



Office of Information and Regulatory Affairs
OMB Desk Officer for DOL-OS
Office of Management and Budget
Room 10235
725 17th Street NW
Washington, DC 20503

Re: 82 FR 41660, Comments in Response to Request for Information; Family and Medical Leave Act, Wave 4 Surveys

Dear OMB Desk Officer for DOL-OS,

We appreciate the opportunity to respond to the Department of Labor's (DOL's) request for comments on the Family and Medical Leave Act, Wave 4 Surveys Information Collection Request. The initial three waves of the FMLA survey, collected in 1995, 2000, and 2012, have provided invaluable information not found elsewhere on the experiences of employers and employees since the passage of the Family and Medical Leave Act of 1993.¹ The Center for American Progress (CAP) recognizes the importance of this data source for the Department of Labor, researchers, and policymakers as this information has been used to better understand the reach of the current law. CAP has also used previous versions of the survey in our research and we strongly support ongoing efforts to commission future waves of the survey. Continuing with a fourth wave of the survey will allow for even deeper understanding and analysis of existing family and medical leave policies, as well as informing best directions for future policymaking. We urge DOL and the Office of Management and Budget (OMB) to move forward with the surveys.

CAP is a nonpartisan think tank dedicated to improving the lives of Americans through bold, progressive ideas and action. CAP conducts research and develops policy ideas that help improve economic security, labor standards, work-family policy and more for Americans.

The FMLA survey provides detailed information about employers and employees interactions with the law, by collecting data on workers' leave-taking behaviors as well as demographic information and data on their employers. These data are vital because the FMLA surveys, although infrequently collected, are the only source of nationally representative data that provide a detailed account of workers' utilization of family and medical leave. This information can help guide the actions of the DOL, by providing the Wage and Hour Division with information to help them in their role of administering and enforcing the FMLA, in addition to providing background that can support their compliance assistance to employers and workers.

Beyond the benefits to the internal workings of the DOL, the FMLA survey is an important and valuable source of data for researchers and policymakers. The FMLA is currently the only

federal law guiding workers' right to leave, and understanding its reach, efficacy, and impact would be impossible without this irreplaceable source of information. For example, because of the eligibility requirements in the FMLA pertain to both worker characteristics – such as job tenure and work hours – and employer characteristics – employer size – other nationally representative datasets such as the Current Population Survey (CPS) and the Survey of Income and Program Participation (SIPP) do not contain all the necessary information to accurately estimate eligibility. The FMLA survey is the best data source to estimate the percentage of the workforce covered by the law (59 percent, as estimated by the 2012 survey),ⁱⁱ and without this baseline information it is difficult to evaluate the impact of the law.

The survey also provides important demographic data about who uses FMLA leave, and we believe those efforts can be expanded. For example, we applaud DOL's prior inclusion of a question collecting sexual orientation data and support its continued usage, but developing high-quality data that more fully explore and facilitate understanding of how the transgender community interacts with FMLA is essential if DOL is to develop a full picture of how FMLA is utilized. The absence of a question on gender identity in federal data collection instruments such as the FMLA survey keeps invisible the experiences of the transgender community and leaves the Federal government unaware of its unique needs.ⁱⁱⁱ

In addition, while other datasets such as the CPS contain some information about leave-taking behavior, the many nationally representative datasets only ask questions about medical leave and parental leave. Family caregiving leave, which is covered under the FMLA, is an understudied phenomenon as a result. It is only because of the FMLA survey that we know that in 2012 nearly one-in-five (18 percent) of all leaves taken by workers were to care for a family member.^{iv}

Greater understanding of leave-taking behaviors in the United States is more important now than ever before. Research by Cornell economists Francine Blau and Lawrence Kahn estimates that the lack of work-family policies in the United States is a major driver of women's declining labor force participation rates in the U.S. relative to other OECD countries.^v A deeper understanding of the only federal family and medical leave policy currently enacted into law will be instrumental to addressing this challenge to our economy.

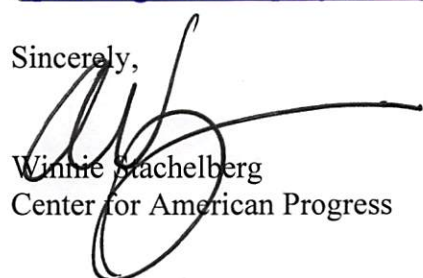
Access to detailed data on family caregiving leave is also of heightened importance in the face of the United States' rapidly aging population. By 2030, seniors age 65 and older will make up nearly 20 percent of the population, up from 12 percent in 2000.^{vi} And while the Baby Boomer generation ages, the generations behind them are smaller in size thus reducing the number of potential caregivers. While in 2010 there were approximately seven potential caregivers for every senior age 80 or older, by 2030 that ratio is projected to drop to only four potential caregivers to each elderly person, and further decline to only three-to-one by 2050.^{vii} In this context, and given the dearth of data on family elder care provision, continuing with the fourth wave of the FMLA surveys will be instrumental in understanding the nation's changing demographics' impact on workers.

This request for information comes at a time of bipartisan consensus around the importance of family and medical leave. Republicans and Democrats in Congress,^{viii} bipartisan working groups,^{ix} and President Trump have all noted the importance of leave for workers who are

balancing family care responsibilities at home with paid employment.^x Ongoing collection of the FMLA survey will provide the data necessary to assess the current state of family and medical leave while pointing out where adjustments are needed.

We appreciate the opportunity to submit comments on the FMLA survey. If you have any questions regarding this comment, please contact Shilpa Phadke (sphadke@americanprogress.org) at the Center for American Progress.

Sincerely,



Winnie Stachelberg
Center for American Progress

ⁱ *Family and Medical Leave Act of 1993*. 1993. H.R. 1, 103rd Cong., 1 sess.

ⁱⁱ Jacob Alex Klerman, Kelly Daley, and Alyssa Pozniak, "Family and medical leave in 2012: Technical report" (Cambridge: Abt Associates Inc., 2012), available at <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>.

ⁱⁱⁱ For best practices on collecting gender identity data, see Gender Identity in U.S. Surveillance, "Best Practices for Asking Questions to Identify Transgender and Other Gender Minority Respondents on Population-Based Surveys" (Los Angeles: Williams Institute, 2014), available at <https://williamsinstitute.law.ucla.edu/wp-content/uploads/geniuss-report-sep-2014.pdf>.

^{iv} Jacob Alex Klerman, Kelly Daley, and Alyssa Pozniak, "Family and medical leave in 2012: Technical report" (Cambridge: Abt Associates Inc., 2012), available at <https://www.dol.gov/asp/evaluation/fmla/FMLA-2012-Technical-Report.pdf>.

^v Francine D. Blau and Lawrence M. Kahn, "Female labor supply: Why is the US falling behind?" No. w18702. (National Bureau of Economic Research, 2013), available at <http://www.nber.org/papers/w18702>.

^{vi} Grayson K. Vincent and Victoria A. Velkoff. "The Next Four Decades: The Older Population in the United States: 2010 to 2050" (Washington: U.S. Census Bureau, 2011), available at <https://www.census.gov/prod/2010pubs/p25-1138.pdf>.

Lisa Hetzel and Annetta Smith, "The 65 Years and Over Population: 2000" (Washington: U.S. Census Bureau, 2001), available at <https://www.census.gov/prod/2001pubs/c2kbr01-10.pdf>.

^{vii} Donald Redfoot, Lynn Feinberg, and Ari N. Houser, "The Aging of the Baby Boom and the Growing Care Gap: A Look at Future Declines in the Availability of Family Caregivers" (Washington: AARP Public Policy Institute, 2013), available at http://www.aarp.org/content/dam/aarp/research/public_policy_institute/lrc/2013/baby-boom-and-the-growing-care-gap-in-brief-AARP-ppi-lrc.pdf.

^{viii} *Working Families Flexibility Act of 2017*. 2017. H.R.1180, 115th Congress; *Family and Medical Insurance Leave Act*. 2017. S.337, 115th Congress; *Strong Families Act*. 2017. S.1716, 115th Congress.

^{ix} AEI-Brookings Working Group on Paid Family Leave, "Paid Family and Medical Leave: An Issue Whose Time Has Come" (Washington: American Enterprise Institute, 2017), available at <https://www.brookings.edu/research/paid-family-and-medical-leave-an-issue-whose-time-has-come/>.

^x Office of Management and Budget, *Budget of the U.S. Government: A New Foundation for American Greatness Fiscal Year 2018* (Executive Office of the President of the United States, 2017), available at <https://www.whitehouse.gov/sites/whitehouse.gov/files/omb/budget/fy2018/budget.pdf>.