



Family and Medical Leave in 2012: Executive Summary

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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).¹

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.

¹ 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.”