

## Family leave coverage in the 1990s

*Family leave coverage increased after the passage of the Family and Medical Leave Act in 1993; the increase was sharpest among workers covered by the Act, suggesting that the law had a positive impact on coverage*

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This article examines family leave coverage in the 1990s, a period of particular interest because it includes the years immediately before and after the passage of the Family and Medical Leave Act (FMLA) in February 1993 and its implementation in August of that year. The Act was the subject of a good deal of controversy before its passage, but there have been few studies of its impact to date.

Research on this topic is particularly important in the light of recent trends in employment for women. More than half (52 percent) of women with children under the age of 1 year were employed in 1998, compared with just two-fifths 10 years earlier.<sup>1</sup> Research is also important in the wake of State and Federal welfare reform initiatives that emphasize moving women from welfare to work, because these reforms will increasingly affect women with young children.

The article concludes that family leave coverage increased after the FMLA became law, with a particularly sharp increase in paternity leave coverage for men. The increase in coverage was greatest among those covered by the Act, suggesting that the law did have a positive impact on coverage. At the same time, State legislation regarding family leave is also an important source of coverage, particularly for workers in small firms not covered by the FMLA.

### Background

The FMLA, which was passed in February 1993, requires public employers, and private employers with 50 or more workers, to offer job-protected

family or medical leave of up to 12 weeks to qualifying employees (those who worked at least 1,250 hours for the employer in the previous year) who need to be absent from work for reasons that meet the terms of the law (for example, an employee's own illness (including maternity-related disability) or the need to care for a newborn or an ill family member). The law does not require employers to provide paid leave, but it does mandate that employers who provide health insurance coverage continue to do so during the leave period.

With the exception of the Pregnancy Discrimination Act of 1978 (which required firms that had temporary disability programs to treat pregnancy like any other disability), the FMLA was the first Federal law in the United States to address family leave. Prior to passage of the Act, however, a great deal of legislative activity with regard to family leave took place at the State level. In 1996, the Commission on Family and Medical Leave identified a total of 34 States that had passed some type of family leave legislation before the 1993 FMLA was enacted. Eleven of these States had laws that covered State employees only. The other 23 had laws that covered both private- and public-sector workers, but with varying provisions. Only 12 States and the District of Columbia had laws in place before the FMLA that required firms to offer job-protected maternity leave, and the number with laws requiring job-protected paternity leave was even lower (10 States and the District of Columbia; see the appendix for details). Another source of pre-FMLA family leave coverage was the em-

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ployer. Some firms offered maternity leave even if not required to do so by State legislation, and large firms and unionized firms were particularly likely to offer such leave.<sup>2</sup> Paternity leave was less common.

Because the FMLA covered only about half (46 percent) of the private-sector workforce, and because many of those it covered already had maternity leave rights as a result of State laws or individual employer provisions, it is unclear how much impact the FMLA might have on maternity leave coverage. However, the relative scarcity of paternity leave provisions before passage of the Act suggests that the FMLA might be expected to have a greater impact on paternity leave rights.

Data from a survey of employers conducted by Westat, Inc., for the Family and Medical Leave Commission provide some preliminary evidence regarding these issues.<sup>3</sup> This survey found that 60 percent of all private-sector employees worked in firms that were covered by the FMLA, but because nearly a quarter of those employees did not work the required 1,250 hours in the previous year, only 46 percent qualified for coverage under the Act.<sup>4</sup> Fully two-thirds of firms that were covered by the FMLA said that they had to change their policies as a result of the law. The most frequently mentioned change was instituting rights for fathers to take leave to care for newborn or sick children. (Sixty-nine percent of firms made such a change.) The other most commonly reported changes involved extending the period of leave (66 percent), providing job protection (54 percent), and continuing health insurance coverage (53 percent). Previous research using data from the BLS Employee Benefits Surveys found that the share of employees in medium-sized and large establishments<sup>5</sup> with maternity leave coverage increased from 39 percent in 1991 to 86 percent in 1995, while the share with paternity leave coverage increased from 27 percent to 86 percent over the same period.<sup>6</sup>

This previous research suggests that the FMLA did have an impact on family leave coverage. It also suggests that the Act's impact on paternity leave coverage may have been greater than its impact on maternity leave coverage, although no study to date has examined the question. Nor has previous research examined the impact of the FMLA more than a year or two after its implementation. This study, in contrast, uses data up to 1997, 4 years after passage of the Act.

The next section of this article uses aggregate data from the 1990–97 Employee Benefits Surveys to look at changes in family leave coverage in the 1990s, taking into account the worker's employment sector, the size of the establishment, and the employee's part-time work status. Then, microdata from the 1990–96 waves of the National Longitudinal Survey of Youth (NLSY) are used to examine changes in leave coverage among young workers in the 1990s and to see how these changes vary by gender, sector, size of the firm, and State leave legislation.

## Changes in family leave coverage

*Data from the Employee Benefits Survey.* The BLS Employee Benefits Survey provides an overview of changes in family leave coverage in the 1990s. The survey tracked coverage at private-sector medium-sized and large establishments (those with 100 or more employees) in 1991, 1993, 1995, and 1997; it surveyed smaller private-sector establishments (those with fewer than 100 employees) in 1990, 1992, 1994, and 1996; and it surveyed State and local government employees in 1990, 1992, and 1994.<sup>7</sup> Until 1993, the survey asked separate questions about provisions for maternity leave and paternity leave; starting in 1994, these questions were replaced with new questions about provisions for *family* leave (which includes both maternity leave and paternity leave).

**Table 1. Share of private-sector employees with family leave coverage, 1990–97**

Full-time employees in medium-sized and large establishments	1991	1993	1995	1997
	Maternity leave coverage:			
Percent with unpaid leave .....	37	60	84	93
Percent with paid leave .....	2	3	2	2
Total percent with any leave .....	39	63	86	95
Paternity leave coverage:				
Percent with unpaid leave .....	26	53	84	93
Percent with paid leave .....	1	1	2	2
Total percent with any leave .....	27	54	86	95
Part-time employees in medium-sized and large establishments	1991	1993	1995	1997
	Maternity leave coverage:			
Percent with unpaid leave .....	19	36	42	54
Percent with paid leave .....	1	1	0	0
Total percent with any leave .....	20	37	42	54
Paternity leave coverage:				
Percent with unpaid leave .....	14	32	42	54
Percent with paid leave .....	0	1	0	0
Total percent with any leave .....	14	33	42	54
Full-time employees in small establishments	1990	1992	1994	1996
	Maternity leave coverage:			
Percent with unpaid leave .....	17	18	47	48
Percent with paid leave .....	2	2	2	2
Percent with any leave .....	19	20	49	50
Paternity leave coverage:				
Percent with unpaid leave .....	8	8	47	48
Percent with paid leave .....	0	1	2	2
Percent with any leave .....	8	9	49	50

SOURCE: BLS Employee Benefits Surveys, various years. The survey defines medium-sized and large establishments collectively as those with 100 or more employees and small firms as those with fewer than 100 employees. Starting in 1994, figures are for family leave coverage rather than maternity and paternity leave coverage separately.

As shown in table 1, there was a sharp increase in maternity leave coverage for full-time employees in medium-sized and large establishments in the private sector starting in 1993 and continuing thereafter. The percentage of full-time employees in such establishments whose employers provided maternity leave (whether paid or unpaid) increased from 39 percent in 1991 to 63 percent in 1993, 86 percent in 1995, and 95 percent in 1997.<sup>8</sup>

Trends for paternity leave coverage, also shown in the table, are even more dramatic: the share of full-time employees in medium-sized and large private-sector establishments whose employers provided paternity leave doubled from 27 percent in 1991 to 54 percent in 1993 and then rose to 86 percent in 1995 and 95 percent in 1997.<sup>9</sup>

Thus, by 1997, nearly all full-time workers in medium-sized or large establishments in the private sector had maternity or paternity leave coverage (compared with only 39 percent and 27 percent, respectively, at the start of the decade). The timing of the changes—with the sharpest increases occurring in 1993, followed by continuing increases thereafter—suggests that at least some of the shift to near-universal coverage may be due to the FMLA. But it is also possible that there were other changes occurring in the country in those years that might account for the increases in family leave coverage. For instance, employees may have become more demanding about having access to family-friendly policies, or employers may have become more willing to provide such policies. If either of these were the case, we would see comparable increases in family leave coverage for workers who were not covered by the FMLA. However, as the table shows, we do not in fact see such changes: according to data from the Employee Benefits Survey, the increase in coverage for part-time workers in medium-sized and large establishments and full-time workers in small establishments,<sup>10</sup> two groups of private-sector workers who are not necessarily covered by the FMLA, was much less steep than the increase for workers who were covered—full-time workers in medium-sized and large establishments. And, unlike their covered counterparts, 45 percent of part-time workers in medium-sized and large establishments and 50 percent of full-time workers in small establishments still lacked family leave coverage in 1996, 3 years after the passage of the FMLA.

Another way to assess whether the increases in family leave coverage in the 1990s are due to the FMLA or to other changes on the part of employees or employers is to examine what was happening with other family-friendly benefits over the same period. Table 2 returns to the group that is covered by the Act—full-time workers in medium-sized and large establishments in the private sector—and shows the extent to which other family-friendly benefits changed during the period when family leave coverage increased so dramatically.

**Table 2.** Share of full-time employees in medium or large establishments with other family benefits, 1991–97

	1991	1993	1995	1997
Percent with child care .....	8	7	8	10
Percent with adoption assistance .....	( <sup>1</sup> )	( <sup>1</sup> )	11	10
Percent with long-term care insurance .....	4	6	6	7
Percent with flexible workplace .....	9	( <sup>1</sup> )	2	2

<sup>1</sup> Data not available.  
SOURCE: BLS Employee Benefits Surveys, various years.

The table does not provide much support for the hypothesis that employers were simply becoming more generous or that employees were growing more demanding with regard to all family-friendly policies. Child care coverage, for instance, hardly changed over the 1990s. Family leave coverage, accordingly, seems to be exceptional.

When we turn to public-sector employees, the evidence is similar. (See table 3.) The share of full-time employees with maternity leave coverage rose nearly twofold from 1990 to 1994 (the most recent year that data were available), while the share with paternity leave coverage rose nearly threefold. Family leave coverage among part-time employees rose as well, while access to child care did not.

Taken as a whole, the evidence from the Employee Benefits Surveys indicates that there have been increases in both maternity and paternity leave coverage for groups covered by the FMLA, with a particularly large increase in coverage

**Table 3.** Share of public-sector employees with family leave coverage, 1990–94

	1990	1992	1994
<b>Full-time employees</b>			
Maternity leave coverage:			
Percent with unpaid leave .....	51	59	93
Percent with paid leave .....	1	1	4
Total percent with any leave .....	52	60	97
Paternity leave coverage:			
Percent with unpaid leave .....	33	44	93
Percent with paid leave .....	1	1	4
Total percent with any leave .....	34	45	97
Percent with child care .....	9	8	9
<b>Part-time employees</b>			
Maternity leave coverage:			
Percent with unpaid leave .....	28	32	62
Percent with paid leave .....	1	1	1
Total percent with any leave .....	29	33	63
Paternity leave coverage:			
Percent with unpaid leave .....	18	24	62
Percent with paid leave .....	1	1	1
Total percent with any leave .....	19	25	63
Percent with child care .....	5	2	6

SOURCE: BLS Employee Benefits Surveys, various years. Starting in 1994, figures are for family leave coverage rather than maternity and paternity leave coverage separately.

for men. However, the data do not allow us to compare covered and noncovered workers as precisely as we would like, because the categorization of establishments by size in the Employee Benefits Survey is different from that in the FMLA. Nor do the aggregate data allow us to control for individual characteristics of the workers involved. To do so, we turn to data from the NLSY.

*Data from the NLSY.* A more detailed view of the changes in family leave coverage over the 1990s is afforded by microdata from the NLSY. This survey has followed a nationally representative sample of young men and women since 1979, with interviews every year until 1994 and every other year thereafter. To investigate family leave coverage in the 1990s, data from the 1990, 1991, 1992, 1993, 1994, and 1996 surveys are used. (No data were available for 1995.) In those years, the respondents were between the ages of 25 and 39, which makes them a suitable group for studying the family leave coverage of workers in their childbearing years.

The NLSY gathers a range of demographic and labor market information. Most relevant to the purposes of this article, the survey includes a set of questions about employee benefits, including a question about maternity or paternity leave coverage.<sup>11</sup> The survey also records the respondent's type of employment (that is, whether it is in the public sector, in the private sector, or self-employment) and the number of employees at the firm. These questions are important in identifying which workers are covered by the FMLA, because, as mentioned earlier, the law does not apply to private-sector firms with fewer than 50 employees.

Table 4 provides a first look at maternity and paternity leave coverage for young women and men from 1990 to 1996, using data on all NLSY respondents who were employed at the time of the survey, excluding the self-employed.<sup>12</sup> The table shows that the share of both women and, particularly, men who reported having maternity or paternity leave coverage increased over the 1990s, with concomitant decreases in the share reporting that they did not have coverage or that

**Table 4. Share of employees reporting maternity or paternity leave coverage, 1990–96**

	1990	1991	1992	1993	1994	1996
Percent of women responding:						
Yes .....	76	75	75	80	77	78
No .....	19	20	21	19	21	20
Don't know .....	5	4	4	1	2	2
Percent of men responding:						
Yes .....	43	44	44	51	52	56
No .....	45	44	43	45	43	39
Don't know .....	12	12	13	4	5	5

NOTE: Tabulated from the National Longitudinal Survey of Youth. Data are for all respondents who were employed at the time of the survey, except the self-employed.

**Table 5. Transitions in coverage status, employees who stayed at the same job, 1991–92 and 1992–93**

[In percent]

Women	Coverage status in 1992 by coverage status in 1991 (N = 1,933)		
	Yes in 1992	No in 1992	Don't know in 1992
Yes in 1991 .....	92	6	2
No in 1991 .....	38	59	3
Don't know in 1991 .....	55	27	18
Men	Coverage status in 1992 by coverage status in 1991 (N = 2,014)		
	Yes in 1992	No in 1992	Don't know in 1992
Yes in 1991 .....	94	6	0
No in 1991 .....	44	53	3
Don't know in 1991 .....	73	21	6
Women	Coverage status in 1993 by coverage status in 1992 (N = 2,258)		
	Yes in 1993	No in 1993	Don't know in 1993
Yes in 1992 .....	94	6	0
No in 1992 .....	44	53	3
Don't know in 1992 .....	73	21	6
Men	Coverage status in 1993 by coverage status in 1992 (N = 2,208)		
	Yes in 1993	No in 1993	Don't know in 1993
Yes in 1992 .....	81	16	2
No in 1992 .....	30	67	3
Don't know in 1992 .....	49	39	12

SOURCE: Tabulated from the National Longitudinal Survey of Youth. Samples for the 1991–92 panels of the survey include all workers who were employed and at the same job in 1991 and 1992. Samples for the 1992–93 panels include all workers who were employed and at the same job in 1992 and 1993. Self-employed workers are excluded.

they did not know whether they had coverage. The largest increases in coverage, and the largest reductions in those not knowing about their coverage, occurred between 1992 (the last survey conducted before passage of the FMLA) and 1993 (the first survey conducted after the Act was passed).

The fact that there was such a large drop in the share of employees who did not know whether they had family leave coverage in 1993 raises the question of whether the increase in coverage in that year merely reflects a greater awareness of coverage on the part of employees or whether it actually reflects changes in policy on the part of employers. Fortunately, because the NLSY is a panel study that follows a sample of individuals over time, it is possible to use its data to track transitions in the coverage of individuals over time. Table 5 does this for the periods immediately before and after the passage of the FMLA, using data on workers who were with the same employer in 1991 and 1992 and workers who were with the same employer in 1992 and 1993. The results

**Table 6.** Share of employees with maternity or paternity leave coverage, by sector and size of firm, 1990–96

[In percent]

	1990	1991	1992	1993	1994	1996
<b>Public-sector employees</b>						
Women .....	82	84	83	86	87	87
Men .....	53	57	61	68	74	80
<b>Private-sector employees, large firms</b>						
Women .....	85	85	83	90	88	87
Men .....	52	52	53	65	68	68
<b>Private-sector employees, small firms</b>						
Women .....	61	58	61	64	58	64
Men .....	32	32	30	34	34	37

NOTE: Tabulated from the National Longitudinal Survey of Youth. Data are for all respondents who were employed at the time of the survey, except the self-employed.

for women indicate that the share of those who did not know about their coverage and who moved to having coverage in the next year increased sharply after the FMLA was enacted, rising from 55 percent in 1991–92 to 73 percent in 1992–93. But the share of those who did not have coverage and who moved to having coverage increased as well, from about 38 percent to 44 percent (while the share of those who had coverage and who still had coverage in the next year held fairly steady, at 92 to 94 percent). Thus, for women, the gain in coverage in 1993 reflected both increased knowledge on the part of the women and actual changes in employer policy. Among men, the changes in transitions are somewhat different (with those covered, not covered, or not knowing about their coverage all more likely to be covered in the following year in 1992–93 than in 1991–92), but the conclusion is the same, with the gain in coverage reflecting both increased knowledge on the part of the men and changes in policy by employers.

### Analysis of the NLSY data

Was the passage of the FMLA responsible for the changes in family leave coverage in 1993 and thereafter, or were these changes due to other factors occurring at the same time? One way to answer this question is to compare covered and noncovered workers, because the FMLA should have affected only the workers it covers. As we saw in the previous section, this comparison in the data from the Employee Benefits Survey showed that covered workers did make larger gains in 1993 and thereafter than did noncovered workers. However, noncovered workers made some gains as well.

The NLSY data allow for a finer comparison between covered and noncovered workers than is possible with the

BLS data. In the NLSY, workers can be divided into three subgroups (again, excluding the self-employed): employees in the public sector, employees in the private sector in firms with 50 or more employees (large firms), and employees in the private sector in firms with fewer than 50 employees (small firms). The first two groups work for employers who are covered by the FMLA; the third group works for employers who are not.

Table 6 shows the changes in family leave coverage over the 1990s for these three groups. For ease of reference, the variable for family leave coverage used in that table and the ones that follow is dichotomous: family leave coverage is set to 0 if the person reports not having coverage or not knowing about coverage and is set to 1 if the person reports having coverage. As we can see from the table, the increase in family leave coverage over the 1990s does seem to have been sharper for those who worked for covered employers (that is, public-sector employees and private-sector employees at large firms). These raw data also suggest that the increases in 1993 and thereafter were sharper for men than for women, whose

**Table 7.** Ordinary least squares models of maternity or paternity leave coverage, employees surveyed by the National Longitudinal Survey of Youth, 1990–96

	Women	Men
Age .....	-.0014 (.0021)	.0005 (.0024)
High school .....	<sup>1</sup> .1041 (.0169)	<sup>1</sup> .0955 (.0142)
Some college .....	<sup>1</sup> .1450 (.0172)	<sup>1</sup> .1721 (.0161)
College or more .....	<sup>1</sup> .1756 (.0172)	<sup>1</sup> .1847 (.0160)
African-American .....	.0002 (.0103)	.0055 (.0119)
Hispanic .....	-.0171 (.0335)	-.0485 (.0425)
Part time .....	<sup>1</sup> -.2635 (.0130)	<sup>1</sup> -.2323 (.0178)
Year = 1991 .....	-.0039 (.0091)	.0051 (.0101)
Year = 1992 .....	-.0047 (.0101)	.0026 (.0111)
Year = 1993 .....	<sup>1</sup> .0463 (.0110)	<sup>1</sup> .0693 (.0124)
Year = 1994 .....	<sup>1</sup> .0255 (.0127)	<sup>1</sup> .0827 (.0141)
Year = 1996 .....	<sup>1</sup> .0409 (.0157)	<sup>1</sup> .1215 (.0174)
N .....	16,769	19,742
R squared .....	.0724	.0381

<sup>1</sup> Statistically significant at  $p < .05$ .

NOTE: Coefficients (and standard errors in parentheses) are from ordinary least squares estimates. The dependent variable is maternity or paternity leave coverage, set to 1 if the worker responded "yes" and 0 if the worker responded "no" or "don't know." Standard errors are corrected to account for clustering by individuals who appear in the sample more than one time.

**Table 8.** Year effects on maternity or paternity leave coverage in the National Longitudinal Survey of Youth, by sector and size of firm, 1990-96

	Public sector	Private sector, large firm	Private sector, small firm
<b>Women</b>			
Year = 1991 .....	.0115 (.0189)	.0077 (.0121)	-.0168 (.0181)
Year = 1992 .....	-.0075 (.0204)	-.0104 (.0130)	.0097 (.0199)
Year = 1993 .....	.0200 (.0225)	<sup>1</sup> .0612 (.0131)	<sup>1</sup> .0537 (.0217)
Year = 1994 .....	.0186 (.0246)	<sup>1</sup> .0561 (.0148)	.0060 (.0251)
Year = 1996 .....	.0029 (.0300)	<sup>1</sup> .0579 (.0190)	<sup>1</sup> .0800 (.0302)
N .....	3,157	7,391	5,777
R squared .....	.0582	.0604	.0692
<b>Men</b>			
Year = 1991 .....	.0368 (.0293)	.0033 (.0165)	.0030 (.0149)
Year = 1992 .....	<sup>1</sup> .0726 (.0311)	.0164 (.0173)	-.0252 (.0161)
Year = 1993 .....	<sup>1</sup> .1318 (.0339)	<sup>1</sup> .1335 (.0189)	.0153 (.0179)
Year = 1994 .....	<sup>1</sup> .1890 (.0369)	<sup>1</sup> .1230 (.0213)	.0161 (.0200)
Year = 1996 .....	<sup>1</sup> .2417 (.0438)	<sup>1</sup> .1829 (.0250)	.0378 (.0246)
N .....	3,157	8,235	8,595
R squared .....	.0582	.0299	.0316

<sup>1</sup> Statistically significant at  $p < .05$ .

NOTE: Coefficients (and standard errors in parentheses) are from ordinary least squares estimates, which also include controls for age, educational level, African-American ethnicity, Hispanic ethnicity, and part-time work. The dependent variable is maternity or paternity leave coverage, set to 1 if the worker responded "yes" and 0 if the worker responded "no" or "don't know." Standard errors are corrected to account for clustering by individuals who appear in the sample more than one time.

level of coverage was much higher to start with.

The regression models shown in table 7 test whether the same pattern of increased family leave coverage over time appears when one estimates multivariate models for family leave coverage, controlling for other characteristics that are likely to affect such coverage. The models are fairly parsimonious: they include, in addition to the year, controls only for the respondent's age, level of education, race or ethnicity, and part-time status, all recorded at the time of the survey each year.<sup>13</sup> As expected, workers with more education are more likely to have maternity or paternity leave coverage, and part-time workers are less likely.<sup>14</sup> There are no significant effects of age, race, or ethnicity.

In the regressions shown in the table, the year 1990 is the omitted or reference category, so the coefficient on each year variable included in the model indicates whether coverage was more or less likely in that particular year than it was in 1990. The results indicate that family leave coverage was not

more likely in 1991 or 1992 than it was in 1990, but that there were statistically significant increases in coverage in 1993, 1994, and 1996. These increases were larger for men (7 percent to 12 percent) than for women (2.5 percent to 5 percent). And for men only, the year effects grew stronger over time, from 7 percent in 1993, to 8 percent in 1994, to 12 percent in 1996.

It is useful to compare changes in coverage for public-sector employees, private-sector employees in large firms, and private-sector employees in small firms, because only the first two groups are covered by the FMLA. Therefore, six separate regression models were estimated, one for men and one for women from each of the groups. The year effects in these models are presented in table 8. The left-hand column shows results for employees in the public sector. For the women in this sector, there was no significant increase in family leave coverage in the 1990s, in sharp contrast to the men, for whom there was a 7-percent increase in coverage in 1992 (before passage of the FMLA), followed by increases of 13 percent in 1993, 19 percent in 1994, and 24 percent in 1996. These results confirm the pattern in the raw data for public-sector workers (shown in table 6), with women already very likely to have had maternity leave coverage in the 1990s and with men making great strides over the 1990s in catching up.

The middle column in table 8 shows results for employees in large firms in the private sector. Both women and men made gains in family leave coverage in 1993 and thereafter, with the gains for men larger than for women and also growing somewhat stronger over time. However, the gains for men were not as great as they were in the public sector, a finding that is also consistent with the patterns in the raw data in table 6.

The right-hand column in table 8 shows results for the group not covered by the FMLA: employees in small firms. Not surprisingly, there is no statistically significant increase in family leave coverage over time for men in these firms. But interestingly, there is a statistically significant increase in coverage for women in 1993 and again in 1996. And, although these increases may appear fairly modest at first glance, they are actually about the same magnitude as the increases for women working in large firms in the private sector (who were covered by the FMLA).

The latter result, which was not apparent in the raw data shown in table 6, suggests that family leave coverage increased after the passage of the FMLA for some employees who were not covered by the law. Perhaps their firms decided to offer family leave voluntarily, as part of a move toward more family-friendly employment practices, although, as noted earlier, the data on family benefits in the Employee Benefits Surveys provide little evidence of such a shift. A more likely explanation is that the passage of the FMLA, together with the publicity associated with it, may have heightened awareness among employers and employees

about other sources of family leave coverage. In particular, the passage of the Act may have boosted the impact of State family leave legislation.

As shown in the appendix, 12 States and the District of Columbia had their own legislation mandating job-protected maternity leaves for workers in the private sector prior to the passage of the FMLA. About 28 percent of employed women in the NLSY were covered by such laws before 1993, when the FMLA was enacted.<sup>15</sup> State paternity leave legislation was less widespread: only 10 States and the District of Columbia had laws mandating job-protected paternity leaves for workers in the private sector prior to the enactment of the FMLA (and in 4 of the States this legislation was instituted later than maternity leave legislation). The State paternity leave laws covered about 17 percent of employed men in the NLSY before 1993.<sup>16</sup>

In models estimated for all workers in the NLSY, State family leave laws have the expected positive effect on family leave coverage. (See table 9.) For example, living in a State with a maternity leave law raises the likelihood that a woman has maternity leave coverage by 4.5 percent, and living in a State with a paternity leave law raises the likelihood that a man has paternity leave coverage by 4 percent. For women, the effect of the State laws is somewhat stronger after than before the FMLA (rising from under 4 percent in 1990–92 to more than 5 percent in 1993–96). This finding is consistent with the hypothesis that both employees and employers may have become more aware of their rights under existing State statutes after the passage of the FMLA.

To test this hypothesis further, table 10 presents the year effects from models estimated separately for women and men in large firms in States with and without maternity or paternity leave laws. If State laws had no effect for covered workers after the passage of the FMLA, then the increase in leave coverage over time should be the same for workers in large firms, whether or not they lived in a State with a leave law. But the results in the first two columns of the table indicate that this is not the case: the increases in coverage for women and men in 1993, 1994, and 1996 are larger in States with leave laws than in States without such laws; note also that there is an increase in coverage for men in 1992 only in States with such laws.

These results suggest that the FMLA and State leave statutes may be complementary. Controlling for State laws does not change the estimated trends in coverage. (Note that the year effects in table 9, which includes the control for State law, are virtually the same as they are in table 7, which did not include this control.) The fact that these year effects tend to be particularly strong for covered workers (as shown in table 8) suggests that the FMLA did have an impact. But analyzing workers separately by whether or not they were covered by State statutes (as per table 10) helps explain why some groups not covered by the Act were more likely to have maternity or

paternity leave coverage after its passage: apparently, either the passage of the Act or the publicity associated with it may have boosted the effectiveness of State laws.

WHEN THE FAMILY AND MEDICAL LEAVE ACT WAS ENACTED IN 1993, some thought that it might have little effect on family leave coverage, because it excluded so many workers and firms and because many of those it covered had family leave rights already. However, the evidence suggests that the FMLA has had quite an important impact on family leave coverage.

Data from the Employee Benefits Survey show a marked rise in family leave coverage for workers in 1993 and there-

**Table 9.** Effect of State maternity or paternity leave laws on maternity or paternity leave coverage, all workers in the National Longitudinal Survey of Youth, 1990–96

	1990–96	1990–92	1993–96
<b>Women</b>			
State law .....	1.0445 (.0100)	1.0376 (.0126)	1.0519 (.0120)
Year = 1991 .....	-.0047 (.0091)	-.0043 (.0092)	...
Year = 1992 .....	-.0057 (.0101)	.0046 (.0104)	...
Year = 1993 .....	1.0450 (.0109)	...	...
Year = 1994 .....	<sup>2</sup> .0244 (.0127)	...	<sup>1</sup> -.0216 (.0092)
Year = 1996 .....	1.0401 (.0157)	...	-.0072 (.0119)
N .....	16,769	8,720	8,049
R squared .....	.0745	.0699	.0780
<b>Men</b>			
State law .....	1.0414 (.0130)	1.0411 (.0158)	1.0418 (.0152)
Year = 1991 .....	.0045 (.0101)	.0052 (.0101)	...
Year = 1992 .....	-.0028 (.0111)	-.0012 (.0114)	...
Year = 1993 .....	1.0646 (.0125)	...	...
Year = 1994 .....	1.0780 (.0142)	...	.0125 (.0102)
Year = 1996 .....	1.1174 (.0175)	...	1.0497 (.0135)
N .....	19,742	10,331	9,411
R squared .....	.0392	.0248	.0381

<sup>1</sup> Statistically significant at  $p < .05$ .

<sup>2</sup> Statistically significant at  $p < .10$ .

NOTE: Coefficients (and standard errors in parentheses) are from ordinary least squares estimates, which also include controls for age, educational level, African-American ethnicity, Hispanic ethnicity, and part-time work. The dependent variable is maternity or paternity leave coverage, set to 1 if the worker responded "yes" and 0 if the worker responded "no" or "don't know." State law is set to 1 if the woman's (man's) State had a law in effect that year which mandated a job-protected maternity (paternity) leave and 0 otherwise. Standard errors are corrected to account for clustering by individuals who appear in the sample more than one time.

**Table 10. Year effects on maternity or paternity leave coverage, private-sector workers in large firms in the National Longitudinal Survey of Youth, by State maternity or paternity leave law, 1990-96**

	No Law	Had Law
<b>Women</b>		
Year = 1991 .....	.0094 (.0145)	-.0007 (.0218)
Year = 1992 .....	-.0103 (.0156)	-.0139 (.0236)
Year = 1993 .....	<sup>1</sup> .0543 (.0161)	<sup>1</sup> .0765 (.0223)
Year = 1994 .....	<sup>1</sup> .0424 (.0180)	<sup>1</sup> .0919 (.0249)
Year = 1996 .....	<sup>1</sup> .0454 (.0231)	<sup>1</sup> .0965 (.0324)
N .....	5,336	2,055
R squared .....	.0578	.0814
<b>Men</b>		
Year = 1991 .....	-.0092 (.0180)	.0664 (.0417)
Year = 1992 .....	-.0073 (.0196)	<sup>1</sup> .0892 (.0405)
Year = 1993 .....	<sup>1</sup> .1141 (.0215)	<sup>1</sup> .2001 (.0422)
Year = 1994 .....	<sup>1</sup> .1091 (.0239)	<sup>1</sup> .1727 (.0484)
Year = 1996 .....	<sup>1</sup> .1609 (.0282)	<sup>1</sup> .2605 (.0542)
N .....	6,475	1,760
R squared .....	.0312	.0304

<sup>1</sup> Statistically significant at  $p < .05$ .

<sup>2</sup> Statistically significant at  $p < .10$ .

NOTE: Coefficients (and standard errors in parentheses) are from ordinary least squares estimates, which also include controls for age, educational level, African-American ethnicity, Hispanic ethnicity, and part-time work. The dependent variable is maternity or paternity leave coverage, set to 1 if the worker responded "yes" and 0 if the worker responded "no" or "don't know." State law is set to 1 if the woman's (man's) State had a law in effect that year which mandated a job-protected maternity (paternity) leave and 0 otherwise. Standard errors are corrected to account for clustering by individuals who appear in the sample more than one time.

after, with a particularly large increase in paternity leave coverage. These increases are more pronounced for workers covered by the law (full-time employees in medium-sized or large establishments and also public-sector employees) than for other workers. They are also much more pronounced than increases in other types of family-friendly benefits.

Microdata from the National Longitudinal Survey of Youth confirm that family leave coverage increased for workers in

1993 and thereafter, again with a particularly sharp increase in paternity leave coverage. Some of the increase in family leave coverage occurred as a result of workers moving from not having coverage to having coverage, while some reflects workers moving from not knowing whether they had coverage to having coverage. The raw data from the NLSY suggest that the increase in family leave coverage was most pronounced for those who were covered by the FMLA, with women and men in small firms seeing only small increases compared with women and, especially, men in large firms (and men in the public sector), who saw larger increases. However, a multivariate analysis provides a somewhat different result, at least for women in the private sector, who saw increases in coverage whether or not they worked for covered firms (whereas men in the private sector gained coverage in 1993 and later years only if they in fact did work in covered firms).

The latter finding raises the possibility that State leave laws may still be important sources of coverage, even after the passage of the FMLA. And indeed, the results of the multivariate analysis confirm that this is the case: State leave laws have positive effects on leave coverage for both men and women; and for women, the effects of these laws are somewhat larger after than before the passage of the FMLA, presumably because of increased awareness about the State laws. The results also indicate that the State and Federal family leave laws may be complementary: the largest increases in family leave coverage in the 1990s are seen in workers who are covered by both laws (that is, workers in large firms in States with their own laws).

One of the most intriguing findings of the analysis is that the increases in family leave coverage in the 1990s were not confined to the period immediately following the passage of the FMLA in 1993. For most groups, levels of family leave coverage are higher in the late 1990s than they were in 1993. Thus, it will be of interest to continue to track family leave coverage into the year 2000 and beyond.

It will also be of interest to track the extent to which increases in family leave coverage will be reflected in increases in usage of leave, particularly among men, for whom the increases in coverage were the largest. There is some evidence that usage of leave among new mothers (women with infants) has risen following the passage of the FMLA.<sup>17</sup> Whether usage of leave among new fathers has increased as well remains to be seen. □

## Notes

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<sup>1</sup> My own estimate from the March Current Population Survey.

<sup>2</sup> See Stephanie L. Hyland, "Helping employees with family care,"

*Monthly Labor Review*, September 1990, pp. 22-26; and Roberta Spalter-Roth and Heidi Hartmann, *Unnecessary Losses: Costs to Americans of the Lack of Family and Medical Leave* (Washington, DC, Institute for Women's Policy Research, 1990).

<sup>3</sup> The FMLA established this bipartisan Commission to study and report back to Congress about mandatory and voluntary family and



medical leave policies. The Commission's final report was released on May 1, 1996. (See Commission on Family and Medical Leave, *A Workable Balance: Report to Congress on Family and Medical Leave Policies* (Washington, DC, Women's Bureau, U.S. Department of Labor, 1996).) The Westat survey results are reported in full in David Cantor, Jeffrey Kerwin, Kerry Levin, Susan Heltemes, and David Becher, *The Impact of the Family and Medical Leave Act: A Survey of Employers* (Rockville, MD, Westat, 1995).

<sup>4</sup> As mentioned, these figures refer to private-sector workers only. For private- and public-sector workers combined, the survey found that 66 percent worked for covered employers and 55 percent qualified for coverage.

<sup>5</sup> The Employee Benefits Survey surveys *establishments*, rather than firms. The distinction is that a firm is analogous to a company, whereas an establishment is analogous to a plant or facility. Thus, an establishment is part of a firm, and a firm may own or conduct its business at many establishments.

<sup>6</sup> Jane Waldfogel, "The Impact of the Family and Medical Leave Act," *Journal of Policy Analysis and Management*, spring 1999, pp. 281–302.

<sup>7</sup> The results of these surveys are reported in various BLS press releases from 1992 to 1999. The Employee Benefits Survey also surveyed State and local government employees in 1998; these data are due to be released in 2000.

<sup>8</sup> In 1994, the Employee Benefits Survey stopped tracking maternity and paternity leave separately; thus, the 1995 and 1997 figures are for *family leave*, which combines the two components.

<sup>9</sup> See previous footnote.

<sup>10</sup> Part-time workers in medium-sized and large establishments are less likely to be covered than full-time workers in those establishments because they may not have worked the requisite 1,250 hours in the previous year. Coverage of full-time workers in small establishments is harder to predict, because the Employee Benefits Survey defines small establishments as those with fewer than 100 employees, whereas the FMLA excludes firms with fewer than 50 employees. As a result, some full-time workers in small establishments surveyed by the Employee Benefits Survey are covered by the FMLA, while others are not.

<sup>11</sup> The wording of this question, "(Does/did) your employer make available (maternity/paternity) leave that will allow you to go back to your old job or one that pays the same as your old one," was basically the same in each survey from 1990 to 1996.

<sup>12</sup> Annual sample sizes range from 2,720 to 3,227 for women and from 3,144 to 3,864 for men. The self-employed are excluded from this and all subsequent tables because the questions about employer leave provisions do not apply to them.

<sup>13</sup> Controlling for other characteristics (such as marital status, number of children, work experience, or job tenure) is problematic, because these characteristics could be affected by family leave coverage and thus would be endogenous. Therefore, the more parsimonious model is preferred. Sample sizes for all models are shown in the tables. Because individual workers may appear in the sample more than once (if they are working in more than one year during which the survey was conducted), the standard errors in all models are corrected using the "cluster" command in the software package STATA.

<sup>14</sup> See, for instance, Marianne Ferber and Jane Waldfogel, "The Impact of Part-Time and Self-Employment on Wages and Benefits," working paper, Columbia University, New York, NY, 1999.

<sup>15</sup> To impute coverage for workers in the NLSY, a worker was coded as covered by a law if she or he lived in a State that had a law in that year. This imputation is subject to error, because a respondent may live in one State and work in another. Such an error would mean that the estimated effect of the State laws is likely to be biased towards zero.

<sup>16</sup> The appendix lists only States with laws covering workers in the private sector and providing the right to reinstatement after the leave is completed.

<sup>17</sup> See Jacob Klerman and Arleen Leibowitz, "The FMLA and the Labor Supply of New Mothers: Evidence from the June CPS," paper presented at the annual meeting of the Population Association of America, Chicago, IL, Apr. 2, 1998; Katherin Ross, "Labor Pains: The Effects of the Family and Medical Leave Act on New Mothers' Return to Work," paper presented at the annual meeting of the Population Association of America, Chicago, IL, Apr. 2, 1998; and Waldfogel, "Family and Medical Leave Act."

## Appendix: The role of the States

The following is a list of States (including the District of Columbia) with laws mandating job-protected maternity or paternity leave for private-sector workers that were in effect prior to passage of the Family and Medical Leave Act.

States with maternity leave law	Effective date	States with paternity leave law	Effective date
California	January 1980	California	January 1992
Connecticut	January 1973	Connecticut	January 1990
District of Columbia	April 1991	District of Columbia	April 1991
Maine	April 1988	Maine	October 1991
Massachusetts	October 1972	Minnesota	July 1987
Minnesota	July 1987	New Jersey	April 1990
New Jersey	April 1990	Oregon	January 1988
Oregon	January 1988	Rhode Island	July 1987
Rhode Island	July 1987	Vermont	July 1992
Tennessee	January 1988	Washington	September 1989
Vermont	July 1992	Wisconsin	April 1988
Washington	October 1973		
Wisconsin	April 1988		

SOURCES: Helen Irwin and Ralph Silberman, *Family and Medical Leaves: The New Federal Statute and State Laws* (New York, Warren, Gorham, Lamont, 1993); *State Laws and Regulations Guaranteeing Employees Their Jobs after Family and Medical Leaves* (Washington, DC, Women's Legal Defense Fund (now National Partnership for Women and Families), June 1997); *State Family and Medical Leave Laws and Regulations* (Washington, DC, Women's Legal Defense Fund (now National Partnership for Women and Families), August 1993); Jane Waldfogel, "The Impact of the Family and Medical Leave Act," *Journal of Policy Analysis and Management*, spring 1999, pp. 281–302.