

# Facilitating Low-Income Families' Use of Emergency Paid Family Leave: Considerations for Human Services Agencies in Supporting Workers and Their Employers

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In response to the COVID-19 pandemic, in March 2020 Congress enacted emergency paid family leave (Emergency Family and Medical Leave Expansion Act (EFMLEA)), as well as emergency paid sick leave. This brief suggests lessons for facilitating the use of emergency paid *family* leave by lower-income families, drawing on research by the U.S. Department of Health and Human Services' Office of the Assistant Secretary for Planning and Evaluation (ASPE) on families' participation in state paid family leave (PFL) programs. It offers considerations and possible next steps for human services organizations, early childhood education programs, schools, and others who work with lower income families and their employers and can assist them in learning about and using the new emergency family leave program, facilitating its implementation for those in greatest need.

## Overview of New Emergency Paid Leave Program

The EFMLEA was established by the Families First Coronavirus Response Act to provide limited emergency paid family leave to employees to take time away from work (if they are unable to telework) because their children's schools or child care providers are closed for reasons related to COVID-19, with certain exceptions.<sup>1</sup> The U.S. Department of Labor administers the program at the federal level, and has provided related [resources](#) for employers and workers about its emergency leave programs, which are slated to end December 31, 2020.

The EFMLEA covers workers, except for some who are essential, in mid-size organizations (under 500 employees) and some small businesses (under 50 employees).<sup>2</sup> Employers continue to pay wages and are reimbursed by the federal government through tax credits. It covers private, nonprofit, and some government organizations.

The emergency paid family leave program amends the 1993 Family and Medical Leave Act (FMLA). While the FMLA provides *unpaid* leave for up to 12 weeks in a year, the EFMLEA provides two-thirds of prior wages (up to a cap of \$200 per day and \$12,000 in total) for up to 12 weeks.<sup>3</sup> Several states have implemented their own PFL programs, and the new program may interact with these state programs, emergency state paid leave programs established in certain states in response to the pandemic, and the federal emergency paid sick leave program.

The EFMLEA can provide essential assistance to families during this public emergency, especially lower-income families who often lack access to other forms of paid leave with which to address their families' needs.<sup>4</sup> At a time when many schools and early childhood educators and providers are closed because of the need for social distancing, all parents—but especially those without paid leave—are struggling to care for their children and support their children's continued learning while still earning a paycheck. While the EFMLEA can provide families with much-needed assistance, it is set to expire at the end of 2020 and will require rapid implementation by a range of entities. [ASPE research](#) on how low-wage working parents experienced existing state paid family leave programs offers key considerations for those who seek to help eligible lower income families participate in these important programs.<sup>5</sup>

## Considerations for Supporting Lower Income Workers' Participation in Paid Family Leave

### Outreach to lower-income workers about EFMLEA's availability will be essential to facilitating its use.

Research indicates that workers—in particular lower-income workers—are often unaware of PFL programs and as a

<sup>1</sup> The emergency paid *sick* leave is also available to workers to isolate themselves or care for others who are isolated due to public health requirements.

<sup>2</sup> Small businesses may be exempt if they make the case that providing leave would jeopardize the viability of the business as a going concern.

<sup>3</sup> The first two weeks of EFMLEA leave are unpaid but could be combined with emergency paid sick leave or other sources of paid leave.

<sup>4</sup> <https://www.bls.gov/ncs/ebs/benefits/2019/ownership/private/table31a.pdf>

<sup>5</sup> ASPE has conducted research on state-administered PFL programs in three states with the longest-established programs: California, New Jersey, and Rhode Island. For information on existing state PFL programs, see this [compendium](#) from the National Partnership for Women and Families.

result, don't use them. In addition, fathers—particularly lower-income fathers—often do not know about PFL and their usage rates are low. When parents do use these programs, they say they are highly valuable and help them manage often-challenging lives. To increase the likelihood of program take-up, human services agencies, educators, community organizations, and other stakeholders can employ a range of methods, such as direct communication, email alerts, webinars, and print materials, to help ensure parents are aware of the EFMLEA.

**Undertaking immediate education efforts can help ensure that parents accurately understand EFMLEA's specific eligibility and other requirements.** ASPE studies of state PFL programs have found substantial confusion about program eligibility and other rules, which are sometimes blurred with those for other public or private leave programs. For example, the unpaid FMLA is the leave program parents indicate they are most aware of, and often its requirements are believed incorrectly to apply to other sources of leave. However, the emergency paid family leave program has requirements that differ from the FMLA. These include broader eligibility for workers (e.g. the EFMLEA requires 30 days on the job, while the FMLA requires 12 months) and the potential inclusion of small businesses, which are not covered by the FMLA. There are also important similarities; for example, both laws provide workers with the ability to return to the same or a similar job (assuming it still exists), which will be essential to many parents. DOL [guidance materials](#) and [outreach posters](#) provide additional detail. Human services agencies, schools, and others could use these resources as the basis for simple fact sheets, or other materials or dissemination activities tailored to the families with which they work.

**Engaging low-wage employers as quickly as possible can help support EFMLEA implementation.** Studies of state PFL programs found that a lack of *employer* awareness and understanding may contribute to the lack of *worker* awareness and take-up. Similar to state PFL programs, EFMLEA relies on employers to inform workers about the program. Ensuring that employers are fully aware of the emergency paid family leave program and accurately understand its requirements both for them and for their employees will be essential to parents' ability to participate. This is particularly urgent, given the short time frame for the program, and is likely to be especially important for small businesses, which often lack human resources staff. At the same time, employers may be concerned about having workers take emergency leave to address child care issues since this could place greater strain on their operations and create new administrative tasks at an already-difficult time. Community organizations, human service agencies, schools, and early childhood providers may have a special role to play in reaching out to employers, since use of EFMLEA can encourage greater parent involvement in children's learning, development, and wellbeing while out of school or child care. Further, many of these organizations have pre-existing relationships with area employers. To the extent they can encourage employers to participate in the program—and ensure that eligible workers understand and have access to it—families under stress can receive needed assistance.

**Supporting employer efforts to simplify management of their EFMLEA responsibilities could help minimize both barriers for workers and employers' administrative burdens.** Lower-income parents say they see the administrative complexity of many state PFL programs as a barrier to participation. This suggests that administering the new program in as simple a way as feasible will be essential, especially for small businesses. This is particularly important given the short period for the EFMLEA and urgency created by current school and child care closures. Employers will need to meet the program's [regulatory requirements](#). To the extent they have discretion in how they manage the program, however, they should be supported in seeking simplicity. Community organizations and others working with low-wage employers could offer technical assistance or other resources to help them administer the program as efficiently as possible, potentially minimizing participation barriers for parents as well.

**Lower-income families may need additional economic support, even with the EFMLEA wage replacement.** Lower-income parents in previous ASPE research said that their families had a difficult time making ends meet on the partial wage replacement provided by most state PFL programs. As a result, sometimes they declined to take leave or decided to cut it short. This suggests that some lower-income families will need supplemental assistance while they take emergency paid family leave. Program rules allow employers and workers to supplement wage payments with existing employer-provided paid leave benefits (e.g. parental leave, sick leave, annual leave, etc.). However, many lower-wage jobs do not come with such benefits. Human services agencies, schools, and other organizations working with lower-income families should consider providing information and help accessing other public and private resources. This might include resource lists and referrals to assistance with food, rent, physical and mental health care, and other essential needs.