



**CONSORTIUM FOR CITIZENS
WITH DISABILITIES**

Statement for the Hearing Record
Balancing Work, Health, and Family:
The Case for Expanding the Family and Medical Leave Act
United States House Committee on Education and Labor
Workforce Protections Subcommittee

February 25, 2020

Thank you for the opportunity to submit the following statement for the record of the Subcommittee's February 11, 2020 hearing on "Balancing Work, Health, and Family: The Case for Expanding the Family and Medical Leave Act." The Consortium for Citizens with Disabilities (CCD) is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society.

The co-chairs of the CCD Working Group on Paid Leave thank you for holding a hearing on this topic of great importance to people with disabilities and their families. The Family and Medical Leave Act (FMLA) has been a vital worker protection for both workers with disabilities and workers who are caregivers for people with disabilities. However, there are limitations to the current law. Especially as interest and attention to paid family and medical leave policies grows, we believe that it vital to examine how the FMLA definitions could be improved for people with disabilities and their families.

The CCD Paid Leave Working Group has recently finalized principles detailing what a disability-inclusive paid leave program would look like and we are excited to include those principles with this statement since they directly address these issues. Our Principles for Paid Leave also allow us to assess the policy issues presented at the hearing from a disability perspective. Specifically, we have recommendations regarding both how to define family in a paid leave program to work for people with disabilities and about the importance of job protection for people with disabilities in a paid leave program. We will consider each in turn.

1) Family Definition

Our principles state: "A paid leave program must have a broadly inclusive definition of family." This is because people with disabilities both provide care to and receive care from a wide range of blood relatives and other individuals with the equivalent of a family relationship. In fact, people with disabilities report taking leave to provide care for "chosen" family members more

frequently than people without disabilities.¹ In recent qualitative research from The Arc of the United States and the National Center for Children in Poverty, 76 percent of workers with disabilities and/or serious health conditions interviewed provided care to a loved one with a disability and/or serious health condition.²

People with disabilities also rely on a broad spectrum of caregivers, from parents to siblings to chosen family. There are also two trends that will make a broader definition of family even more important for people with disabilities. First, as we state in our principles, best practices in disability service provision emphasize the importance of natural supports, including chosen family and other unrelated supporters who nonetheless play a crucial role in providing unpaid caregiving to a person with a disability who has welcomed them into their life. As this best practice is adopted in more service systems, people with disabilities will come to rely on individuals not covered by the current FMLA definition of family. Second, people with disabilities are living longer and many are outliving their parents or have parents who become disabled themselves. This demographic trend is and will continue leading to circumstances where sibling and other caregivers are replacing parents as primary caregivers, but do not have access to the same worker protections. It is crucially important that any paid leave program include a broad definition of family to address these trends.

We will also note that the CCD Developmental Disabilities, Autism and Family Support Task Force submitted testimony in support of expanding the FMLA's definition of family.³

2) Job Protection

Our principles state: "A paid leave program must ensure job protection and include anti-retaliation provisions." Discrimination against people with disabilities is unfortunately prevalent—in 2018, the last year for which we have available data, people with disabilities accounted for 32 percent of all charges filed with the Equal Employment Opportunity Commission.⁴ All workers should have the right to return to work following leave and protection against retaliation for exercising their rights under the law. The FMLA's job protection is robust, but does not apply to many workers—as testimony to the Subcommittee detailed, "[f]orty-four percent of employees are not covered by the law's protections."⁵ Many of these workers are "[e]mployees of small businesses; new workers who have been at their employers for less than 12 months; and employees who are seasonal, part-year, or in some cases, part-time are excluded" as are low-wage workers.⁶ Because workers with disabilities are disproportionately likely to part time or low wage, the current FMLA coverage disproportionately does not cover people with disabilities.⁷ We believe it is crucially important that job protection be extended to all workers covered under a paid leave program.

We have similar concerns when considering the FMLA protections that allow workers to maintain their health insurance while on leave—these protections are crucial, but must be expanded to more workers in a paid leave program to ensure that people with disabilities are included.

We thank the Subcommittee for hosting a hearing on such an important issue for people with disabilities. We stand ready to work with all members of Congress to create a paid family and medical leave program that is inclusive, comprehensive, and flexible and carefully integrated into existing programs and policies for people with disabilities.

Sincerely,

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¹ Center for American Progress, *People Need Paid Leave Policies That Cover Chosen Family* (2017), <https://cdn.americanprogress.org/content/uploads/2017/10/26135206/UnmetCaregivingNeed-brief.pdf>.

² The Arc and the National Center for Children in Poverty, *Disability Perspectives on Paid Leave: A Qualitative Analysis of Leave-taking Among Workers Affected by Disabilities or Serious Health Conditions* (2019), https://drive.google.com/file/d/1ytwaSggtWcjQmZz_8x789aXqLTYcrdrs/view.

³ CONSORTIUM FOR CITIZENS WITH DISABILITIES, STATEMENT ON THE FAMILY MEDICAL LEAVE MODERNIZATION ACT (2020), <http://c-c-d.org/fichiers/FMLA-CCD-Testimony-for-the-record-Feb-11-2020.pdf>.

⁴ U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION, CHARGE STATISTICS (2019), <https://www.eeoc.gov/eeoc/statistics/enforcement/charges.cfm>.

⁵ Statement of Elisabeth Jacobs, Senior Fellow, Urban Institute (2020), <https://edlabor.house.gov/imo/media/doc/JacobsTestimony02112020.pdf>.

⁶ Georgetown Center on Poverty and Inequality and The Arc, *Security & Stability: Paid Family and Medical Leave and its Importance to People with Disabilities and their Families* (2017) https://thearc.org/wp-content/uploads/forchapters/Georgetown_PFML-report_Dec17.pdf.

⁷ *Id.* at 14.