CI]	All other leave takers % [95% CI]	All % [95% CI]
Respondent worked more hours than usual	26.0 [21.9-30.1]	24.5 [19.7-29.3]	29.8 [22.1-37.5]	32.1 [29.1-35.1]
Respondent worked a shift that was not normally worked	15.1 [12.0-18.1]	14.8 [11.1-18.5]	15.7 [10.5-21.0]	22.9 [19.6-26.2]
Respondent took on additional duties	34.1 [29.7-38.6]	34.3 [29.1-39.4]	33.8 [25.7-41.9]	46.2 [42.9-49.5]
Respondent took on different job responsibilities	25.7 [21.9-29.6]	25.7 [20.9-30.4]	26.0 [19.3-32.7]	N/A
None of the above	51.0 [46.7-55.4]	53.3 [47.7-58.8]	45.2 [37.5-52.9]	N/A
Don't know/refused	0.3 [-0.2-0.9]	0.0 [-0.0-0.1]	1.1 [-1.0-3.1]	N/A
Unweighted N	1,550	1,199	351	N/A

Columns may sum to >100% since respondents who did not select “none of the above” could select more than one category.

2012 Source: Employee Survey E6; 2000 Report Table A1-4.22.

2012 Sample: Asked of all employees.

Cells with “N/A” indicate that the data were not reported in the 2000 Report.

### 8.3 Worksites' Difficulties Related to Leave Taking

Section 8.1 and Section 8.2 above summarized the various approaches worksites have adopted in order to accommodate employees who are on leave. In critiquing the FMLA, some commentators have expressed concern about the potential burden that these accommodations place on worksites. For example, Associated Financial Group writes:

*[T]he FMLA provides an absolute leave right, regardless of the difficulty or hardship the absence may impose upon the worksite (whereas the ADA takes “undue hardship” into consideration when determining whether an accommodation is reasonable, the FMLA has no such get-out-of-jail-free provision). (Olney, 2011)*

The Worksite Survey asked directly how easy or difficult worksites find it to deal with various types of leave (Exhibits 8.3.1 and 8.3.2). Overall—pooling covered and uncovered worksites— and weighting each worksite equally—the easiest leave to deal with is short and planned, with less than a quarter reporting any difficulty (23.5%=16.2% “very difficult” + 7.3% “somewhat difficult”). Weighted by the number of employees at the worksite, 21.8% of employees work at worksites that report any difficulty with planned short-term leave (21.8%= 2.9%+18.9%). Worksites report that other types of leave are harder to deal with. In increasing order of difficulty: planned long-term leave (44.1% =15.5%+28.6%), planned episodic or intermittent leave (31.3%=6.3%+25.0%), unplanned episodic or intermittent leave (51.0%=13.9%+37.1%), and unscheduled leave of any duration (54.4%=14.4%+40.0%). Considering results weighted by employees (Exhibit 8.3.1), more than a third of employees work at worksites that have any difficulty with planned long-term leave (39.0%=6.6%+32.4%); 44.6% work at worksites that report difficulty with planned episodic or intermittent leave (44.6%=12.1%+32.5%); two-thirds work at worksites that report difficulty with unplanned episodic or intermittent leave (67.2%=26.2%+41.0%); and 69.1% of employees work at worksites that report having any difficulty with unscheduled leave of any duration (69.1%=18.5%+50.6%).

**Exhibit 8.3.1 Worksites' abilities to deal with different types of leave, by coverage, weighted by employees at worksite**

Percent of worksites reporting ease/difficulty of dealing with	All worksites, weighted by employees at worksite					Uncovered worksites, weighted by employees at worksite				
	Very easy % [95% CI]	Somewhat easy % [95% CI]	Somewhat difficult % [95% CI]	Very difficult % [95% CI]	DK/ refused % [95% CI]	Very easy % [95% CI]	Somewhat easy % [95% CI]	Somewhat difficult % [95% CI]	Very difficult % [95% CI]	DK/ refused % [95% CI]
Planned long-term leave for a family or medical reason	12.7 [7.6-17.8]	45.8 [35.1-56.5]	32.4 [24.8-40.0]	6.6 [4.4-8.8]	2.5 [1.2-3.8]	17.1 [13.2-21.1]	31.3 [26.1-36.5]	33.3 [27.6-38.9]	11.9 [9.2-14.7]	6.4 [2.8-10.0]
Planned short-term leave	15.3 [10.2-20.4]	59.6 [51.2-68.1]	18.9 [12.6-25.3]	2.9 [1.2-4.6]	3.3 [1.0-5.5]	23.7 [18.5-28.9]	50.0 [42.6-57.3]	16.3 [11.8-20.9]	4.2 [2.5-5.9]	5.8 [2.0-9.6]
Planned episodic or intermittent leave	10.4 [7.2-13.7]	41.6 [32.3-50.9]	32.5 [24.1-41.0]	12.1 [5.2-19.1]	3.3 [1.9-4.7]	18.0 [11.8-24.3]	39.4 [31.8-47.1]	29.7 [23.1-36.3]	5.0 [3.1-6.9]	7.8 [4.1-11.6]
Unplanned episodic or intermittent leave	5.8 [4.0-7.6]	24.1 [13.3-34.9]	41.0 [30.6-51.4]	26.2 [16.3-36.1]	2.8 [1.7-4.0]	12.2 [8.5-15.9]	26.2 [19.2-33.1]	39.5 [33.3-45.7]	16.1 [10.9-21.3]	6.1 [3.0-9.1]
Unscheduled leave of any duration	4.8 [3.0-6.6]	23.6 [12.5-34.7]	50.6 [39.8-61.4]	18.5 [10.9-26.0]	2.6 [1.4-3.7]	10.3 [6.3-14.4]	20.8 [16.4-25.2]	48.6 [42.1-55.1]	14.2 [8.8-19.6]	6.1 [2.9-9.3]
Unweighted N	1,812					824				

Percent of worksites reporting ease/difficulty of dealing with	Covered worksites, weighted by employees at worksite					50/75 worksites, weighted by employees at worksite				
	Very easy % [95% CI]	Somewhat easy % [95% CI]	Somewhat difficult % [95% CI]	Very difficult % [95% CI]	DK/ refused % [95% CI]	Very easy % [95% CI]	Somewhat easy % [95% CI]	Somewhat difficult % [95% CI]	Very difficult % [95% CI]	DK/ refused % [95% CI]
Planned long-term leave for a family or medical reason	10.9 [5.0-16.7]	51.9 [37.9-65.9]	32.0 [21.0-43.0]	4.3 [1.6-7.1]	0.9 [0.3-1.5]	8.8 [4.6-12.9]	53.8 [38.8-68.7]	32.8 [20.6-45.0]	4.0 [1.0-7.0]	0.6 [0.0-1.1]
Planned short-term leave	11.7 [6.0-17.4]	63.7 [51.9-75.5]	20.0 [10.9-29.1]	2.3 [0.2-4.5]	2.2 [-0.6-5.0]	9.2 [5.4-13.0]	65.8 [53.2-78.5]	20.8 [10.6-30.9]	2.1 [-0.2-4.4]	2.1 [-1.0-5.3]
Planned episodic or intermittent leave	7.2 [4.2-10.3]	42.5 [27.9-57.1]	33.7 [20.6-46.9]	15.1 [5.4-24.9]	1.4 [0.6-2.2]	6.4 [3.5-9.3]	40.6 [23.8-57.5]	35.4 [20.8-50.1]	16.4 [5.5-27.3]	1.1 [0.3-1.9]
Unplanned episodic or intermittent leave	3.1 [1.4-4.8]	23.3 [7.8-38.8]	41.7 [27.5-55.9]	30.5 [15.6-45.3]	1.5 [0.7-2.3]	2.7 [1.2-4.2]	22.4 [4.9-39.8]	42.9 [27.0-58.7]	30.7 [14.3-47.1]	1.3 [0.5-2.2]
Unscheduled leave of any duration	2.5 [1.0-3.9]	24.7 [9.4-40.1]	51.4 [36.2-66.7]	20.3 [9.7-30.8]	1.1 [0.4-1.8]	2.4 [0.9-3.9]	24.1 [6.8-41.4]	53.3 [36.4-70.2]	19.3 [7.9-30.6]	0.9 [0.2-1.6]
Unweighted N	988					808				

Source: Worksite Survey Q67.

Sample: Asked of all employers. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

**Exhibit 8.3.2 Worksites' abilities to deal with different types of leave, by coverage, weighted by worksite**

Percent of worksites reporting ease/difficulty of dealing with	All worksites, weighted by worksite					Uncovered worksites, weighted by worksite				
	Very easy % [95% CI]	Somewhat easy % [95% CI]	Somewhat difficult % [95% CI]	Very difficult % [95% CI]	DK/ refused % [95% CI]	Very easy % [95% CI]	Somewhat easy % [95% CI]	Somewhat difficult % [95% CI]	Very difficult % [95% CI]	DK/ refused % [95% CI]
Planned long-term leave for a family or medical reason	21.5 [15.4-27.5]	27.5 [23.5-31.5]	28.6 [24.5-32.7]	15.5 [11.0-19.9]	7.0 [4.5-9.4]	23.5 [17.4-29.6]	24.1 [18.4-29.9]	28.0 [23.3-32.8]	16.5 [11.9-21.2]	7.8 [4.7-10.8]
Planned short-term leave	28.0 [20.7-35.3]	41.9 [37.3-46.5]	16.2 [11.4-20.9]	7.3 [4.4-10.1]	6.6 [3.8-9.5]	29.6 [21.5-37.6]	39.3 [33.0-45.6]	15.8 [10.6-21.0]	7.9 [4.6-11.1]	7.4 [3.8-11.1]
Planned episodic or intermittent leave	24.3 [16.9-31.7]	36.0 [31.5-40.6]	25.0 [20.7-29.4]	6.3 [3.7-9.0]	8.3 [4.7-12.0]	26.0 [17.5-34.5]	32.5 [25.8-39.2]	25.4 [20.3-30.6]	6.8 [3.6-10.1]	9.2 [4.9-13.4]
Unplanned episodic or intermittent leave	17.6 [12.2-23.1]	23.5 [18.9-28.2]	37.1 [31.7-42.5]	13.9 [11.1-16.7]	7.8 [4.8-10.9]	19.2 [12.9-25.4]	21.8 [16.0-27.7]	36.4 [29.9-42.9]	13.8 [9.7-17.9]	8.8 [5.1-12.5]
Unscheduled leave of any duration	16.1 [10.5-21.7]	21.5 [17.0-25.9]	40.0 [34.0-46.0]	14.4 [11.4-17.5]	8.0 [4.9-11.0]	18.3 [11.9-24.7]	18.9 [14.3-23.5]	40.0 [34.2-45.8]	13.8 [9.8-17.8]	9.0 [5.2-12.8]
Unweighted N	1,812					824				

Percent of worksites reporting ease/difficulty of dealing with	Covered worksites, weighted by worksite					50/75 worksites, weighted by worksite				
	Very easy % [95% CI]	Somewhat easy % [95% CI]	Somewhat difficult % [95% CI]	Very difficult % [95% CI]	DK/ refused % [95% CI]	Very easy % [95% CI]	Somewhat easy % [95% CI]	Somewhat difficult % [95% CI]	Very difficult % [95% CI]	DK/ refused % [95% CI]
Planned long-term leave for a family or medical reason	11.2 [1.0-21.5]	44.7 [33.9-55.4]	31.3 [22.7-39.9]	10.0 [3.8-16.1]	2.8 [-0.2-5.8]	7.3 [3.8-10.8]	47.2 [35.4-59.1]	41.4 [30.1-52.7]	3.3 [1.4-5.2]	0.8 [0.0-1.6]
Planned short-term leave	20.2 [10.1-30.2]	55.0 [45.1-65.0]	17.8 [8.6-27.1]	4.3 [1.0-7.7]	2.7 [-0.3-5.6]	10.6 [6.0-15.1]	63.4 [53.7-73.1]	23.9 [13.0-34.8]	1.4 [0.1-2.6]	0.7 [0.2-1.2]
Planned episodic or intermittent leave	15.5 [8.9-22.0]	53.8 [47.1-60.4]	23.0 [15.0-31.0]	3.7 [1.8-5.6]	4.1 [0.4-7.7]	7.3 [3.8-10.9]	54.9 [38.2-71.6]	29.3 [16.5-42.1]	6.5 [3.0-10.0]	1.9 [0.6-3.3]
Unplanned episodic or intermittent leave	10.0 [1.6-18.4]	32.1 [24.0-40.1]	40.5 [30.4-50.5]	14.4 [8.4-20.5]	3.0 [0.1-6.0]	3.0 [1.3-4.7]	35.6 [20.8-50.3]	45.0 [32.7-57.2]	14.3 [8.1-20.6]	2.1 [0.7-3.6]
Unscheduled leave of any duration	5.0 [0.3-9.7]	34.2 [24.4-44.0]	40.3 [25.5-55.0]	17.8 [10.2-25.4]	2.8 [-0.2-5.7]	3.0 [1.2-4.8]	36.3 [21.8-50.8]	51.2 [38.8-63.7]	8.6 [4.6-12.6]	0.8 [0.3-1.4]
Unweighted N	988					808				

Source: Worksite Survey Q67.

Sample: Asked of all worksites. Covered/Uncovered stratification reflects worksites' self-reported coverage under the FMLA.

## 8.4 Perceptions of Misuse of the FMLA

As with many employee legal rights, it is not unexpected that concerns will be raised about the possible misuse of the FMLA benefit by employees. For example, the Society for Human Resource Management's (SHRM) website states:

*The Family and Medical Leave Act (FMLA) is an employee entitlement, and sometimes employees believe that it entitles them to take off from work for almost any reason at almost any time. Some even might see it as a safety net in case their vacation request is denied. Worksites have long decried abuse of the FMLA, but there are actions they can take to help minimize such abuse. (Clabault, 2011)*

Very few covered worksites report suspicion of FMLA misuse (2.5%; unweighted N=115). Confirmed misuse at covered worksites appears to be even rarer: only 1.6% of worksites report any misuse (unweighted N=98). See the Detailed Results Volume for additional detail.

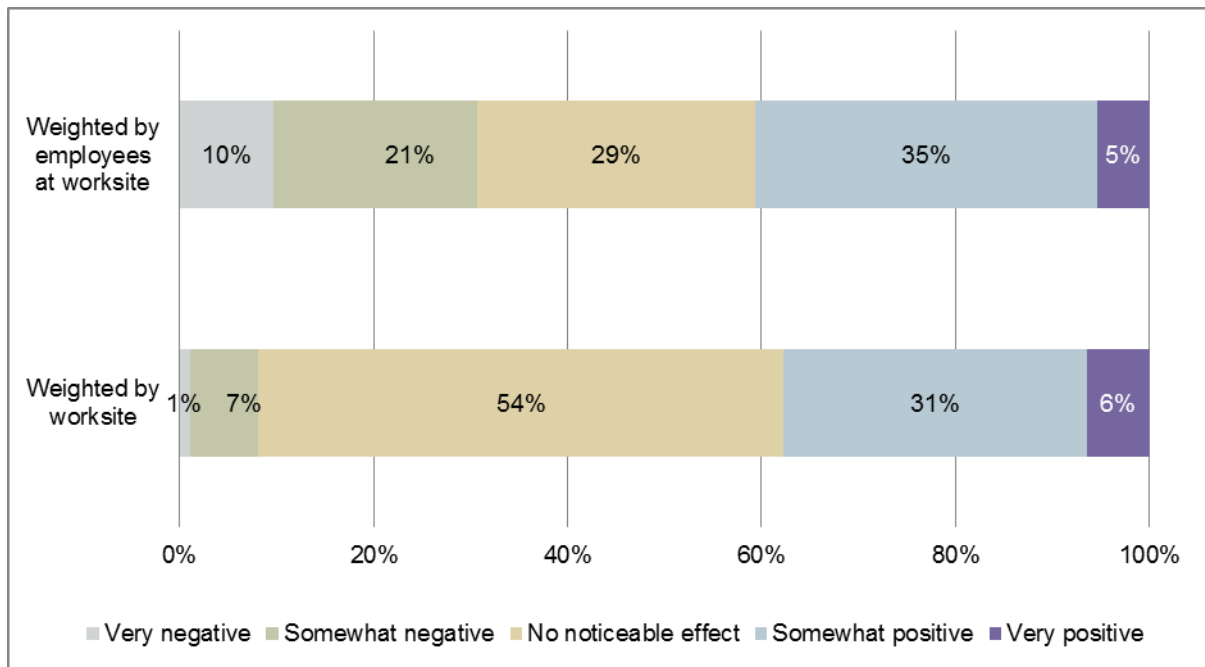
## 8.5 Effects of the FMLA

The Worksite Survey also asked covered worksites a set of broader questions about the effects of complying with the FMLA on business operations. Specifically, the Worksite Survey asked covered worksites the following: "Q56. *Thinking about employee productivity, absenteeism, turnover, career advancement and morale, as well as the business' profitability, what effect has complying with FMLA had on this location?*" Among 50/75 worksites and weighting by employees at the worksite, nearly a third of employees work at worksites that report that complying with FMLA has some negative effect (29.3%=9.3% "very negative" + 20.0% "somewhat negative"; Exhibit 8.5.1; Exhibit 8.5.2 provides more detail).<sup>42</sup> Weighting by worksites, the corresponding figures are 1.0% who report a very negative effect and 7.0 percent who report a somewhat negative effect (Exhibit 8.5.2).

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<sup>42</sup> Q24 of the 2000 Establishment Survey asked a similar question about the effect of complying with the FMLA, but it included eight distinct areas that worksites were asked about separately, and only three response categories (see Appendix C of the Methodology Report for more detail). Therefore, the 2012 results are not comparable to the 2000 results.

**Exhibit 8.5.1 Effect of complying with the FMLA on covered worksites**



Source: Worksite Survey Q56. Reflects self-reported covered worksites with at least 50 employees within 75 miles. Worksites that reported “don’t know” or refused are not included.

Sample: Asked of all worksites that self-report that they are covered by the FMLA.

**Exhibit 8.5.2 Effect of complying with the FMLA on covered worksites**

Effect of compliance	Weighted by employees at worksite		Weighted by worksite	
	50/75 worksites % [95% CI]	Covered worksites % [95% CI]	50/75 worksites % [95% CI]	Covered worksites % [95% CI]
Very positive	5.1 [2.7-7.5]	6.5 [3.7-9.2]	6.4 [3.3-9.6]	15.1 [7.3-22.8]
Somewhat positive	33.8 [15.2-52.4]	32.9 [16.1-49.7]	31.0 [16.5-45.6]	18.0 [8.5-27.5]
Somewhat negative	20.0 [5.6-34.3]	18.2 [5.3-31.1]	7.0 [3.6-10.3]	3.1 [1.6-4.5]
Very negative	9.3 [-0.9-19.6]	8.4 [-0.8-17.6]	1.0 [0.1-1.8]	0.5 [0.1-1.0]
No noticeable effect	27.5 [17.7-37.3]	30.0 [20.2-39.9]	53.8 [40.4-67.2]	62.9 [51.6-74.2]
Don't know/refused	4.3 [-2.3-11.0]	3.9 [-2.0-9.9]	0.7 [0.1-1.3]	0.4 [0.1-0.8]
Unweighted N	808	988	808	988

Source: Worksite Survey Q56.

Sample: Asked of all worksites that self-report that they are covered by the FMLA.

The Worksite Survey also asked covered worksites directly about the impact of intermittent leave on productivity and profitability: “Q54. *FMLA allows employees to take intermittent leave. Has leave taken on an intermittent basis had an impact, either positive or negative, on this location’s*

*productivity?” and “Q55. Has leave taken on an intermittent basis had an impact, either positive or negative, on this location’s profitability?”*

Again, few worksites report negative impacts of intermittent leave. Weighting by worksites, 0.4% of 50/75 worksites report a large negative impact on productivity, and another 2.7% report a moderate negative impact (Exhibit 8.5.3). Fewer 50/75 worksites report intermittent leave having a negative impact on profitability: 0.2% report a “large” negative impact, and 1.4% report a “moderate” negative impact. However, weighting by employees, the reported negative impacts are considerably larger: 9.3% and 8.9% of employees work at worksites that report a “large” or “moderate” impact on productivity and 8.0% and 6.7% work at worksites that report a “large” or “moderate” impact on profitability, respectively.

**Exhibit 8.5.3 Impact of intermittent leave on productivity and profitability**

Intermittent leave has the following impact:	Weighted by employees at worksite						Weighted by worksite					
	Positive		Negative		Some positive, some negative		Positive		Negative		Some positive, some negative	
	Productivity % [95% CI]	Profitability % [95% CI]	Productivity % [95% CI]	Profitability % [95% CI]	Productivity % [95% CI]	Profitability % [95% CI]	Productivity % [95% CI]	Profitability % [95% CI]	Productivity % [95% CI]	Profitability % [95% CI]	Productivity % [95% CI]	Profitability % [95% CI]
<b>50/75 worksites</b>												
Any	14.3 [-3.9-32.4]	12.7 [-5.7-31.2]	25.0 [12.3-37.7]	17.5 [6.5-28.5]	4.0 [1.9-6.1]	1.5 [0.1-2.9]	15.5 [0.1-30.8]	14.6 [-1.0-30.2]	5.9 [2.5-9.2]	2.9 [1.3-4.4]	2.5 [0.8-4.1]	0.7 [0.2-1.2]
Small	12.4 [-6.1-30.9]	10.1 [-8.8-29.0]	6.8 [1.4-12.2]	2.8 [0.9-4.8]	2.5 [0.8-4.1]	1.1 [-0.1-2.4]	14.3 [-1.4-29.9]	8.1 [-6.2-22.4]	2.7 [0.4-5.0]	1.2 [0.5-1.9]	1.0 [0.4-1.6]	0.5 [0.1-0.9]
Moderate	1.7 [0.4-3.0]	2.4 [-1.0-5.9]	8.9 [4.1-13.7]	6.7 [1.0-12.4]	1.3 [0.3-2.2]	0.3 [-0.1-0.7]	1.1 [-0.3-2.4]	6.3 [-4.3-16.8]	2.7 [1.3-4.2]	1.4 [0.4-2.5]	1.4 [0.1-2.8]	0.1 [-0.1-0.4]
Large	0.2 [-0.1-0.4]	0.2 [-0.1-0.5]	9.3 [-0.9-19.4]	8.0 [-2.3-18.2]	0.2 [-0.2-0.6]	0.1 [-0.1-0.3]	0.2 [-0.1-0.4]	0.2 [-0.1-0.5]	0.4 [0.2-0.6]	0.2 [0.0-0.4]	0.0 [-0.0-0.1]	0.1 [-0.1-0.3]
Unweighted N	808											
<b>All covered worksites</b>												
Any	14.5 [-1.8-30.7]	11.4 [-5.2-28.0]	22.6 [11.5-33.7]	17.5 [7.3-27.7]	3.7 [1.8-5.5]	1.4 [0.2-2.6]	7.9 [0.0-15.8]	5.1 [-1.4-11.5]	2.6 [1.4-3.7]	5.5 [-0.2-11.1]	2.6 [-0.6-5.9]	0.4 [0.0-0.8]
Small	12.8 [-3.8-29.3]	9.0 [-7.9-25.9]	6.2 [1.5-10.9]	2.7 [1.0-4.4]	2.3 [0.8-3.8]	1.0 [-0.1-2.2]	7.4 [-0.5-15.2]	2.8 [-2.2-7.9]	1.4 [0.5-2.3]	2.4 [-0.9-5.6]	2.0 [-1.2-5.2]	0.2 [0.0-0.3]
Moderate	1.5 [0.4-2.7]	2.2 [-0.9-5.3]	8.0 [3.9-12.2]	7.7 [1.7-13.6]	1.2 [0.4-2.0]	0.3 [-0.1-0.6]	0.5 [-0.0-1.0]	2.2 [-2.0-6.3]	1.1 [0.5-1.6]	3.0 [-1.7-7.7]	0.7 [0.1-1.2]	0.2 [-0.1-0.6]
Large	0.1 [-0.1-0.4]	0.2 [-0.1-0.5]	8.3 [-0.9-17.5]	7.1 [-2.1-16.3]	0.2 [-0.1-0.6]	0.1 [-0.1-0.3]	0.1 [-0.0-0.1]	0.1 [-0.0-0.2]	0.1 [0.1-0.2]	0.1 [0.0-0.1]	0.0 [-0.0-0.0]	0.0 [-0.0-0.1]
Unweighted N	988											

Source: Worksite Survey Q54, Q54a, A54b, Q55, Q55a, Q55b.

Sample: Asked of worksites that self-report that they are covered by the FMLA. Only worksites that reported any impact are asked the size of the impact.



Finally, Exhibit 8.5.4 presents results on the impact of intermittent leave from the 2000 survey (2012 results weighted by worksite are repeated to aid comparability). There do not appear to have been changes, but the estimates are imprecise and the response categories have changed.

**Exhibit 8.5.4 Impact of intermittent leave on productivity and profitability at covered worksites, 2012 and 2000**

Impact	All covered worksites 2012 % [95% CI]	All covered worksites 2000 % [95% CI]
<b>Productivity</b>		
Large negative impact	0.1 [0.1-0.2]	0.5 [0.1-0.9]
Moderate negative impact	1.1 [0.5-1.6]	12.2 [-2.1-26.5]
Small negative impact	1.4 [0.5-2.3]	5.4 [3.8-7]
No impact	38.6 [16.4-60.7]	81.2 [67.5-94.9]
Small positive impact	7.4 [-0.5-15.2]	N/A
Moderate positive impact	0.5 [-0.0-1.0]	N/A
Large positive impact	0.1 [-0.0-0.1]	N/A
Unweighted N	988	874
<b>Profitability</b>		
Large negative impact	0.1 [0.0-0.1]	0.1 [0-0.2]
Moderate negative impact	3.0 [-1.7-7.7]	1.7 [0.8-2.6]
Small negative impact	2.4 [-0.9-5.6]	4.2 [2.2-6.2]
No impact	48.1 [23.3-72.9]	93.7 [91-96.4]
Small positive impact	2.8 [-2.2-7.9]	N/A
Moderate positive impact	2.2 [-2.0-6.3]	N/A
Large positive impact	0.1 [-0.0-0.2]	N/A
Unweighted N	988	861

Source: 2012 Worksite Survey Q54, Q54a, A54b, Q55, Q55a, Q55b; 2000 Report Table A2-6.13.

2012 Sample: Asked of worksites that self-report that they are covered by the FMLA. Only worksites that reported any impact are asked the size of the impact. Weighted by worksite.

Cells with "N/A" indicate that the data were not reported in the 2000 Report.

## 9. Conclusion

This report has presented the results of the 2012 Worksite and Employee Surveys. These surveys update earlier pairs of surveys conducted in 1995 and 2000. Changes in survey content and survey methods, as well as sample size constraints, limit our ability to consistently make comparisons across surveys. Even when comparisons are possible, the much weaker labor market which accompanied the 2012 surveys (relative to 1995 and 2000) needs to be considered in interpreting longitudinal results. In addition, samples sizes generally are too small to explore most differences across respondent groups.

This conclusion begins by briefly reviewing the findings of the 2012 surveys. It then suggests some directions for further study.

### 9.1 Evidence from the 2012 Surveys

With respect to the current coverage of the Family and Medical Leave Act, only slightly more than half of all employees are eligible for the Act's job-protected leave (59%). As discussed in Section 2.2, expanding the eligibility requirements to allow employees at smaller worksites access to leave would modestly increase eligibility. Currently, employee eligibility provisions require that the employee work at a location with at least 50 employees within 75 miles of the employee's worksite. Lowering the cutoff to 30 employees would increase the percentage of employees who meet the eligibility requirements from 59% to 63%; lowering it to 20 employees would increase it to 67%. Maintaining the 50 employees requirement, but lowering the hours of service requirement from an average of 24 hours per week (1,250 hours in the 12 months prior to leave) to 15 hours per week (780 hours) would increase eligibility from 59% to 63%.

On the employee side, leave is not uncommon: 13% of all employees took leave for a qualifying FMLA reason in the past year. This is unchanged from 2000. Rates of leave taking are higher among those eligible for the FMLA (16%) than for those not eligible (10%). As discussed in Section 4.1, some of this difference may be due to the causal effect of the FMLA. However, some of the difference (our analyses suggest nearly half) is likely due to the factors that also affect employee eligibility (e.g., worksite size, job tenure, hours worked) such that at least some of this difference would probably remain even in the absence of the FMLA. Consistent with this interpretation, simply limiting the sample to those who meet the job tenure and hours worked requirement substantially shrinks the eligible/ineligible difference. As discussed above, the survey methods used in this report are not appropriate for establishing the causal impact of the FMLA, whether on leave taking or on other outcomes.

The FMLA guarantees the right to return to the pre-leave position (or one nearly identical to it—i.e., an equivalent position); however, the Act includes no requirement that employers provide any pay during the leave. The Act (Public Law 103-3, § 102(d)(2)) generally permits employees to substitute accrued paid leave for unpaid FMLA, or the employer to require that employees do so. Nevertheless, most employees receive some pay while on leave: 48% receive full pay and another 17% receive partial pay, usually, but not exclusively, through regular paid vacation leave, sick leave, or other “paid time off” hours. Rates of full pay drop sharply for leaves of more than 10 days (60% for leaves of 10 days or less, 40% for leaves of more than 10 days). Most employees who took leave in the past year report that they returned to work because there was no longer a need for leave, but inability to

afford leave is another common reason for returning to work, especially for longer leaves (40% overall; 37% for leaves of 10 days or less; 43% for leaves of more than 10 days).

A small proportion of employees report that they needed leave but were unable to take it in the past year (5%). Rates of unmet need for leave were similar across eligible and ineligible employees, but more than twice as high as in 2000. Inability to afford leave is the reason given by nearly half of those with unmet need for leave (46%).

On the worksite side, most covered worksites report little difficulty complying with the FMLA (only 14% report “somewhat difficult” and only 1% report “very difficult; weighted by worksite). However, 30% report that the cost of administering the FMLA is rising. Similarly, few worksites report negative impacts on “employee productivity, absenteeism, turnover, career advancement, [and] morale, ... [or on] business profitability” (7% report “somewhat negative”; 1% report “very negative”); and these negative reports are more common among large worksites (weighting by employees, 20% report “somewhat negative” and 9% report “very negative”).

While there has been considerable discussion of intermittent leave (that is, two or more episodes of leave for the same reason), employee responses suggest that such leave is not common (only about 3% of employees took any intermittent leave). Again, reports of negative impacts on profitability and productivity due to intermittent leave are rare (6% or less), though again more common when weighting by employees (as high as 25%).

## 9.2 Directions for Future Study

This project has updated the 2000 surveys with data current as of early 2012. In retrospect, the gap between these two sets of surveys was probably too long. Planning for another set of surveys towards the end of the decade seems appropriate. In as much as there is interest in further disaggregation of the data (e.g., of the Worksite Survey by industry, or of the Employee Survey by policy groups of particular interest), much larger samples would be needed.

With respect to content, the switch to a one-year recall period appears to make the results easier to explain and more useful. There appears to be interest in additional questions on disability status and on effects on employers.

The approach taken in this study has been quantitative and descriptive. Complementary studies would change these two characteristics. First, we have tabulated worksite and employee responses to close-end survey questions. Particularly with respect to worksites, these close-end responses are informative about behavior, but less informative as to decision processes, perceived costs, and adjustment strategies. Qualitative field work with worksites and employees might be insightful for better understanding worksite-employee interactions in the use and implementation of the FMLA.

Second, it would be valuable to do additional comparative analyses of data from the 1995, 2000 and 2012 surveys, comparing covered to uncovered worksites and eligible to ineligible employees. This report includes some such analyses; more detailed studies (in particular, controlling for more observed differences) might be insightful.

Third, our approach has been descriptive, focusing on tabulating responses to survey questions. Some of the key questions are causal; e.g., To what extent does the FMLA increase leave taking? We have

not directly addressed that question and other issues of causation. Those issues of causation are worthy of further study, but would require very different methods and possibly different data.

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