

Assessing the Impact of Family and Medical Leave Policies on Employees

A. Introduction

This chapter is based primarily on data from the Employee Survey. It discusses in greater detail the question of how the Act affects employees, beginning with a brief overview of leave-taking patterns, based on the data presented in Chapter V, and supplemented by testimony of leave-taking employees to the Family Leave Commission. This is followed by a section analyzing additional data from the Employee Survey, which focuses on the leave-takers' ease or difficulty of getting leave, their worries about taking leave and their overall satisfaction with the amount of leave they took. The next section of this chapter presents the leave-taking experiences of four people who took leave under the Family and Medical Leave Act, illustrating with qualitative data some of the issues suggested by the quantitative data from the two national surveys on which this Report has focused. The chapter ends with a brief conclusion.

B. Overview of Leave-Takers and Leave-Taking

The Employee Survey demonstrates that the demand for the kinds of leave covered by the FMLA is substantial. Over 16 percent of employees surveyed take leave for reasons covered by the Act; another 3.4 percent state that they needed but did not take leave. In other words, about 20 percent of the employees surveyed in both covered and non-covered worksites either took or needed to take leave for personal, medical or family caregiving reasons covered by the Act.

The demographic profile of leave-takers generally resembles that of the overall sample of employed persons surveyed, with some important distinctions. For example, although women represent only 46 percent of the workforce, they are more likely than men to work for employers covered by the FMLA, and as likely as men to be covered and eligible. Women are more likely to take leave than men (58.2 percent compared with 41.8 percent). This is partly because men do not bear children and partly because women are somewhat more likely to care for infants or



Opposite: Top Left: Christopher Ruffin testifying at Commission on Leave Public Hearing, Washington, DC, August 4, 1995.

Top Right: Walter Fish testifying at Commission on Leave Public Hearing, Washington, DC, August 4, 1995. Bottom: Kenneth Weaver, Rosie Weaver and a photograph of their daughter Melissa, testifying at Commission on Leave Public Hearing, Chicago, IL, May 8, 1995.

Above: Diane Atwood testifying at Commission on Leave Public Hearing, Washington, DC, August 4, 1995.

seriously ill family members than are men. In terms of absolute numbers, the largest group of leave-takers is between 35 and 49 years old. However, relative to their representation in the employed population, employees in the 25 to 34 year-old age group are more likely than younger or older employees to take leave. This in part

reflects the fact that a significant portion of leave-taking centers around caring for children from birth through adolescence, and those in their 20's, 30's and 40's, are most likely to have children who may need care.

As noted in Chapter V, leave under the FMLA falls into two major categories: 1) medical leave, including leave for ones' own serious health condition, excluding maternity-disabilities; 2) family leave, including a) mothers' or fathers' care of a newborn child, a newly-adopted, or foster child; and b) care for a seriously ill child, spouse or parent. In addition, maternity-disability leave may combine both medical leave and parental leave. About 60 percent of those who take leave do so because of their own serious health conditions. Inset 7-1 illustrates the story of Diane Atwood who took leave to deal with a serious medical problem and Inset 7-2 tells the story of Nedra Ward who took leave for a maternity-disability.

About one-fourth of all leave is taken by relatively young parents as parental leave or as leave to care for their seriously ill children. Jonathan Zingman, who took leave to care for his new daughter, illustrates a typical parental leave story (see Inset 7-3) and the story of the Weaver family movingly illustrates leave to care

Inset 7-1

Diane Atwood: Leave for One's Own Serious Health Condition

Diane Atwood, of Little Rock, Arkansas, is married and has two daughters - one a nurse and the other a pre-med student in college. She and her husband both work full-time. On December 23, 1992, Ms. Atwood was diagnosed with hodgkin's lymphoma, and had to endure many "necessary, but also very painful" tests and biopsies. The tests revealed cancer in her lymph nodes, neck, chest, abdomen, and pelvis. "Not", she noted, "a very good Christmas present for me and my family."

Using personal leave time, she began chemotherapy on January 14, 1993, the day after her 41st birthday, and her treatment involved several months of four-and-a-half hour chemotherapy sessions every other week. So far so good. But later that year the cancer began to grow again; she had come out of remission. Two months later she had to undergo five days of high-dose chemotherapy.

A little over a year later, in April of 1994, Ms. Atwood needed to use FMLA leave. She was hospitalized for a bone marrow and stem cell transplant, and needed to be away from work for about ten weeks. When she was diagnosed, she said, "my body became a war zone. To be able to fight back and win the war that was taking place inside of me, all my energies had to be focused on this war. The Family and Medical Leave Act of 1993 allowed me the freedom to concentrate solely on fighting the cancer with all my being. Because of this Act, I was free from having to worry whether I would still have a job when I was able to return to work. I was also freed from the worry of having to try and find the funds to keep my health insurance in force, with me paying the total monthly premium of well over \$400. But, because of the Family and Medical Leave Act, my employer continued to pay their part of my group health insurance and I paid my part. This kept the insurance affordable for me and, most important, it kept the insurance in force until I was able to return to my job."

Testimony of Diane Atwood at Washington, DC Hearing, August 4, 1995, U.S. Commission on Leave Public Hearing.

for their seriously ill daughter Melissa (see Inset 7-4). Almost ten percent of leave is taken by employees who are typically somewhat older, in order to care for seriously ill elderly parents, as described by Patricia Connell who cared for her seriously ill mother (see Inset 7-5). Finally, care for an ill spouse accounts for about three percent of all leave taken, and is described by Walter Fish (see Inset 7-6).

The great majority of all leave taken falls within the 12-week limit established by the Act. Maternity-disability leave tends to be relatively longer; 40 to 45 percent of these leaves last more than 12 weeks (this type of leave often covers some time before birth as well as the post-partum recovery). Most leave to care for newborns is less than 12 weeks. Ninety percent of those who take leave to care for seriously ill children are off the job for less than two weeks, as are 80 percent of leave-takers caring for seriously ill parents. Salaried employees are especially likely to take shorter leave - up to seven days.

The most prevalent method used by employers to cover the work of employees who take leave is to assign their work temporarily to other employees - according to both surveys. A number of employers also cite the use of temporary replacements; employees in the lowest-income category are most likely to state that permanent replacements were hired to cover their work.

A large minority of non-leave-taking employees express concern about the burden of having to take over work of leave-taking employees. However, over two-thirds (71 percent) of non-leave-taking em-

Inset 7-2

Nedra Ward: Maternity-Disability Leave

Nedra Ward, an administrative assistant, found out in January of 1994 that she was pregnant. She testified as follows: "I didn't share it with anyone in my department yet because I started experiencing difficulties. I had severe nausea and frequent spotting. And so I decided to keep it to myself to try to get through my first trimester, and then I would share it with the company. Through this time, I exceeded my sick days as well as my vacation days. So in April of 1994, my manager called me into her office to inform me that I had exceeded all days and that disciplinary action would have to be taken against me. This is when I decided to inform her that I was pregnant. And she said, well, she would have to meet with [the Director of Human Resources] to see if something could be done since there was not an illness but a medical condition."

Ms. Ward's manager soon reported back that she "could take time on an intermittent basis since it was not definite as to when I would have difficulties in my pregnancy. So for the next six months of my pregnancy I was able to take time off of work whenever one of the occurrences would happen."

Her employer also moved her to a less pressured department. This "alleviated a lot of stress" and "I was able to come into my department, continue to work whenever possible until I had my child, which was in October of 1994. And he was born healthy and strong, and he'll be seven months old next week. And so I've really had a very positive experience. On the onset, I was not familiar with the intermittent schedule that I could take and neither was my department. We weren't familiar with that. So we both learned something. And I didn't meet with any opposition once we all understood the intermittent schedule."

Testimony of Nedra Ward at Chicago, IL Hearing, May 8, 1995, U.S. Commission on Leave Public Hearing.

employees surveyed agree with the statement that all employees should have the ability to take up to 12 weeks of unpaid, job-protected leave per year for family caregiving needs and serious health conditions.

Inset 7-3

Jonathan Zingman: Parental Leave

Jonathan Zingman is a theoretical nuclear physicist. At the time of his second daughter's birth in 1994, he was employed at TCSI Corporation, managing a project developing integrated circuits for cellular phones, supervising a staff of four and acting as primary contact for the company's Japanese client. Information about the FMLA had been posted around the company, and the company had also circulated a memo providing detailed information and procedures for using the Act. Mr. Zingman and his wife decided that he should take leave to be with her upon their daughter's birth, particularly since they knew that his wife would be having a cesarean section.

Immediately after his daughter's birth, Zingman took sick leave and vacation time. Two weeks after her birth, his daughter was hospitalized for a staph infection, after which his wife's mother also came to help the couple care for their new baby and their older daughter. About six weeks after his daughter's birth, Zingman began FMLA leave, which lasted for a period of approximately two weeks. The time was spent "at home with my family and being a father mostly, helping my wife recover from her surgery, helping the baby recover from being in the hospital, and helping my daughter adjust to having competition in the house."

Zingman felt that the "leave was handled very well at my company. In spite of being mostly male and having the high pressure, they are very encouraging of this. They allow you to take responsibility for your own work, and if you feel you can take the time off and spend the time with your family, then there doesn't seem to be a problem with that."

He testified: "I don't have a dramatic story, but the leave was important because it allowed me to settle in, allowed my new daughter to settle in, allowed us to settle in as a family, and allowed my wife to recover from her surgery. The time that we spent was very much family time: doing the laundry and taking care of the kids, and that sort of thing, and it was time that I was able to spend just being the father, and not the father and the engineer and physicist, all the other roles."

Testimony of Jonathan Zingman at San Francisco, CA Hearing, June 26, 1995, U.S. Commission on Leave Public Hearing.

Most leave-takers had their benefits continue while they were on leave, but about nine percent did not. About three percent report that they lost their health benefits while they were on leave. Non-whites, employees with one or more children and lower-income employees are especially likely to report having lost benefits, as are women and employees between 25 and 34 years old. Salaried employees and employees with partial or full wage replacement are comparatively unlikely to lose benefits.

Two-thirds of leave-taking employees report that they receive full or partial wage replacement during their leave. Those taking leave for their own serious health condition are most likely to have had some wage replacement (probably in large measure pay for sick days). Salaried and unionized employees, employees with the highest levels of household income and education are most likely to receive wage replacement. The likelihood of an employee receiving full or partial wage replacement increases sharply as education and income rise. Men are more likely to receive full pay during leave than women, as are workers between 50 and 64 years old.

Inset 7-4**Kenneth Weaver: Leave to Care for a Seriously Ill Child**

Melissa was the oldest child of Kenneth and Rosie Weaver. She was diagnosed with a rare type of cancer when she was ten years old, and underwent chemotherapy, surgery and radiation treatments for a full year. More lumps and tumors were found, biopsies, surgery, chemotherapy and radiation therapy were performed. By this time the tumor had spread to more vital areas: her lung, liver and spine.

Mr. Weaver described his daughter as "strong, tough, determined, intelligent, sympathetic, apologetic, kind, friendly, and every other adjective there is to describe a wonderful little girl." While waiting with her mother to see the doctor about a lump on her leg, he recalled, she "confidently said to her mother, 'well, at least I'm not sick.'" That remained her "personal motto" almost as long as she lived.

But the doctor said Melissa's death would be "quick, probably less than six months." She urged him to take time off "right now." Mr. Weaver, an instrument electrical technician at Oxichem, told his supervisors: "I'm going to use the Family [and] Medical Leave Act, and I'm out of here." But he was apprehensive, knowing that "the company wasn't used to hav[ing] something like this come thrown right in their face. So I was going to give them about a week to go ahead and get everything organized." Melissa then "decided to defy her fear of flying," and she and her family, including her parents, two siblings and grandmother, flew to Chicago to visit her cousin, aunt and uncle.

One evening Melissa and her father talked about "going to the supermarket, buying a couple steaks and just cooking our own supper at home." She had been in a wheelchair for several weeks, but on this night she got out of the car and walked in the store with her father. It was the last time he remembers her walking on her own.

In September of 1993 another bulging lump was found below Melissa's waist, accelerating a trip to Washington D.C. provided by the Make-A-Wish Foundation. In Washington, Melissa "was granted a very special wish. [President] Clinton met us in the hallway after completing his morning jog, and it was then that I was able to personally thank him for the FMLA. Without this law, my family could have never made those precious memories that we now hold so dear."

The Weavers returned home late that day. Melissa, very sick, did not live to see the next Sunday. "My wife and I were with Melissa for each and every moment until her final passing. For that chance I am eternally grateful," said Melissa's father. Rosie Weaver added: "For 18 months, Melissa and I had been traveling for over about three hours back and forth to Houston for either a week stay or one day. And at that point, it was just like, I ... couldn't handle it. And to have [her father] with us and to have that support, because you're always trying to take care of the other two children and trying to keep everything normal when it is not, and to have him there with me was - I don't know if I would have made it without having him there."

Testimony of Kenneth and Rosie Weaver at Chicago, IL Hearing, May 8, 1995, U.S. Commission on Leave Public Hearing.

Inset 7-5**Patricia Connell: Leave to Care for a Seriously Ill Parent**

Patricia Connell is a supervising attorney with the Legal Assistance Foundation of Chicago. She is married, and has children of her own. In 1993, she learned that her mother, living alone outside of Harrisburg Pennsylvania since 1960, was suffering from a form of cancer which is almost always fatal. The doctors informed Ms. Connell, an only child, that her mother probably had between three and nine months to live, and that although she probably would not regain enough strength to resume her independence or to drive her own car, she could probably remain in her own home until she died.

Ms. Connell's mother wanted very much to stay in her own home "free to prepare and eat her own meals, sit in her own yard and watch the seasons change and sleep in her own bed until death took her." Ms. Connell, determined to try to help her mother fulfill this wish, went to her employer armed with the FMLA. She requested periodic leave to enable her to travel back and forth to Pennsylvania once a month to help her mother get to chemotherapy sessions, and to stay with her during the following days of weakness. Connell knew that her employer would be personally sympathetic, but in the past, when she had requested unpaid time off from her job, it had been given reluctantly. There was concern that her leave might set a bad precedent. This time, however, "[w]hether it was the Act or my employer's recognition that we all have responsibilities to our parents, he was gracious and only required that I notify him of the times that I would be gone, giving him as much notice as I could."

Over the next five months, Ms. Connell made six trips to her mother's home, taking her for treatments, doing shopping and preparing advance meals. She arranged for periodic visits from home health aids and visiting nurses, did the spring cleaning, and made sure that bills were paid. Moreover, she and her mother were able to spend time together, going through cherished things which Ms. Connell's mother asked her to give to special old friends. They visited the grave of her mother's mother, and, when possible, went out.

Ms. Connell's mother then had to be hospitalized, and on her release, Ms. Connell decided to move her mother into her own house in Chicago. After the move, her mother lived for another two weeks. She died on a Friday morning shortly after her grandchildren children had left for school, as her daughter sat at her side, talking to her.

"[It is] always hard to lose a parent. Despite the fact that neither my mother nor I had the extreme financial difficulties so often associated with a fatal illness, it was taxing to balance the competing needs of my mother, my job, and my family. My spouse and children were extremely supportive, understanding that caring for my mother was a family responsibility that I felt I had to meet. Thank God, or maybe Congress, that my employer couldn't complicate my choices by refusing to grant me leave in order to do so."

Testimony of Patricia Connell at Chicago, II Hearing, May 8, 1995, U.S. Commission on Leave Public Hearing.

A sizable majority of employees who take leave return to their same employers after leave, according to both the Employer and Employee Surveys. Workers in the lowest family income category and leave-takers with no wage replacement at all, are more likely not to return to work. Employees with higher family incomes, those working at covered worksites, and those receiving full wage replacement are more likely to return to their same employers. Not surprisingly, then, salaried employees and unionized workers are more likely to return to their employers. Leave-takers with full wage replacement are far more likely than those with either partial or no wage replacement to return to their employers after leave.

The most common strategy used by leave-takers to cover lost wages was “limiting extras” (75.5 percent) followed by the use of some type of savings (40 to 44 percent). Those with the highest levels of education are least likely to put off paying bills or to cut leave short. Those with the highest levels of income are least likely to put off paying bills or go on public assistance. Conversely, those whose family incomes are \$20,000 per year or less are at least four times more likely than those with higher incomes to go on public assistance in order to deal with lost income.¹

The demographic profile of employees who needed but did not take leave - “leave-needers” - differs in several regards

Inset 7-6

Walter Fish: Leave to Care for a Seriously Ill Spouse

Walter Fish began taking vacation days from work when his wife, Debbie, was hospitalized for diabetes complications. While she was in the hospital, an infection in her right eye aggravated a glaucoma condition, and she lost her vision. Mr. Fish called his personnel director, who told him about the Family and Medical Leave Act. Although he had heard of the Act, he knew little about it.

On February 29, 1995, Walter Fish took FMLA leave, arranging for people to take over responsibilities for a small catering business which he and his wife ran on the side, and rushed his wife to the W.K. Kellogg Eye Center, in Ann Arbor, MI. The Eye Center admitted her for four days, where doctors performed laser surgery on both eyes and glaucoma surgery on the right eye. Mr. Fish was able to remain with her until she was released. Very soon thereafter, he had to bring Mrs. Fish back to the Eye Center for glaucoma surgery on the left eye. This was followed by many more doctors visits. When his wife returned home she was unable to care for herself or their son. Mr. Fish cooked, cleaned house and cared for his wife and their child during her convalescence.

On April 3, 1995, a little over a month later, he was able to return to work. At the time of their testimony, August, 1995, Mrs. Fish had regained 60 percent of the vision in her right eye. Mr. Fish said at that time: “I feel very strongly about the Family [and Medical] Leave Act because at my workplace they do have an attendance policy. I would have lost my job. Without the Act I could have lost our small business also. I feel I helped strengthen my wife’s hopes and determination to keep fighting.”

Testimony of Walter Fish at Washington, DC Hearing, August 4, 1995, U.S. Commission on Leave Public Hearing.

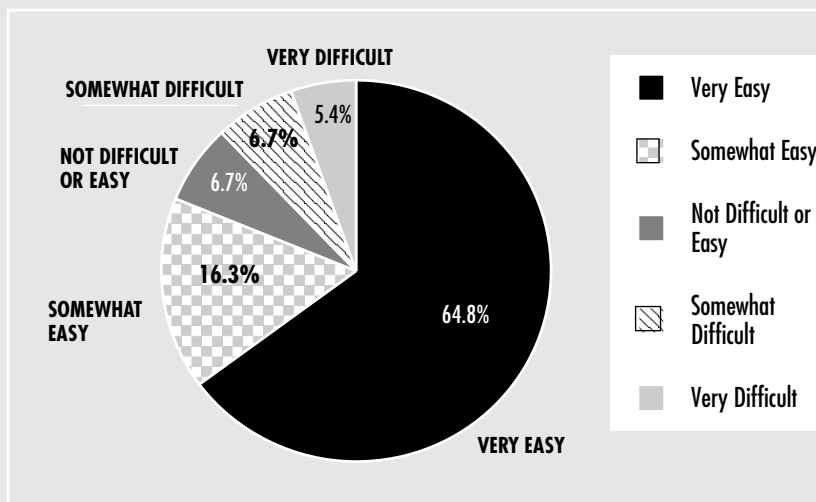
¹ Katherine McGonagle, et al., *The Impact of the Family and Medical Leave Act: An Employee Survey*, (Ann Arbor: University of Michigan, October, 1995) p. 22.

from that of the overall sample. For example, hourly workers are especially likely to need but not take leave, as are those with one or more children, employees with family incomes under \$30,000 per year. Leave-needers are more likely to have wanted to take leave for some type of family leave reason than are leave-takers. The primary reason cited leave-needers for not taking leave is that they could not afford to (64 percent).

About forty percent of all the workers surveyed report they are “very likely” or “somewhat likely” to take leave for an FMLA reason sometime within the next five years. Between 15 to 20 percent say it is “very likely”, a figure that mirrors the percentage of employees who took leave during the period covered by the Employee Survey. The projected need for leave is somewhat greater for women than

men. The largest percentage of employees who project that they will take leave in the next five years are the 25 to 34 year-olds, a group likely to experience caregiving demands from both young children and elderly parents.

FIGURE 7.1
Leave-Takers’ Ease/Difficulty of Getting Leave



SOURCE: AGUIRRE INTERNATIONAL TABULATION OF DATA FROM INSTITUTE FOR SOCIAL RESEARCH, SURVEY RESEARCH CENTER, UNIVERSITY OF MICHIGAN, SURVEY OF EMPLOYEES, 1995.

C. Employees’ Views of Leave

1. The Ease/Difficulty of Getting Leave

It is not always easy for employees who need leave to arrange for time off from work. The Employee Survey asked leave-takers to

state the relative ease or difficulty of getting leave. Most of those who take leave find it “very easy” or “somewhat easy” to get leave (81.1 percent), while 12.1 percent find it “somewhat difficult” or “very difficult” (see Figure 7.1). Slightly more employees in covered worksites find it “very” or “somewhat easy” to arrange leave

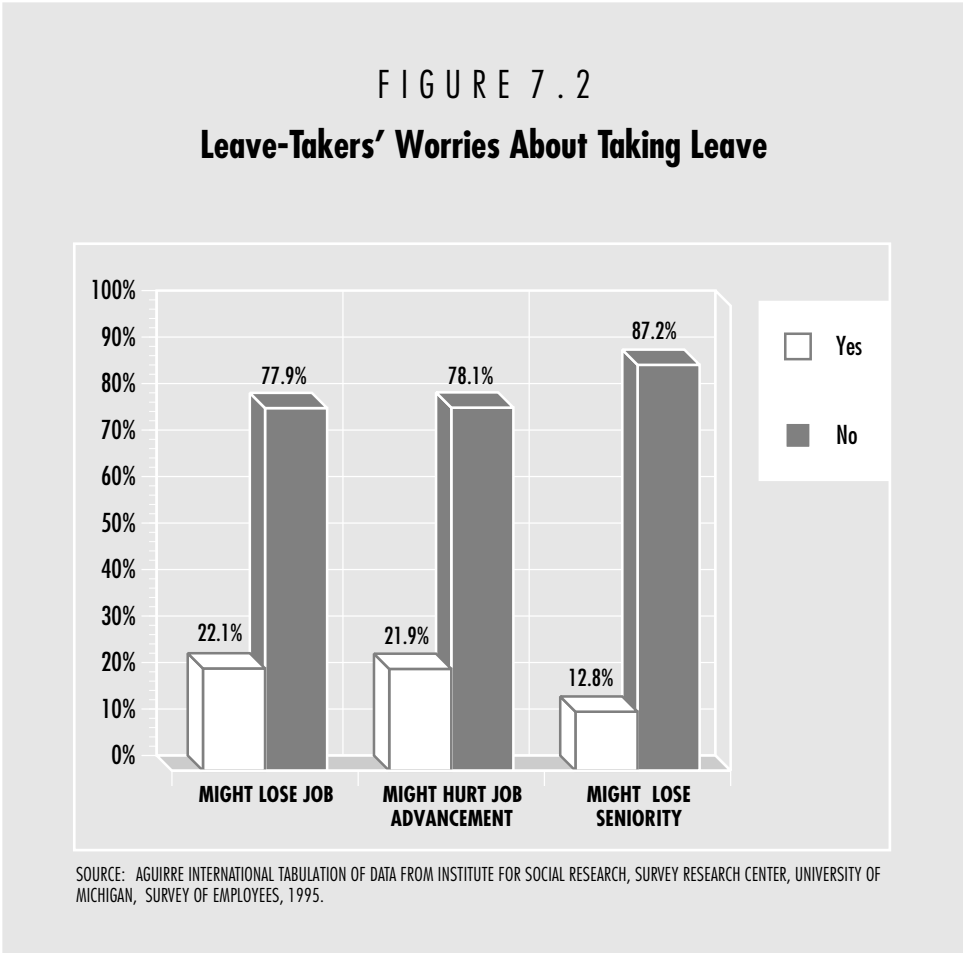
(82.1 percent) than those in non-covered worksites (78.8 percent), and employees in non-covered worksites were somewhat more likely to find it “very” or “somewhat difficult” to arrange leave (see Appendix E, Table 7.A).

Among those finding leave-taking especially easy are men (72.3 percent found it “very easy”), employees over 50 years old (77 percent found it “very easy”), and white leave-takers (69 percent found it “very easy”; see Appendix E, Table 7.B).

Certain sub-populations in a variety of demographic categories have more trouble getting leave. For example, 15.1 percent of women state it was “somewhat difficult” or “very difficult” as compared to eight percent of men.

2. Job-Related Worries About Taking Leave

Employees who take leave were also asked whether they were worried about taking leave for any one of several reasons: because doing so might lead them to lose their jobs; hurt their possibilities for job advancement; or make them lose seniority at their workplaces. Overall, over three-quarters of leave-taking employees did not report being worried about losing their jobs or hurting their chances for advancement, and 87.2 percent were not worried about losing seniority (see Figure 7.2).



The demographic profile of those who are not worried overlaps substantially with those of employees who find it easy to get leave (see Appendix E, Table 7.C).

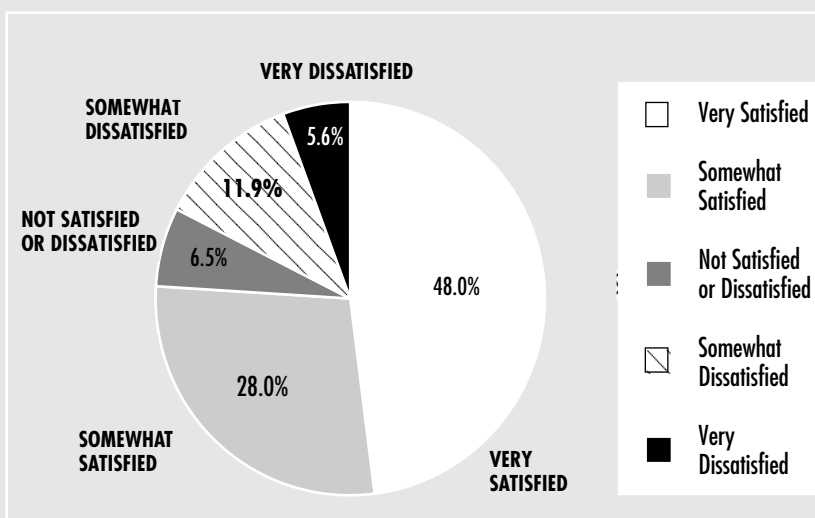
Thus, for example, about 18 to 19 percent of white employees worry about losing their jobs or hurting their job advancement, compared with well over a quarter of non-whites. Employees over 50 years old are far less likely to report being worried than all younger employees on all three dimensions measured. The level of worry decreases as education increases. Employees with annual family incomes between \$50,000 and \$75,000 are also relatively less likely to be worried on all three measures.

Hourly employees are relatively more likely to be worried about losing their jobs, hurting their advancement or losing seniority as a result of leave-taking, compared to salaried employees. Women are more likely to express worries about losing their jobs or hurting their possibilities of advancement, relative to men.

Worries about taking leave vary slightly according to whether a leave-taker works at a covered or non-covered worksite. For example, worries about seniority are

reported by 13.9 percent of leave-takers at covered worksites compared with 9.7 percent of leave-takers at non-covered worksites. Worries about hurting job advancement are reported by 23 percent of leave-takers at covered worksites and 18.7 percent of those at non-covered worksites. On the other hand, leave-takers at covered and non-covered worksites report almost the same degree of worry about losing their job (see Appendix E, Table 7.D).

FIGURE 7.3
Leave-Takers' Satisfaction
With the Amount of Leave they Took



SOURCE: AGUIRRE INTERNATIONAL TABULATION OF DATA FROM INSTITUTE FOR SOCIAL RESEARCH, SURVEY RESEARCH CENTER, UNIVERSITY OF MICHIGAN, SURVEY OF EMPLOYEES, 1995.

3. Satisfaction with Amount of Leave

The Employee Survey also asked leave-takers how satisfied they are with the amount of leave they took. As shown in Figure 7.3, 76 percent of employees are either “very satisfied” or “somewhat satisfied” with the amount of leave they took.

The relatively high level of satisfaction among all leave-takers holds across categories of sex, race, age, education, income and type of compensation (see Appendix E, Table 7.E). Here again the demographic profile of those who are most satisfied resembles that of employees who find it particularly easy to take leave and who are relatively less worried about taking leave. Most notably, employees over 50 years old are more satisfied than younger leave-takers with the amount of leave they took (about 64 percent are “very satisfied,” compared with 43 to 49 percent of younger employees). Satisfaction with amount of leave is higher among those with annual family incomes over \$30,000. Not surprisingly then, salaried employees are more likely to be “very satisfied” or “somewhat satisfied” with the amount of leave they take (82.5 percent) than hourly workers (73.5 percent).

Women and men are about equally satisfied, although men are more likely to report being “very satisfied” with the amount of leave they took than women (54.2 percent compared with 43.6 percent). The same relationship holds for white versus non-white employees, with whites more likely to report that they are “very satisfied.”

The degree of satisfaction is more pronounced for leave-takers working at covered worksites, 77.9 percent of whom report they are “very” or “somewhat satisfied,” compared to 71.2 percent of those working at non-covered worksites (see Appendix E, Table 7.F). This corresponds to the fact that leave-takers in covered worksites, on average, take longer leave regardless of reason for leave, than leave-takers at non-covered worksites (see Chapter V).

In short, the majority of employees who take leave find it relatively easy to get leave, are not especially worried about the job-related consequences of taking leave, and are relatively satisfied with the amount of leave they took. To the extent that employees have trouble getting leave, express job-related concerns about taking leave and are dissatisfied with the amount of leave they took, these leave-takers are more likely to work in non-covered worksites. Women, non-whites and those in non-salaried positions are particularly likely to report negative experiences on

at least one of these measures. This demographic profile is similar to that of employees who are relatively less likely to have wage replacement while they were on leave, who need but cannot take leave and who have relatively greater difficulties dealing with the lost income associated with taking leave.²

4. The Effect of Job Characteristics on the Leave-Taking Experience

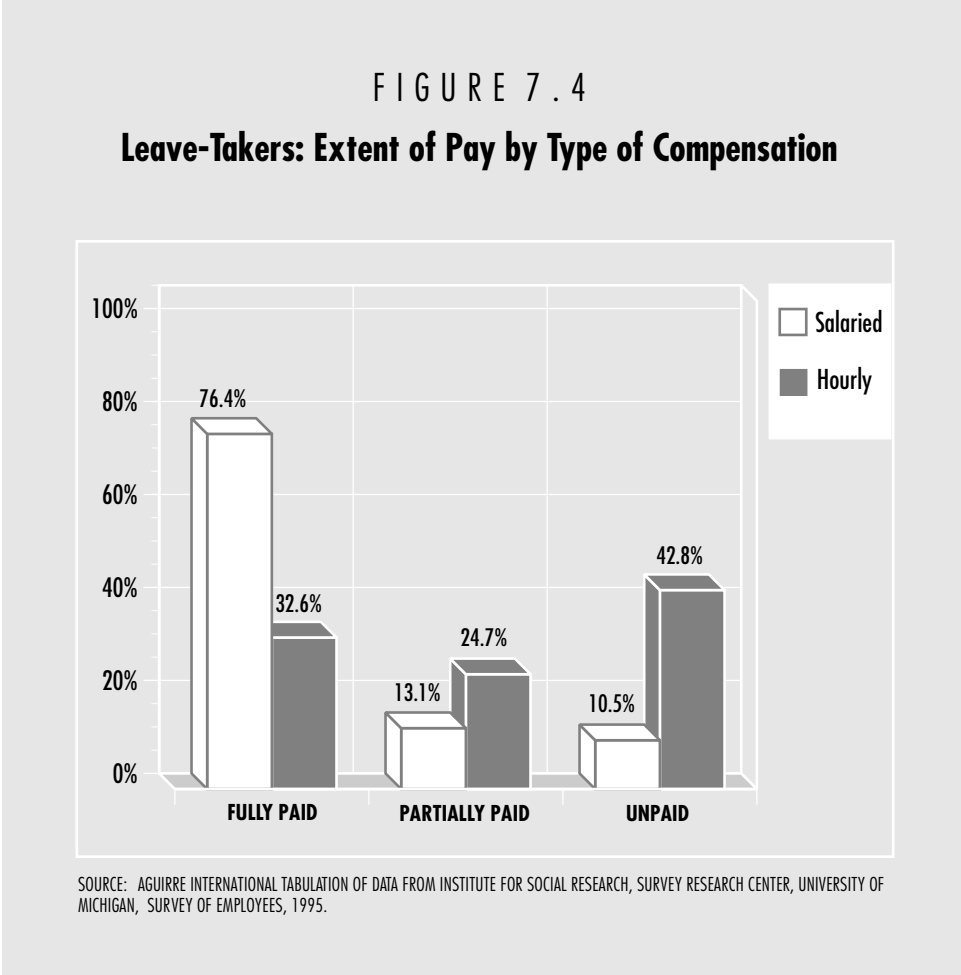
The data from the Employee Survey that have been reported on in this chapter and in Chapter V suggest a pattern of demographic and job characteristics associated with relatively positive employee experiences with leave-taking. Whether one looks at the ease or difficulty of getting leave, relative satisfaction or dissatisfaction with the amount of leave, the extent of wage replacement (if any) during leave, or job-related worries about taking leave, the experiences of men, older employees, whites, salaried employees and those with higher levels of education and family income are the most positive.

We know from research on the extent and availability of family and medical leave before the Acts passage that employees working in larger worksites and with relatively higher levels of education, income and job responsibility have typically been more likely to have leave available to them (and to have some form of wage replacement). Since higher-educated, higher-income, salaried, older white men tend to be in relatively secure and higher-level positions, the question is raised of whether - continuing the pattern observed before the Act's passage - access to leave is related to job characteristics.

The Employee Survey did not include measures of skill, individual income, job satisfaction or the extent of benefits. However, the method by which employees are compensated - that is - whether an employee was salaried, paid by the hour or paid in some other way, does tell us something about the kinds of jobs and work lives they have. The great majority of employees are either salaried or hourly employees (that is, not working on a piecework or commission basis). People who are salaried are most likely to be managerial, professional or semi-professional, technical or mid- to high-level administrative employees. Those who are paid by the hour are more likely to be relatively lower-paid and work in a variety of clerical, sales, service or manufacturing jobs.

² See Chapter V for a more detailed discussion of these issues.

The contrast between the leave experiences of these two groups supports the idea that the salaried/non-salaried distinction has implications for the nature of the leave-taking experience (see Figure 7.4). About three-quarters (76.4 percent) of salaried employees receive full pay during their leave, compared with a third (32.6 percent) of hourly workers. Only 10.5 percent of salaried employees report receiving no pay whatsoever, compared with 42.8 percent of hourly employees.



Salaried employees are slightly more likely to return to their jobs after their leaves were over. Salaried employees were somewhat more likely than hourly employees to report having to use savings earmarked for leave (48.8 percent compared with 44.4 percent). Hourly employees are more likely than their salaried co-workers to put off paying bills (41.9 percent compared with 27.3 percent) and to cut leave short (41.9 percent compared with 27.1 percent) (see Appendix E, Table 7.G).

In short, being salaried seems to be positively correlated with a positive leave-taking experience. Employees in salaried positions tend to have a greater chance of working for a covered employer, and of being eligible to take leave under the Act and to have more positive experiences with leave-taking policies generally, and the FMLA in particular.

D. Portraits of Leave-Takers

To flesh out the picture of leave-taking embodied in the survey data and the hearing testimony, four open-ended interviews were conducted with leave-takers.³ The interviews covered what was involved in arranging leave, the nature of the leave-taker's relationship with their organizations while they were on leave, how their work was covered and how they viewed the costs and benefits of their leave experiences.

1. Arranging Leave, Methods of Covering Work During Leave and Return to Work

As noted above, over 80 percent of leave-takers find it relatively easy to arrange leave, although women, non-whites, non-union and non-salaried employees have relatively more trouble in this regard than other leave-takers. The most common method of covering the work of leave-takers, as reported by both surveys, however, is to delegate work to other employees. However, slightly more than one-third of employers report using temporary workers, while one-fifth of employers report that leave-takers did work at home while on leave. The Employee Survey also shows that a large majority of leave-takers return to their same employer, especially those in salaried positions who receive partial or full wage replacement.

The open-ended interviews conducted with professionals and managers, help to illuminate the concerns and experiences of one sector of FMLA-covered employees. Kim Martin is a 26 year-old white woman, married, and working as a low-level manager in the Human Resource Department of a large East Coast company.⁴ She planned to use family and medical leave to lengthen her time away from work after her first child was born.

Ms. Martin's own position in her company involved helping other employees get leave, so she was familiar with the new law and company policy. In addition, her supervisor was very supportive of her taking leave. Ms. Martin was interviewed after arranging her leave but just before starting it, so information on her situation is somewhat limited. She expressed hesitation about maintaining any responsibili-

³ These interviews were conducted by Catalyst, Inc. See Chapter II for a full description of work done by Catalyst for the Commission on Leave.

⁴ The names of all four leave-takers described here are pseudonyms.

ties while on leave, but also said she felt pressure from her employer not to make a complete break with work while she was on leave.

Sam Thornton is a single, African American professional in his mid-twenties, working in the insurance industry. Mr. Thornton had worked with his company two years before he requested eight weeks of unpaid FMLA leave to care for his mother, who was extremely ill.

Mr. Thornton found his human resource department very helpful in arranging his leave, and all their materials on the FMLA clear and comprehensive. Mr. Thornton's work was covered by employees from other branches of his insurance company. He made a complete break from work. While he said he may have missed some opportunities, he received a promotion (which had been under discussion before he took leave) upon his return. He says he considered leaving the company, but, in fact, he returned to full-time work as planned.

Jane Johnson, a 24 year-old African American woman, is a professional in the finance department of a large East Coast company. She combined two different types of paid leave - short-term disability and vacation - with four weeks of unpaid FMLA leave, for a total leave of 14 weeks to have and care for a baby. The supervisor of Ms. Johnson's division was not especially understanding about her leave, making it clear to her that he assumed she would not return to work. She also received very little help with her leave from her personnel department (although she did get the assistance she really needed from a co-worker who had taken FMLA leave the year before). Ms. Johnson made a fairly complete break from work while on leave. A paid intern was hired to cover some of Ms. Johnson's responsibilities, while co-workers picked up her other duties. She kept in occasional touch with her department informally, did not feel that she missed any opportunities while on leave, and never considered either leaving the company or returning earlier than she had planned.

Wanda McMillan, a 34 year-old, married, white, high-level manager in a large East Coast company, used unpaid FMLA leave of six weeks to supplement her employer's six weeks of paid leave, for a total leave of 12 weeks to care for her newborn child.

Ms. McMillan had the most difficult time arranging her leave, despite the fact that she holds the most senior position of the four leave-takers interviewed. She found her human resources department and other employees confused about what the law actually mandates. She found it difficult to finalize her leave arrangements and her supervisor conveyed a negative attitude about her being away from the office for a long time.

Although Ms. McMillan completed major projects before her leave, she also agreed to maintain some formal responsibilities while on leave. The rest of her work was assigned to co-workers. Her co-workers were supportive, but she said of her supervisor: “He knows by law that he can not stop me from taking 12 weeks, but he is not exactly Mr. Supportive about it.” She was worried about how he would treat her when she returned, uneasy about comments he made before she left about her future career plans and felt concerned enough about the implications of these comments that she kept a record of their discussions.

These leave-takers seem to typify employees in salaried positions. The length of each period of leave fell within the 12-week period specified by FMLA, three out of four had access to wage replacement for a portion of their leave, and all returned to work. To the extent they encountered difficulties, these difficulties again reflect the kinds of problems found in the Employee Survey data on salaried workers. That is, for the most senior among them, Ms. McMillan, her work could not be easily delegated to other workers. This in turn affected the ease of her arranging leave and created pressure for her to return to work before she was fully ready.

2. Personal and Work-Related Costs and Benefits of Leave-Taking

In the Employer Survey, worksites report that the largest positive effect of the FMLA is in the area of helping employees to care for family members. Over 30 percent of all covered employers and two-thirds of large covered employers report a positive effect in this area. This is confirmed by data from the Employee Survey in response to questions on attitudes regarding the FMLA and satisfaction with the amount of leave taken. Over 70 percent of employees support the idea that U.S. workers should have 12 weeks of job-protected family and medical leave and over three-quarters of leave-takers say they are “very” or “somewhat satisfied” with the amount of leave taken. The benefits to families who have used the FMLA leave is also captured in the personal stories employees told the Commission about the difference the FMLA made in their lives and the lives of close family members.

The Employee Survey also documents the costs to employees who take leave. Nine percent of respondents lost benefits while on leave and one-third percent of employees had no wage replacement during their leave. The lack of wage replacement was more pronounced for young workers, hourly workers and those with household incomes of \$30,000 per year and less. While most employees were able to cover lost wages with savings or by limiting extras, nine percent had to go on public assistance to compensate for lost wages. While some leave-takers coped with lost wages and benefits, others had worries about the impact of leave-taking on their job status. A small but not insignificant number worried about losing their jobs (22.1 percent), hurting their chances for advancement (21.9 percent) or losing their seniority (12.8 percent).

Ms. Martin felt she had a basically supportive workplace, but noted that some people, especially men, have been hesitant to ask for leave because of worries about supervisors' or co-workers' reactions. She said the greatest benefit of the FMLA is that "it has given people peace of mind ... The law has given many people more confidence in asking for leaves." However, she also believes the Act has not done much to change her company's policies. Moreover, she was concerned about the lack of wage replacement, and felt lucky to be in a financial position that enabled her to take advantage of the Act.

Mr. Thornton had no negative experiences before or after his leave, and reported that the FMLA was widely used and supported by his co-workers and supervisors. In his view, employees who are perceived as especially valuable to the company (a category in which he included himself) had better chances of having their leave accepted. He saw himself as benefiting by being able to care for his mother while maintaining his job, but he also felt the company benefited in being able to retain a valued employee.

Ms. Johnson did not experience any particular problem with leave-taking, and said she "came back full force" despite her supervisor's assumption that she would not return at all. She felt her company was supportive of leave-taking overall, but that leave was less acceptable for those in particularly senior positions in the company, and that any leave lasting longer than three months was viewed with disfavor. She said she would use it again and recommend it to others, citing no negative consequences for her, either in terms of salary or with respect to opportunities for promotion. The greatest benefit of the FMLA for her was the "invaluable time at home with my child."

Ms. McMillan stated that the quality of her leave and that of co-workers at her company depended greatly on the flexibility and attitude of individual managers. Some managers, she said, had negative attitudes, which she hoped would not prevent others from taking leave. She saw the greatest benefit of the Act as being the job-protection provision, which she believed had influenced the culture of her workplace. “Seven years ago I had a friend who felt so uncomfortable about taking maternity-disability leave that she returned after six weeks,” she said, adding that this would be much less likely to happen today. She also observed that it continued to be more difficult for men to take leave than for women, and that maternity leave was the most accepted type of leave. Finally, Ms. McMillan believed that six months of unpaid leave would be more reasonable than the current 12 weeks allowed, because a longer time period would give employees in diverse circumstances greater flexibility to arrange their lives to accommodate family and medical needs.

3. Summary

The stories told by these four leave-takers all reflect in one way or another the newness of the FMLA - the fact that employers and employees have not had much experience with the Act. This is captured by the ambiguities and uncertainties of which these employees spoke. Each referred to some kind of inequity in the way they saw the Act being applied in their particular organization. For example, Mr. Thornton believed that leave-taking by “valued” employees was more accepted in his insurance company than leave-taking by less valued workers. By contrast, Ms. McMillan’s difficulties getting leave seem to be linked to the fact that she held a high-level position in the company, and her supervisors were reluctant to have her absent for an extended period.

The knowledgeability and attitude of these leave-takers’ supervisors played especially important roles in influencing the quality of their experiences. The women encountered some problems with supervisors’ attitudes.⁵

In general, the experiences of these four leave-takers are consistent with the picture painted by the survey data discussed in this and the two previous chapters. The leave taken by each of these four employees fell within the Act’s 12-week mandate. The leave-takers expressed some concerns about taking leave but ulti-

⁵ Given the power of employee’s supervisors over their job prospects, and given the fact that some employees surveyed reported job-related worries about taking leaves, this anecdotal data should be tested with more rigorous research on a group of employees with diverse occupations and skill levels.

mately were able to go ahead with their plans. Two of the women experienced some difficulty getting leave. All four leave-takers returned to work as scheduled. Perhaps most importantly, in each case the leave played a critical part in allowing these employees to tend to important family and medical needs, while being able to return to their jobs. According to these interviews, these employees are better able to contribute to their organizations because of their leave-taking experiences.

E. Summary

The FMLA makes a significant difference to employees trying to sustain their family lives and work lives, at times when their own health problems or the needs of their dependents become pressing. The passage of the FMLA expands leave access to employees who might not otherwise be able to take leave and, perhaps most importantly, provides the minimum conditions that make it possible for employees to consider taking leave. The testimony before the Family Leave Commission illustrates the sorts of extremely difficult choices employees face when they need the FMLA. Clearly, the fact that jobs are guaranteed and health benefits are continued when they take leave has had a profoundly positive impact on employees' ability to meet both work and family responsibilities.

Research on the availability of family and medical leave before the passage of the Act suggests that the FMLA has indeed expanded access, especially to employees in relatively low-wage positions in the private sector. More leave, and more paid leave, was available to professionals, to employees at medium and large companies and to state and government employees before the FMLA was passed. In relative terms, this is still the case. However, the Act has gone a significant way toward expanding access to family and medical leave. Many of the employees who shared their stories with the Commission in public hearings might very well not have had access to leave before 1993.

Another way in which the Act expands access to leave is by including family leave to care for a seriously ill child, spouse or parent. Before 1993 it was extremely rare for private-sector workers to be able to take leave to care for ill elderly parents. Thus, Ms. Connell and Mr. Thornton - whose stories are described in this chapter - might not have been able to care for their ill mothers were it not for the FMLA.

The fact that the Act makes it possible for employees to use various wage replacement mechanisms (such as sick pay or vacation pay) to cover family and medical leave undoubtedly makes a big difference to those employees who are able to benefit in this way. The financial difficulties of leave-takers who are in the lower two income brackets (\$30,000 or less in annual family income) - many of whom have to borrow money and use up savings, and some of whom have to cut their leave short or go on public assistance - indicate the importance of at least partial wage replacement in making leave possible at all for many employees.

Overall, the effect of family and medical leave policies in general, and the impact of the FMLA in particular, is substantial and positive for employees. At the same time, the data suggest two caveats. First, the leave-taking experiences of employees with relatively higher-levels of income and education, those in salaried jobs (and so on, as noted above) were more positive than leave-taking experiences overall. Employees who are younger, those in hourly jobs and non-union positions, those with lower incomes and educational levels are less likely to have wage replacement while on leave. Non-white and lower-income employees are disproportionately likely to lose benefits while on leave. In addition, it is not surprising that the leave-needers (those who needed but did not take leave) were more likely to be hourly workers, to have annual family incomes below \$30,000 per year, and that 64 percent of this group report they could not afford to take leave.

Second, there are some ways in which people in relatively more privileged employment positions may have trouble getting access to the full extent of family and medical leave policies. For example, employees with family incomes of more than \$75,000 per year are relatively less satisfied with the amount of leave they took than those earning between \$50,000 and \$75,000 per year. Indeed, salaried employees take much shorter leaves than hourly employees. This may be due to the pressures on them to return to work to resume the responsibilities that come with professional and managerial positions.

Thus, while family and medical leave policies and the FMLA clearly have had a positive impact on employees as a whole, these policies affect various groups of employees differently. Those at the lower end of the labor market - who tend to have more worries about taking leave, trouble getting leave and problems with covering lost wages during leave - and those at the top - who tend to take shorter periods of leave and who may feel pressure not to take leave because of their senior positions - experience different types of problems in taking family and medical

leave. It is important to note that there is no cause and effect relationship here. These inequities were not created or exacerbated by the Act - rather, they reflect pre-existing segmentation of the labor market, with certain groups of employees enjoying more favorable circumstances than others.