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## Background

### 1.1 Purpose of the Report

This report presents results on family and medical leave policies and practices from two new surveys, the 2000 Surveys of Employees and Establishments. These surveys, conducted by Westat in the summer and early fall of 2000, were commissioned by the Department of Labor to update the employee and establishment surveys that were conducted five years ago, in the summer and fall of 1995.

The report on the 1995 surveys, [A Workable Balance: Report to Congress on Family and Medical Leave Policies](#), provided the first in-depth look at family and medical leave following the implementation of the Family and Medical Leave Act (FMLA) of 1993. This new report provides an in-depth look at family and medical leave in 2000, seven years after the implementation of the FMLA and five years after the original surveys. Updating information on family and medical leave and its effects is important because results may be considerably different due to awareness of and experience with the law since 1995.

The primary purposes of this report are threefold. First, the 2000 Surveys of Employees and Establishments document the types of family and medical leave benefits establishments are currently providing and, correspondingly, the benefits that employees are using.

Second, the 2000 Survey of Employees is a unique source of information on employees' needs in the area of family and medical leave. The survey documents the extent to which current family and medical leave policies meet the needs of different types of employees as well as the areas where these needs are unmet.

Third, the 2000 Survey of Establishments provides extensive information on the impact that providing such leave has had on establishments. These experiences shed light on the extent to which the FMLA and other family and medical leave policies meet the needs of employees, and the extent to which they impose undue burden on establishments.

Together the surveys provide a window on the wide range of current family and medical leave experiences of employees and establishments.

## **1.2 Overview of the Report**

This report presents findings on family and medical leave policies and practices from the 2000 Surveys of Employees and Establishments. The report also compares results from these surveys to the results from surveys conducted in 1995.

Chapter 2 presents findings on employees' use of leave.<sup>1</sup> It describes the amount of leave taken and the reasons for which leave was taken. It also provides information on employees who needed leave but did not take it.

Chapter 3 presents findings on FMLA coverage, awareness, and use. It describes the establishments that are covered by the FMLA, and characterizes the employees who work for covered establishments and are eligible to take FMLA leave. It explores both establishment and employee awareness of the Act. This chapter provides estimates of the number of employees that used FMLA leave in the 18 months prior to the 2000 surveys, and describes the eligible employees who took FMLA leave during that time.

Chapter 4 documents the impact of family and medical leave on employees. It presents detailed information on employees' experiences with family and medical leave, including financial issues, the impact that leave had on them and their families, and the satisfaction of those who took leave. This chapter also includes a section on employees with children under the age of 18 months, the group most

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<sup>1</sup> Regardless of whether or not the leave was covered by the FMLA.

likely to need leave for maternity disability or to care for a newborn, foster or adopted child.

Chapter 5 turns to establishments and documents their family and medical leave policies and practices. It describes their provision of leave consistent with the FMLA and details the provision of additional benefits beyond those specified in the Act. This chapter also compares the policies and practices of FMLA-covered and non-covered establishments.

Chapter 6 continues the analysis of the establishment survey results. It documents how FMLA-covered establishments administer their family and medical leave programs and how they manage employees' use of leave. It also presents covered establishments' views on the impact of the FMLA on their establishments.

Chapter 7 presents more analysis of the data on establishments, considering the policies and practices for family and medical leave in establishments that are not covered by the FMLA. It describes their perceptions of the impact of their family and medical leave policies on their establishments and details the impact they anticipate the FMLA would have if they became covered.

Chapter 8 summarizes the findings of the report. This chapter highlights key results from the 2000 surveys and possible directions for further research.

The following sections of this chapter include summaries of:

- Survey procedures and analytic strategies for the 2000 study;
- Changes in the economy and labor force since the 1995 study;
- History of the Family and Medical Leave Act legislation; and
- Major findings of the 1996 Commission report.

### **1.3 Survey Procedures and Analytic Strategies**

As noted above, the information presented in this report is based on two different telephone surveys conducted from July through mid-October of 2000, as well as the two prior surveys conducted in 1995. This section summarizes the procedures used

to conduct these two surveys. Readers interested in more information about the methodology may refer to Appendix C, as well as an upcoming methodology report which describe in greater detail the procedures, results and analytic issues.

The 2000 Survey of Employees was a telephone survey designed to sample U.S. residents who had been employed at any time since January 1, 1999. Telephone numbers were randomly generated using a list-assisted procedure (see Appendix C for more details). Once a household was contacted, the interviewer identified potential respondents who had been employed since January 1, 1999. Three unique samples of respondents were identified and interviewed: (1) those who had taken leave from work for a family or medical reason; (2) those who had needed but not taken this type of leave; and (3) those who were employed but had neither taken or needed leave during the period covered by the survey. The content of the employee interview was based largely on the 1995 Survey of Employees, with the addition of items to explore emergent issues in family and medical leave. Appendix D provides a copy of the 2000 Survey of Employees. A total of 2,558 interviews were completed. The final weighted response rate for the survey was 58.3%. Appendix C provides a discussion of the technical issues about comparing the 2000 survey results to those from the 1995 survey.

The 2000 Survey of Establishments was designed to represent U.S. private business establishments. It excluded government and quasi-government organizations (e.g., schools, post offices). For purposes of the sample, an establishment was defined as the business located at a particular address or location. Data were collected with respect to this location, even if the employer had other locations. The content of the establishment interview was based largely on the 1995 Survey of Establishments, with the addition of items to explore emergent issues in family and medical leave. Appendix E provides the 2000 establishment survey instrument. The human resources director or the person responsible for the company's benefits plan was selected to be the respondent for each establishment. A total of 1,839 interviews were completed. The final weighted response rate for the survey was 65.0%. Appendix C provides a discussion of the technical issues about comparing the 2000 survey results to those from the 1995 survey.

Appendix A provides tables with results from the two surveys. For the reader's convenience, all tables in the report are included in this appendix. The first part of Appendix A (Tables "A1") repeat tables that are displayed in the text. The second part of Appendix A (Tables "A2") contains tables referred to but not contained in the text.

Appendix B provides the standard errors and the unweighted sample sizes for each of the estimates presented in the report. The standard errors were calculated after taking into account the sample designs of each survey.

As with any study of this type, the estimates derived from the surveys are unavoidably subject to various sources of error. *Sampling error* results from only a sample of the population being interviewed, rather than every worker or every establishment in the U.S. To compensate for this type of error, discussions of the results only highlight those differences that are "statistically significant." That is, the discussion focuses on those differences where one can be reasonably certain that the pattern reflects true differences and is not due to the particular sample drawn for these surveys.<sup>2</sup> Tables in the chapters and appendices display all results, regardless of their statistical significance.

Throughout the report, data from the 2000 surveys are compared to the 1995 surveys. As noted above, the 2000 surveys were designed to be as comparable as possible to the 1995 surveys. However, some differences did occur between the surveys, including some variations in wording, as well as differences in the response rates. Appendix C discusses the main differences between the 1995 and 2000 surveys.

## **1.4 Changes in the Workforce Since the 1995 Study**

The period between 1995 and 2000 has been one of rapid employment growth, coupled with historically low unemployment rates. Data from the Current Population Survey (CPS) indicate that the number employed rose from 124.9 million in 1995 to

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<sup>2</sup> When discussing differences within the 2000 data-set, a chi-square test using a 10% significance level was used. When comparing data between the 1995 and 2000 surveys, a Z-test comparing the means with a 10% (two-tailed) significance level was used.

133.5 million in 1999,<sup>3</sup> while the number unemployed fell from 7.4 million to 5.9 million. Between 1995 and 1999, the share of the working-age population (16 to 64 years old) that was employed rose from 72.5 percent to 74.0 percent. Over the same time period, the overall unemployment rate fell from 5.6 percent to 4.2 percent.

Employment between 1995 and 1999 rose more rapidly for some groups than for others. For instance, while employment increased among the population as a whole, it increased more dramatically for women, especially women with young children. Less-educated workers also increased their participation more than other groups. As a result, the composition of the workforce has changed at the same time that its overall size has increased. For instance, data from the CPS indicate that the proportions of female workers and Hispanic workers were larger in 1999 than they were in 1995.

This change in the number and composition of the workforce means that care must be exercised in comparing the results of the 1995 and 2000 Surveys. The changes in the composition of employees over the past five years may be associated with changes in some of the items being measured in the surveys, such as leave-taking. For instance, the 2000 Survey of Employees found that fewer employees have children under the age of 18 compared to 1995. Since employees with children are more likely to take leave than those without children, this compositional change implies that, holding everything else constant, we would find a lower rate of leave-taking in 2000 than in 1995. Over the same time period, however, the share of the workforce that is female has grown. Because women are more likely to take leave than men, this change would, in and of itself, lead to higher rates of leave-taking in 2000 than in 1995. Because of these compositional changes, we present data in this report on changes within groups as well as overall changes. In addition to seeing overall changes, tracking changes within groups allows an assessment of whether rates of leave-taking, or other behaviors, have changed for groups that share important characteristics (e.g., presence of children, gender).

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<sup>3</sup> 2000 CPS data are not yet available.

## 1.5 History of the FMLA Legislation

Prior to 1993, the United States had no national family and medical leave legislation (although the Pregnancy Discrimination Act of 1979 did require firms that offered temporary disability programs to cover pregnancy like any other disability). Some employees had access to leave through union contracts, employer policies, or state statutes, but coverage provided under these provisions was rarely as comprehensive as coverage provided under the FMLA. Many employees had no family or medical leave coverage prior to the FMLA.

The FMLA, which was passed by Congress and signed by President Clinton in February 1993 and went into effect in August 1993, requires certain covered establishments with 50 or more employees to provide up to 12 weeks of unpaid, job-protected leave per year to eligible employees who need leave to care for a newborn, newly adopted or newly placed foster child; a child, spouse, or parent who has a serious health condition; or the employee's own serious health condition, including maternity-related disability and prenatal care. Employees are eligible for protection under the Act if, in addition to working for a covered establishment at a location where at least 50 employees are employed within 75 miles of the worksite, they have worked for this employer for at least 12 months; and have worked at least 1,250 hours for this employer during the 12 months before leave is needed. The FMLA provides unpaid leave, but permits the use of paid leave benefits for any portion of the covered leave taken. The FMLA requires covered employers to continue to maintain group health insurance benefits for eligible employees on FMLA leave on the same terms as coverage would have been provided if the employees were working. Leave provided under the FMLA is job-protected. Upon return from FMLA leave, an employee must be restored to the same (or an equivalent) job.

The Act also set up a bipartisan commission to review family and medical leave issues. The Commission on Leave, among other activities, commissioned two surveys conducted in 1995: an Employee Survey, which was conducted by the Institute for Social Research at the University of Michigan; and an Establishment Survey, which was conducted by Westat. The results of these two surveys, and the

rest of the Commission on Leave's findings, were presented in a major report, [A Workable Balance: Report to Congress on Family and Medical Leave Policies](#), released in 1996. The key findings of this report are summarized in the next section.

A number of changes to the FMLA have been proposed since the 1993 Act was implemented. Changes that have been proposed include: lowering the establishment size threshold, so that employees at smaller establishments would be covered; allowing leave for different reasons, such as attending parent-teacher conferences at children's schools; expanding the categories of people for whom one can take leave, so that care for people other than those specified in the FMLA would be covered; redefining "serious health condition," to ensure that leave is taken only for the most serious health problems; limiting the use of intermittent leave, to minimize the burden for employers; extending the duration of leave permitted, so that employees can take longer leaves if necessary; extending coverage to currently non-eligible workers, such as part-time employees and new employees; and making some provision for paid leave, so that employees do not forego taking leave, cut their leave short, or experience financial hardship due to the lack of paid leave.

Although none of these changes to the FMLA have been enacted, in some instances, specific proposals have been advanced. For example, President Clinton proposed a series of FMLA amendments in the Family-Friendly Workplace Act of 1996. Among other changes, this proposal would have allowed eligible employees to take up to 24 hours of additional unpaid leave each year to meet specific family obligations such as routine doctor appointments, elder care needs, and parent-teacher conferences. In June 2000, the Department of Labor issued a rule permitting states to experiment with providing unemployment compensation to parents who take approved leave or who otherwise leave employment following the birth or adoption of a child. Several states are now considering such legislation.

A number of these suggested changes grew out of the findings of the 1996 report, which identified some limitations of the FMLA and pointed to some changes that might address those limitations. A major goal of this 2000 report is to provide further information on benefits and problems that employees or establishments may be experiencing with regard to family and medical leave, in hopes that this information would prove helpful in the public policy arena.

## **1.6 Major Findings of the 1996 Report**

The 1996 report, *A Workable Balance*, concluded that the overall impact of the FMLA on employees had been positive. The report also concluded that the implementation of the 1993 Act had not caused the type of problems for employers that some had anticipated. This section summarizes the major findings of the 1996 report, which were highlighted in the Executive Summary of that report.

### **Coverage and Eligibility**

Including both public and private sector employees, 66.1 percent of the U.S. labor force in 1995 worked for establishments who were covered by the FMLA. Among private sector workers only, 59.5 percent worked for covered establishments. Not all of these employees were eligible, however, because of the Act's requirements for length of service and hours worked in the past year. Among public and private sector employees combined, 54.9 percent were covered and eligible; the share covered and eligible was lower, 46.5 percent, when only private sector workers were considered.

### **Establishment Leave Practices**

In 1995, the implementation of the FMLA had a measurable impact on covered establishments' leave practices. Two-thirds of covered establishments reported that they had changed some aspect of their family or medical leave policies to come into compliance with the Act, most commonly to expand the set of reasons for which employees could take leave. For instance, 69.3 percent of covered establishments changed their policies to allow fathers to take leave to care for newborn or seriously ill children. The 1996 report also found a number of differences between the leave policies of covered and non-covered establishments. Covered establishments were more likely to offer family or medical leave and more likely to offer job-protected leave.

### **Knowledge of the FMLA**

Most covered establishments in 1995 knew about the Act. A small number of covered establishments—13.5 percent—did not. A sizable number of employees at covered establishments—41.9 percent—had not heard of the Act. Salaried

employees, union members, and more highly educated workers were more likely than other employees to know about the Act.

### **Ease of Administration by Establishments**

More than nine in ten covered establishments said that the FMLA was relatively easy to administer. Larger worksites found the FMLA more difficult to administer than did smaller worksites. Managing intermittent leave, which represented 11.5 percent of all leave-taking in 1995, was reported to be a problem by two out of five (39.2%) establishments.

### **Costs and Cost-Savings**

Implementing the FMLA in 1995 was associated with few or no additional costs, but also no cost savings for most covered worksites. Larger worksites reported more additional costs, but also more cost savings, than did worksites overall.

### **Effects on Business and Employee Performance**

Most establishments in 1995 said that the Act had no noticeable effect on business performance or employee performance. However, the Commission's report also found significant positive effects on employee career advancement and employee productivity. Establishments also noted a positive effect of the Act on employees' ability to care for family members.

### **Expectations of Non-covered Establishments**

The 1996 report described small, non-covered establishments' expectations about the likely impact of the Act if they were to be covered, and compared these to the reported experiences of small covered establishments. In general, the expectations of non-covered establishments were more negative than were the actual experiences of smaller covered establishments.

### **Employees' Need for Leave and Use of the FMLA**

In 1995, one-fifth of the workforce (20.2%) needed leave for a family or medical reason (as defined under the FMLA) during the 18-month period prior to the survey. The survey found that 16.8 percent of all employees were "leave-takers" (employees who took leave for a covered reason) and 3.4 percent of employees were "leave-needer" (employees who needed a leave for a covered family or medical reason

but did not take one). About 7 percent of leaves were said to have been taken under FMLA. Among those needing but not taking leave, a majority (63.9%) said they could not afford to take leave. The survey also asked employees whether they anticipated needing to take family or medical leave for a covered reason during the coming five years, and 40.0 percent replied that they did. The most common reason for anticipating the need for future leave was to care for a seriously ill parent.

### **Employees' Experience with Leave**

In exploring the experiences of all employees that took leave,<sup>4</sup> the 1995 survey found that employees age 25 to 34 were more likely than other employees to take family and medical leave (although the largest number of leave-takers was found in the 35 to 49 year-old age group), as were employees with children, hourly employees, and employees with family incomes in the range of \$20,000 to \$30,000.

The single most common reason for taking leave was to care for one's own serious illness, which accounted for 61.4 percent of all leave-taking. Men were more likely than women to take leave for their own health. Women were found to be more likely than men to take leave and to take longer periods of leave, possibly because only women take maternity leave. Men, however, took comparable amounts of parental leave and were slightly more likely to take leave to care for an ill spouse. Most of the leaves reported in the 1995 survey were short. The median leave length was 10 days, and 90.0 percent of leaves lasted for 12 weeks or less. The most common method of covering the work of leave-takers was to re-assign it temporarily to other employees (this occurred 67.5% of the time).

As noted earlier, the FMLA provides for unpaid leave, but permits the use of paid leave for any portion of the covered leave taken. In the 1995 survey, a substantial proportion of employees reported receiving full pay (46.7%) or partial pay (19.6%) while they were on leave. Employees who did not receive pay during their leave were more likely to be young, old, non-salaried, non-union, never married, in the lowest education and income groups, or Hispanic. Employees who did not receive pay during their leave used a variety of methods to cover their lost wages, including borrowing money, cutting their leave short, or going on public assistance.

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<sup>4</sup> Regardless of whether or not the leave was covered by the FMLA.

Most employees (84%) who took leave during the 18 months prior to the 1995 survey had returned to their jobs after their leave. Only a small share (6.0%) did not return to their jobs, while 10.0% were still on leave at the time of the survey.

### **Overall Impact**

The 1996 report concluded that the overall impact of the law on employees was positive, while for a great majority of worksites, compliance with the FMLA entailed no costs or only small costs. The Executive Summary of the report concluded: “The FMLA, with its signature features of guaranteed job protection and maintenance of health benefits, begins to emerge, even now, as a significant step in helping a larger cross-section of working Americans meet their medical and family caregiving needs while still maintaining their jobs and their economic security—achieving the workable balance intended by Congress.” ([A Workable Balance](http://www.dol.gov/dol/esa/public/regs/compliance/whd/fmla/summary.htm), Executive Summary, p. 8-9, available from <http://www.dol.gov/dol/esa/public/regs/compliance/whd/fmla/summary.htm>).

## **1.7 Conclusion**

The passage of the FMLA in 1993 was an historic moment for the United States. National legislation was enacted for the first time that enabled working families to take leave to meet essential caregiving responsibilities without the risk of losing their jobs or imposing undue burdens on employers. Yet, even as Congress enacted the FMLA in 1993, it recognized that the work of evaluating the need for family and medical leave was not concluded with the passage of the law. In the FMLA legislation, Congress established a Commission on Leave and mandated it to report on the impact of the law on employees and employers. The earlier report, [A Workable Balance](#), was the result of that mandate.

Times change, however, and employee and establishment experiences with the FMLA may also have changed. Accordingly, Congress funded, and the Department of Labor commissioned, new 2000 surveys of employees and establishments. The results of these surveys, presented here, will also not be the last word on family and medical leave, but will hopefully advance our understanding of the needs of workers and employers and move us forward in taking the next steps toward meeting these needs.