



# Helping Breadwinners When It Can't Wait

A Progressive Program for Family Leave Insurance

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Heather Boushey May 2009

Center for American Progress



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# Introduction and summary

Americans experienced a seismic shift in how we work and how we provide care for our families over the past half century. Not that long ago, most families had a stay-at-home parent—usually a mother—but today, that is rarely the case. The vast majority of children grow up in a home where there are either two working parents or a single, working parent. Yet our nation’s workplaces and our labor policies simply haven’t kept pace.

Unlike every other developed nation, the U.S. government does not require that workers have access to paid leave for the birth of a child or to care for a seriously ill family member.<sup>1</sup> The federal government *requires* workers to buy (pay taxes) into a variety of social insurance systems to provide income—maybe not enough income, but some income—during times when they are unable to work or can’t find work, when they retire, or during a long-term disability. Yet our social insurance systems do not provide for any cash income when workers need time off to care for their family members or recover from a serious illness.

In a nation where the vast majority of families now have no one at home to provide care, workers need paid time off from work to care for one another. Our current system of family and medical leave is unpaid, and even that is not inclusive and leaves out many of the hard-working families who need these benefits the most. Some employers do the right thing and provide paid family leave to all their employees, but most do not. It is patently unfair for some mothers and fathers to have to take unpaid leave or fear for their jobs to care for a newborn or take care of seriously ill children or parents—or even worse be unable to take that leave because their bosses just say no.

Access to time off to care should not be determined by how much you earn or what size employer you work for. Progressives should tap into the administrative efficiencies of existing federal social insurance programs that could provide universal family leave coverage. And we should leverage populist outrage over Wall Street bailouts to overcome past hurdles to secure family leave insurance for all workers, including low-wage workers.<sup>2</sup> When corporate executives with tin ears whine about cuts to their multimillion-dollar pay packages amid a deep recession, now is the time for progressives to focus on inclusive labor-market solutions for all American families.

What program could address the need for extended paid time off to care? Well, Social Security could do the trick. My guess is that most readers are now saying, “Whoa! But

Access to time off to care should not be determined by how much you earn or what size employer you work for.

I thought Social Security was busted?!” That topic deserves another article, but the real problem with long-term federal fiscal deficits is skyrocketing health care costs, not the benefit system.<sup>3</sup>

In fact, we could easily add the ability to access income during time off for caring activities or to recover from one’s own serious illness with very minimal cost to the Social Security system by either adding a small increase to the payroll tax (about three-tenths of a percent), lifting the earnings cap beyond its 2009 level of \$106,800, or by allowing workers to trade future Social Security benefits for paid time off to provide care during their working years. Importantly, this proposal is not for personal minor illnesses such as needing to stay home with a cold or flu for a day or two or for paid time off to take a child or parent for a routine check up. This proposal is for more serious illnesses—of oneself or one’s family members—that require longer time away from work or to bond with a new child.

Adding family and medical leave to Social Security is perhaps the ideal way to finance paid family leave insurance. The bureaucracy is already set up to finance the system and to deliver checks (although they would have to be sent out quicker than the system currently functions) and because Social Security is not simply a retirement program, but already provides benefits to workers who become disabled and a worker’s surviving family members, there is already a structure in place to establish the criteria for eligibility that takes into account a variety of circumstances.<sup>4</sup>

Setting up a stand-alone insurance program just for family and medical leave is most likely a costlier and less efficient option—especially if it turns out that each state establishes such a program on their own. Individual companies should not have to pay for these leaves out of pocket as it would disproportionately affect those with staff who are prone to serious health problems, who disproportionately have ailing family members who need their care, or who tend to be of child-bearing age.

Versions of this idea have been bubbling around for awhile. Center for American Progress Visiting Fellow Karen Kornbluh has written about expanding Social Security to account for the way we work now as have Heidi Hartmann, Ariane Hegewisch, and Vicky Lovell.<sup>5</sup> And Workplace Flexibility 2010, a policy initiative based at Georgetown University Law Center that supports the development of consensus-based policy solutions for the changing needs of families and businesses (with support from Shelley Waters Boots at the Urban Institute), is looking at a range of financing mechanisms for extended time off—including Social Security.<sup>6</sup> In addition, there has been some interesting writing on the topic from longtime work and family advocate and researcher Nancy Rankin in *Taking Parenting Public* to University of Wisconsin sociologist Myra Marx Ferree’s “An American Utopia” and University of California, Berkeley professor Steve Sugarman’s more general conceptual work.<sup>7</sup>

This paper builds on this work and extends it, proposing Social Security Cares to provide paid family and medical leave to nearly every worker in the United States. Social Security Cares builds on a program that already has mass appeal and meets our primary goal of

inclusiveness. It provides the solution to the problem that most U.S. workers have no option for income when they take the kinds of work leaves covered by the Family and Medical Leave Act, such as when they have a new child, are seriously ill but not disabled, or need time off to care for an ill family member.

Social Security Cares does not leave out low-wage, young, or part-time workers, and it will encourage both men and women to take time off to provide care. It will strengthen the inter-generational compact between young workers—who could now access the benefits of social insurance when they need it while they’re working—and older workers who will maintain access to Social Security’s retirement benefits and now be able to have the benefit of an adult child who can afford to take time off work to help care for them if they need it.

Social Security Cares is good policy, but it is also good politics. For decades, advocates for working families have struggled with the perception—and too often the reality—that policies aimed at addressing work/family conflict benefit only professional, white women. A good political strategy is to develop policies that are inclusive and can build support among all working Americans for things that would truly benefit us all—and this proposal does that. For too long, we’ve allowed employers to define which family leave policies are “reasonable” and which aren’t. Invariably, almost all low-income workers and many of their middle-income colleagues get thrown under the bus—often at the last minute—in the name of compromise when policymakers in Congress attempt to improve our nation’s social insurance systems.<sup>8</sup>

Paid family leave policy is the place to draw the line. It’s time to take what is now a benefit of the privileged and turn it into a right for all workers.

Social Security Cares fits nicely into a broader effort to reform Social Security. It makes sense for Social Security to address these important life events when workers simply cannot work. It updates the system and acknowledges that we live in a world where most families no longer have a stay-at-home parent. It complements other ideas to establish “caregiver credits” for Social Security that would help caregivers establish sufficient credits to qualify for retirement benefits.<sup>9</sup>

Before detailing this solution to the family leave crisis facing working-class Americans, this paper will first define the problem so that it’s clear that half-measures are no solution at all. We’ll then detail how employers have thwarted national family leave policy proposals in Congress. We’ll then explain exactly how our Social Security Cares program would work, specifically:

- Social Security Cares will allow workers to access Social Security benefits for income when they experience any of the three life events covered by the Family Medical Leave Act—the birth or adoption of a child, the worker’s own serious illness, or to care for a seriously ill family member—for the same amount of time as FMLA, which is a maximum of 12 weeks per year.

Paid family leave policy is the place to draw the line. It’s time to take what is now a benefit of the privileged and turn it into a right for all workers.

- Social Security Cares will cover every worker currently covered by Social Security—even those who do not receive unpaid job-protected leave from the FMLA.
- Eligibility for the program will be based on a worker’s lifetime employment history and will use reasonable terms that allow young, part-time, and low-wage workers to qualify.
- The cost of the program is minimal and there are a variety of financing mechanisms: adding a small increase to the payroll tax (about three-tenths of a percent), lifting the earnings cap beyond its 2009 level of \$106,800, or by allowing workers to trade future Social Security benefits for paid time off to provide care during their working years.

Once we’ve detailed these policy features of our proposal, we’ll turn to the important question of how to pay for Social Security Cares. As we will demonstrate in the pages that follow, this critical family leave insurance program is needed by all Americans, can be implemented easily and effectively, and can be paid for without threatening the safety and soundness of our Social Security system.

**TABLE 1**  
**Social Security Cares: The basics**

Program requirements for Family and Medical Leave and Social Security Cares

| Program                                 | Family and Medical Leave  | Social Security Cares   |
|---|---|---|
| Qualifying Leave                        | To care for and bond with a new child, care for a seriously ill family member, recover from own serious illness | Same as FMLA  |
| Eligibility                             |   |   |
| Covered employer                        | Only firms with 50 or more employees  | All employers   |
| Employee job-tenure requirement         | With current employer for one year (not necessarily consecutive), logged 1,250 hours within the past year       | None  |
| Employee employment history requirement | Must satisfy job tenure requirement   | <p>Employees earn one credit for each \$1,090 in earnings, up to a maximum of four credits per year</p> <ul style="list-style-type: none"> <li>• Before age 24, workers will need 1½ years of work (six credits) in the three years prior the leave date</li> <li>• Between ages 24 through 30, workers will need credits for half of the time between age 21 and the leave date</li> <li>• At age 31 or older, workers need at least 20 credits in the 10 years immediately before the leave date</li> </ul> |
| Benefit formula                         | None (unpaid)   | Progressive, based on earnings and employment history and adjusted for age; will follow current benefit schedule of disability portion of Social Security   |
| Financing                               | None (unpaid)   | <p><b>Three ways to finance</b></p> <p>Additional payroll tax. Likely to be small—about three-tenths of a percent</p> <p>Increase cap on withholding; an additional \$15,000 of income taxed would likely finance the entire program</p> <p>Allow employees to voluntarily trade weeks of future retirement benefits for leaves to care or recover</p>  |

# The current system for family and medical leave

Because the United States does not have a national system of paid family and medical leave, access to paid time off is decided by employers and most opt not to provide coverage. Within a company, there may not even be a uniform policy. Unions have made some progress in getting time-off policies and flexibility into union contracts,<sup>10</sup> but with fewer than 1 in 10 private-sector workers in a union, this doesn't help many working families.<sup>11</sup>

Like many other workplace perks, it is the workers at the top who are most likely to get benefits like family and medical leave. The U.S. Census Bureau reports that 60 percent of new mothers with a bachelor's degree or higher received paid maternity leave compared to only 22 percent of those with less than a high school degree.<sup>12</sup> The least likely to get family and medical leave are low-wage workers who are most likely to need workplace flexibility since they cannot afford paid help to care for loved ones.<sup>13</sup> While some low-wage workers qualify for unpaid leave under the Family Medical Leave Act, or FMLA, most cannot afford to take it—and many ineligible for unpaid leave wind up quitting or getting fired as a result of personal or family obligations.<sup>14</sup>

President Bill Clinton signed FMLA in 1993 to address the fact that few workers had even the right to *unpaid* family and medical leave—his first bill into law. This legislation gave approximately 44 million workers the right to job-protected unpaid leave to care for a new child, an ill family member, or to recover from an illness, out of a total workforce of over 128 million.<sup>15</sup> It was the first national legislation that granted any worker the right to time off to provide care. It was hailed—and rightly so—as a major success for working families.

The passage of the FMLA was a serious accomplishment, but the law still defines a deserving employee as one who fits a traditional model of employment: full time and consistent work history with a single employer. To take FMLA leave, an employee must work at a large company (50 or more employees), work more than part time (putting in at least 1,250 hours per year), and be a consistent employee (working with that particular company for at least a year, although that employment does not have to be consecutive).<sup>16</sup>

Overall, these exclusions limited the program's usefulness for most working Americans, who frequently change jobs, often work for small businesses, and work less than full time. In short, FMLA does not capture the realities of the modern workforce. Specifically:

- The minimum-hours rule leaves out many part-time workers who might be working low hours in order to address caregiving—and thus the very workers in need of leave.
- Many part-time workers have more than one job and tying FMLA to hours with a single employer limits these workers' eligibility.
- Excluding employees who have been with a particular company for at least a year leaves out many young parents—a significant share of those who need this kind of leave—and disproportionately affects workers of color. Among white workers aged 18 to 25 with a small child at home, 38.5 percent have held their job less than a year; among blacks, that share is 48.0 percent; among Hispanics, 31.5 percent; among women, 43.3 percent; and among men, 31.2 percent.<sup>17</sup>
- The model of lifetime employment with a single employer is no longer the reality for the typical worker, especially in emerging industries such as the technology sector.

Furthermore, excluding workers by company size disproportionately leaves out low earners. According to the U.S. Census Bureau, 28 percent of companies have fewer than 50 employees. Workers in these small businesses earn less than workers in larger companies and are less likely to have access to paid benefits already. The Bureau of Labor Statistics reports that only 25 percent of workers in private companies with fewer than 50 employees have access to paid personal leave, versus 50 percent for private companies with more than 100 employees.<sup>18</sup>

To be sure, FMLA ensures that some workers have the right to return to their job after a leave. But this provision only requires employers to offer unpaid leave. For low- and moderate-income families, taking unpaid leave is often not an economically viable option, making the right to job-protected leave nice but not enough.

What we need is a social insurance program that provides paid family and medical leave to every worker, young and old, part time and full time, regardless of whether they work in a large or small company. What we have is a program that was a giant leap forward over a decade ago but one that falls short of achieving the full goal.

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# Employer opposition thwarts national paid family and medical leave

The problem is not that advocates and policymakers who “get” this issue aren’t trying hard enough to enact new federal family leave policies.<sup>19</sup> The problem is that employers continue to insist that the right to paid time off should be at their sole discretion. They have waged relentless campaigns to claim that providing paid time off for workers to provide care for a new child or an ailing parent could destroy companies—even though statistically very few workers have a new child or a serious illness in their family in any given year. Businesses oppose paid family and medical leave much in the same way that they opposed FMLA and any other laws granting workers new rights.<sup>20</sup>

Amid this debate a handful of states have made progress toward paid family and medical leave, striving to create inclusive policies.<sup>21</sup> In 2002, California extended their Temporary Disability Insurance program to offer six weeks of comprehensive partial wage-replacement family leave, and every private-sector California worker is eligible for this benefit.<sup>22</sup> New Jersey passed similar legislation last year.<sup>23</sup> In 2007, Washington became the first state to pass legislation establishing a new stand-alone program for paid parental leave (although the financing mechanism remains to be worked out).<sup>24</sup>

To encourage state-level efforts, Representative Lynn Woolsey (D-CA) has introduced a bill in Congress that grants \$1.5 billion to states to set up these kinds of family leave programs. That’s an important legislative step, but the pace of state-level efforts is slow. A state-by-state strategy forces the advocates to deal with businesses that vigorously lobby local political leaders for carve outs for small businesses or to reduce the coverage in other ways.

This is a national problem and we need a national solution. Every worker in every state needs to have access to wage replacement, not just workers in a few states. Leaving this important labor policy to the states allows them to compete against one another on their basic labor standards. States without this policy can claim that they provide a more “business-friendly” environment.

At the national level, Congress is considering a bill to provide paid family and medical leave. The Family Leave Insurance Act (H.R. 5873), introduced by Representative Pete Stark (D-CA), and the Senate companion bill—which was introduced in the 110th Congress and is likely to be introduced in the 111th by Senator Christopher Dodd (D-CT)—would establish a national family leave insurance program. The Dodd bill as

introduced in the 110th Congress allows the exclusion of workers at companies with fewer than 50 employees and those who have been with their employer for less than a year. The Stark bill excludes companies with fewer than 20 employees and those who have been with their employer less than six months.

As these bills move through Congress or state legislatures, the calls to “be reasonable” about carving out workers for whom providing leave would be a (supposed) burden to their employer represent a major challenge. These kinds of accommodations may seem like modest compromises on their face, but they disproportionately leave out low-wage, part-time, and young workers, and should not be on the table.

# Social Security Cares

## Using Social Security to provide paid family leave insurance

We could provide pay for nearly every U.S. worker during their family and medical leave by incorporating family and medical leave into the Social Security system.

The risk of family and medical issues turning into livelihood-threatening events is much higher in our society today than it was in 1935 when Social Security was established. We need to adapt social insurance for today's workforce—one in which few families have a stay-at-home caretaker. Social insurance programs allow the risk of not being able to work to be spread across a person's lifetime, and across workers.

Just as when Franklin D. Roosevelt first proposed Social Security in 1934, Social Security Cares addresses the fundamental changes in the ways America families work and live. In 1934, President Roosevelt said:

*Security was attained in the earlier days through the interdependence of members of families upon each other and of the families within a small community upon each other. The complexities of great communities and of organized industry make less real these simple means of security. Therefore, we are compelled to employ the active interest of the Nation as a whole through government in order to encourage a greater security for each individual who composes it . . . This seeking for a greater measure of welfare and happiness does not indicate a change in values. It is rather a return to values lost in the course of our economic development and expansion.<sup>25</sup>*

If most women—and most mothers—had been employed outside the home in 1934, then the Social Security Act may have included time off for care, just as it covered retirement and unemployment. While there may be other worthwhile reasons to need income during a person's working years (for education, for example) the need for time off to care is distinctly different. Social Security Cares addresses the fundamental way that families have changed since 1934: Most families no longer have a stay-at-home caregiver.

The basic idea is that workers can access Social Security benefits to provide them with income when they need leave for life events covered by FMLA—the birth or adoption of a child, the worker's own serious illness, or to care for a seriously ill family member—for the same amount of time that FMLA provides, which is a maximum of 12 weeks per year. There are now well-established regulations and case law about what kinds of leave

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are eligible for FMLA—serious or chronic illnesses—and it makes sense to build on this regulatory structure. Note that this is not the same as providing paid sick days: A worker could not access Social Security Cares’ wage replacement if they had a cold or needed a couple of hours off to go to the dentist.

Social Security Cares will not impose the same eligibility requirements as FMLA in terms of company size and will not impose job-specific tenure or minimum hours. Rather, eligibility will be based on a worker’s employment history, adjusted for age and potential labor force experience. It will follow the criteria currently used to determine eligibility for disability or survivor’s benefits under Social Security, which allows young, part-time, and low-wage workers to qualify.

Workers covered by FMLA would receive all of the law’s job protections during their leave. Workers not covered by FMLA will be able to access Social Security Cares, provided they meet the eligibility requirements. But they would not receive the job protections of the FMLA. Extending FMLA will have to be done separately.<sup>26</sup>

Workers in companies that already provide paid family and medical leave can continue to receive those benefits. Offering this kind of “perk” will continue to be a strong recruiting tool—just like offering a good pension, a 401(k) match, or short- or long-term disability plan—as employers could “top off” the benefits to cover a greater share of a worker’s salary than Social Security Cares, which will cover around 30 to 60 percent of one’s salary.

Here are the benefits of Social Security Cares<sup>27</sup>:

- It builds on the universality of Social Security—one of the most popular programs we have. Nearly the entire labor force already pays into the Social Security system, so most every worker would be covered.
- It will increase the job retention of women and, over the long term, lead to healthier workers. These will improve workforce participation over a lifetime and potentially help shore up the Social Security system overall.
- It retains the gender equity of FMLA. The amount of leave is tied to the worker, not the family, and benefits are nontransferrable. Thus, if a man chooses to forgo his benefits, the family simply loses that time—women cannot make up for the lack of men using their available time to care.
- It doesn’t require a new bureaucracy. The system is already set up and we would fund it by a small additional tax, an increase in the withholding cut off, or minimal extensions to workers’ years of work based on their use of the system. Social Security already tracks every worker’s employment history and provides benefits to not only retirees, but also disabled workers and family survivors.

- It will create a broader coalition in support of Social Security. Young workers who currently report that they are dubious of ever benefiting from the system would be able to see the benefits during their working years, building their support for the program. Older workers will have the added benefit of younger family members with income support to help them during leaves taken to provide caregiving.
- Voters want paid family and medical leave. Nationwide, 76 percent of likely voters say they favor extending the FMLA to provide paid leave. Support for this includes 78 percent of women, 73 percent of men, 83 percent of Democrats, 75 percent of Independents, and 23 percent of Republicans.<sup>28</sup>

Of course, this program is not a panacea. To be fully effective, this proposal must be combined with extensions to FMLA to cover workers in companies and more family types, including domestic partners. This process is already in motion and may have some momentum during the 111th Congress. As of late April 2009, there were already four bills introduced in the House to extend FMLA in various ways. Without extending FMLA, many workers not currently covered would risk losing their job if they chose to take advantage of Social Security Cares.

In contrast, those workers who absolutely need time off will take it regardless of whether they are covered by FMLA. Our proposal at least ensures that they have some income support during that time (even if they lose their job), which is superior to the current situation where they may be eligible for absolutely nothing.

It makes sense to think of the job protection piece separately from the social insurance plan.<sup>29</sup> We do not tie other social insurance benefits such as Social Security's retirement or disability programs or unemployment compensation to tenure with a specific employer and there's no good reason to do it for family and medical leave. If an employee with a solid employment history starts a new job but finds out on day three that his mother has needs full-time care for a few weeks because she just had a heart attack, Social Security Cares should provide benefits. The question of whether that employee should have job protection should be separate because there may be a valid reason for setting some standard, although the FMLA's one-year tenure requirement may be too long. There should not, however, be such limits on receiving benefits outside of the lifetime employment eligibility requirements.

And, there are many who are afraid—rightly so—of any policy that could weaken Social Security. But this proposal does not add significant expenses to Social Security and there is every reason to believe that this proposal will strengthen, not weaken, the program overall. Contrary to costing the system, it will quite possibly increase the labor supply of women and workers with care responsibilities, thus adding tax revenues to the system overall.

Research shows that women who have access to paid maternity leave are more likely to return to work after they have a child.<sup>30</sup> This will increase the lifetime employment of women, putting more money into the Social Security system overall. Workers who have time off for a serious illness recover quicker, as do ill family members who have the care of a loved one. At least some portion of these workers will likely remain healthy enough to work longer than otherwise, which will also help to put more money into the system overall as workers are able to work longer.<sup>31</sup>

The proposals described below address many of the details of setting up Social Security Cares. Yet there are a number of research questions that remain. Case in point: How much will this increase labor force participation and will it be enough to cover the program's costs over the long term? The Family Leave Insurance Program in California has had low take up among low-wage workers even though they now are eligible for benefits during leaves.<sup>32</sup> Is this because leaves that are not covered by FMLA are not job protected or is it because the income replacement is too low? What are the administrative hurdles with the Social Security Administration to implementing this program and how can they be overcome?

These questions need to be answered, but still it is clear that over the long term providing workers with the opportunity to have access to pay during their family and medical leaves will reduce family stress, which may help workers live longer and healthier lives. Indeed, Social Security Cares will lessen stress by also strengthening family economic security. Families will have access to income to provide care during their working years. Case in point: The most common reason workers take a loan from a 401(k) is to cope with a medical issue,<sup>33</sup> but under this program families could use their Social Security funds to cover some of their lost income and possibly avoid taking money from their 401(k).

## The Family Medical Leave Act

The Family Medical Leave Act provides 12 weeks of leave per year for employees who need time off to care for a new child (birth or adopted), to recover from a serious illness, or to care for a seriously ill family member. FMLA only covers workers in companies with 50 or more employees in a 75-mile radius and it imposes two eligibility criteria on employees that tie them to one specific employer.

To take an FMLA-covered leave, the employee must have been employed for 12 months with their current employer (which does not have to be consecutive) and the employee must have worked a minimum of 1,250 hours with their current employer over the past 12 months. The FMLA

does not cover self-employed workers. For an unpaid system this is fine: Presumably a self-employed worker will "rehire" himself if he needs time off to care for a family member.

About half of the U.S. labor force is eligible for FMLA leave. Among all U.S. workers, 16.5 percent took FMLA leave between mid-1999 and 2000 (the latest survey data available). Of those, 17.9 percent took their leave to bond with or care for a new child, 7.8 percent took leave for maternity or disability, 47.2 percent for their own illness, and 27.1 percent to care for a seriously ill family member.<sup>34</sup>

# How to implement Social Security Cares

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## Eligibility criteria to qualify for benefits

The eligibility criteria for Social Security Cares should be structured so it requires workers to have at least a minimal commitment to the workforce—and therefore a history of payment into the system—but allow young and low-wage workers to meet the requirements. Like Social Security and the unemployment insurance system, no specific companies should be excluded.

Further, benefit eligibility should be tied to lifetime earnings, not job tenure or earnings with a specific employer. The simplest way to do this would be to tie the eligibility criteria for Social Security Cares to the current eligibility criteria for the disability portion of Social Security. The disability program requires workers to show a commitment to the labor market in order to receive benefits, but is structured to provide benefits to even very young workers.

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## Covers all companies

Workers in any business of any size should be eligible for Social Security Cares. Excluding workers in small companies is inappropriate for a social insurance system. Neither unemployment insurance nor Social Security excludes workers based on the number of employees working for their company.

The unemployment insurance system is run by each state and they determine eligibility criteria, but all workers (except some domestic and agricultural workers) are covered by the program if the employee earns above a minimal threshold.<sup>35</sup> Social Security excludes railroad employees with more than 10 years of service and workers for state and local governments that have opted out.<sup>36</sup> Otherwise, all workers pay into the system and are covered, so long as they meet the other eligibility requirements: In 2008, 162 million workers were covered by Social Security after being paid wages subject to Social Security taxes at some point during the year.<sup>37</sup>

Small employers often argue that they cannot cope with absences since they have a small pool of workers that they rely on, yet millions of small businesses cope with these kinds of problems every day.<sup>38</sup> While this consideration is important, the fact is that the

vast majority of families no longer have someone at home who is not in the labor force so most families need workers to be able to take time off when a new child enters the family or when a family member needs care.

Thus, our society must find a middle ground. Social Security Cares provides it. Since the program will not require businesses to pay a workers' salary while they are out on leave, they can use those funds to hire temporary workers during the absence. For employers to say that it is not possible to use temporary help in this case seems highly suspect since the use of temps has expanded dramatically in recent decades.

Self-employed and “under-the-table” workers should be included, just like we do in the Social Security system. But the self employed and workers paid under the table must file and pay their payroll taxes to be eligible. Currently, many do not, so they do not receive credits for Social Security. Since the self employed need to pay the employer *and* employee portions, the tax appears more onerous than for other workers.

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### Calculates eligibility to access benefits based on employment at all jobs

Eligibility to access benefits must be inclusive. It should allow low-wage and part-time workers to qualify for benefits while requiring workers to have sufficient employment history to demonstrate a reasonable commitment to the labor force. There should be a minimum contribution into the system before a worker can access benefits for use during family and medical leave but like Social Security and the unemployment insurance system, the criteria should not be job specific. Some workers who want to use Social Security Cares will be at the beginning of their careers. Half of U.S. women have their first child by the age of 25, and the labor force history of new parents is likely to be fairly limited. Other workers will want to use Social Security Cares much later in their careers, as they age and develop more serious health problems. The eligibility criteria should take these into account.

Requiring some minimal labor market attachment—and thus payment into the system—to receive benefits is consistent with other social insurance programs. Both the unemployment insurance system and Social Security have minimum-hours requirements. The unemployment insurance system looks at a worker's employment history over the past five or six quarters to determine eligibility and the level of benefits, but does not require the employee to have been with a single employer over the entire look-back period.<sup>39</sup> To be eligible for unemployment benefits, a worker must meet a “monetary eligibility requirement” by earning sufficient income (determined by each state) over the previous four or five completed calendar quarters.

To be eligible to access Social Security benefits, workers must accumulate enough “credits.” Credits are earned as workers earn wages and pay taxes and they apply toward future eligibility. In 2009, a worker earned one credit for each \$1,090 of earnings, regardless of

the number of jobs.<sup>40</sup> Workers can earn a maximum of four credits per year. To qualify for retirement benefits, a worker must have accumulated at least 40 credits (10 years of work) to qualify for retirement benefits.<sup>41</sup> Adults and younger people qualify for disability or survivor benefits with fewer credits that are appropriate to their age and potential labor market experience.

Job-specific rules mean that a worker has to endure a waiting period each time they switch jobs. This kind of rule is especially disadvantageous to young workers, who often change jobs multiple times in the first few years of their career. The Bureau of Labor Statistics has found that the average baby-boom era worker held an average 10.8 jobs from ages 18 to 42, but more than two-thirds of those jobs (7.7) occurred from ages 18 to 27.<sup>42</sup> The most recent statistics, as of January 2008, show that median job tenure is 1.3 years for workers aged 20 to 24, as compared to 4.1 years for all workers 16 and over.<sup>43</sup> A job tenure requirement may also lead some workers to stay in jobs that are a second-best match for them, in order to continue to be eligible for benefits.

Further, job-specific minimum hours rules discriminate against part-time workers who hold multiple jobs. These workers may be employed at 40 or 50 hours per week, but at multiple companies. The insurance contract should be between workers and their government, not workers and their employer.

Myra Marx Ferree in “An American Utopia,” proposes that anyone who has accumulated at least 20 quarters of covered employment should be eligible to take a quarter of FMLA-type leave.<sup>44</sup> Workplace Flexibility 2010 proposes (in one of its prototypical models that relies on Social Security) that individuals would earn the right to take six months from Social Security for every 2.5 years worked (10 credits). Also, five years would be the maximum period of time that could be drawn down from Social Security for FMLA-type leaves.<sup>45</sup>

Another way to determine eligibility for Social Security Cares is to align it with the current eligibility rules for the disability benefits of Social Security. We use these criteria not because there is any conceptual connection between leaving the labor force for a long-term disability and needing an FMLA leave, but because the system already allows younger and low-earning workers to qualify on reasonable terms. The eligibility criteria are based on the worker’s age and the credits they have accumulated by the leave date. Specifically:<sup>46</sup>

- Before age 24, workers will need one-and-a-half years of work (six credits) in the three years prior the leave date.
- Between ages 24 and 30, workers will need credits for half of the time between age 21 and the leave date.
- At age 31 or older, workers need at least 20 credits in the 10 years immediately before the leave date.

All leaves—first and subsequent—will be subject to the same set of rules, noting that workers cannot take more than 12 weeks per year of family and medical leave. This has the advantage of being easy for the Social Security Administration to administer, since they already have these criteria programmed into their computers. It also has the advantage of making the benefit widely available to new parents, while asking them to commit to the system before they have children.

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## Benefit formula

Benefits should supplement family income sufficiently to allow workers to take time off. If benefits are too low then it may not make sense for higher-paid workers to make use of benefits. But benefits should not be set as high as to prohibitively expensive for the system.

In prior work, Ferree has proposed that the benefits be equal to “that currently paid at retirement for the median worker, making this wage replacement more helpful for lower-wage workers who are less able to call on private benefits.”<sup>47</sup> This policy has the advantage of reducing wage inequality. Alternatively, Workplace Flexibility 2010 proposes that the benefit level be equal to “the benefit amount that is being paid that year to an individual who, at retirement age, earned what the employee was earning at the time he or she took extended time off.”<sup>48</sup>

An easy way to structure benefits is to tie it to what a worker would currently receive under the disability program in Social Security. This would retain Social Security’s progressive benefit structure and build on the foundation already in place with the Social Security program. The taxes paid into Social Security are not progressive as the rate is same for everyone and earnings above \$106,800 (in 2009) are not taxed, but the benefit structure is progressive. Low-wage workers see more of their earnings replaced than do high wage workers.

Urban Institute researchers Erica Zielewski and Shelley Waters Boots point out that one challenge may be that the Social Security system is not set up to deliver checks quickly. Further, the disability system has a five-month waiting period before they will send out a recipient’s first check.<sup>49</sup> Social Security Cares would have to address this as payments would need to be sent out in a timely manner to help workers cover their lost income.

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## Eligibility and benefit simulations

Table 2 below shows a series of eligibility and benefit simulations based on the current rules for the Social Security disability and retirement systems. Each simulation shows a worker with varying levels of employment and earnings history. Both programs are progressive: The less a worker earns, the greater the share of income that is replaced by the benefit. The share replaced by the two programs is about the same and often slightly higher for the disability program, providing no reason to go with the retirement over the disability system for calculating benefits under Social Security Cares.

**TABLE 2**  
**Simulations for Social Security Cares**

Seven case studies that demonstrate the potential Social Security retirement and disability income different workers would receive depending upon their ages and work histories

|  | Benefit levels based on current disability program |              |             |                  | Benefit levels based on current retirement program |              |             |                  |
|--|--|--------------|-------------|------------------|--|--------------|-------------|------------------|
|  | Eligible?  | Benefit      |             |                  | Future work assumptions                            | Benefit      |             |                  |
|  |  | Monthly (\$) | Weekly (\$) | As % of earnings |  | Monthly (\$) | Weekly (\$) | As % of earnings |
| <b>CASE 1</b><br>• 30-year-old female<br>• Worked part time, at an annual salary of \$12,500, since the age of 21  | Yes  | \$819        | \$189       | 79%              | Earns \$12,500 annually to retirement              | \$775        | \$179       | 74%              |
| <b>CASE 2</b><br>• 23-year-old female<br>• Worked summers from age 16 to 20, earning minimum wage working 35 hours per week for 12 weeks (total of \$2,163 per summer)<br>• Began full-time work at age 21 earning \$24,000, up to \$25,000 at age 22 and \$26,000 at age 23                         | Yes  | \$1,084      | \$250       | 50%              | Earns \$26,000 annually to retirement              | \$1,124      | \$260       | 52%              |
| <b>CASE 3</b><br>• 35-year-old male<br>• Same earnings history from ages 16-24 as in Case 2, but who earned \$30,000 from age 24 to 28, \$32,000 from age 29 to 31, and \$35,000 from age 32 to 35   | Yes  | \$1,445      | \$334       | 50%              | Earns \$35,000 annually to retirement.             | \$1,390      | \$321       | 48%              |
| <b>CASE 4</b><br>• 42-year-old female<br>• Worked part-time for 20 hours per week at \$12/hour for past four years<br>• Worked full-time at \$40,000 per year before that, starting at age 21  | Yes  | \$1,986      | \$459       | 60%              | Earns \$12*20 hours/week annually to retirement    | \$1,434      | \$331       | 138%             |
| <b>CASE 5</b><br>• 50-year-old female<br>• Earns \$50,000, who has worked full-time at that salary for past eight years, and part-time for three years prior to that (\$25,000 per year)<br>• Also worked from age 21 to 23 for \$25,000 per year, but then stopped working to care for her children | Yes  | \$1,284      | \$297       | 31%              | Earns \$40,000 annually to retirement              | \$1,790      | \$413       | 54%              |
| <b>CASE 6</b><br>• 50-year-old male<br>• Earns \$80,000 per year and has worked full-time for past 20 years at that salary   | Yes  | \$2,185      | \$505       | 33%              | Earns \$25,000 annually to retirement              | \$1,340      | \$309       | 64%              |
| <b>CASE 7</b><br>• 20-year-old male<br>• Earns \$20,000 per year and has worked one year   | Yes  | \$698        | \$161       | 10%              | Earns \$50,000 annually to retirement              | \$1,626      | \$376       | 39%              |
|  |  |              |             |                  | Earns \$80,000 annually to retirement              | \$2,291      | \$529       | 34%              |
|  |  |              |             |                  | Earns \$20,000 annually to retirement              | \$698        | \$161       | 10%              |

Source: Social Security online benefits calculator. Inputs are date of birth, salary for each year worked prior to 2010, average salary for years after 2010, expected retirement age and real vs. nominal dollars. Calculator can be found at: <http://www.ssa.gov/retire2/AnyipiaApplet.html>

The simulations show that the system is clearly progressive in terms of benefits. The lowest earners see the largest share of their earnings replaced compared to the higher earners. The system also allows younger workers and part-time workers to qualify, even if they earn low wages.

At low wages, the scenarios with younger workers provide a higher share of earnings replaced compared to older workers. The 23-year-old who earns \$26,000 sees 50 percent of her earnings replaced, but the 50-year-old who earns \$50,000 but had left the labor market at age 23 to raise a family, began working part-time, then only began full-time work eight years ago, sees only 31 percent of her earnings replaced. Even though the system is progressive, it does not provide significant benefits to those with very limited lifetime employment: Case 7 shows that the 20-year-old worker with only one year of full-time work at \$20,000 will only get \$161 per week, just 10 percent of their salary replaced.

# Financing Social Security Cares

The media is awash with news about the potential long-term problems with Social Security. While the biggest problems are on the health care side, President Obama has indicated that he wants to focus on Social Security at some point during his tenure. That discussion will probably include expanding the payroll tax or increasing the earnings cap and taxing the earnings of higher-paid workers. Financing Social Security Cares could be rolled into a broader reform and would have the added benefit of potentially improving the long-term solvency of the system because it will likely increase the labor force participation of mothers as well as workers with health problems or workers who need to care for those who chronic or serious health problems.

Research shows that women who have access to paid leave are more likely go back to work after they have a child.<sup>50</sup> Countries with short- to moderate-length leave policies that allow new parents the necessary time to recover and bond with a new child, yet not so long as to encourage women to drop out of the labor force altogether have higher labor force participation rates than countries with no leave or very long leaves.<sup>51</sup> Establishing paid family leave could improve family well-being by helping women stay in the labor force—reducing their poverty in retirement and increasing their family income while also shoring up our pay-as-you-go Social Security system overall.

If we choose to pay for Social Security Cares with payroll taxes, then the burden would be relatively small. Payroll taxes for the Social Security system are currently 12.4 percent and a 50-50 split between employers and employees. Research in Massachusetts suggests that a standalone family and medical leave program covering 100 percent of earnings for a maximum of 12 weeks would cost around \$120 per worker per year.<sup>52</sup> This works out to about three-tenths of a percent of the typical worker's annual salary.

Alternatively, increasing the earnings cap and taxing higher paid workers could easily cover this. According to the Census Bureau, there are about 10 million workers who have earnings above the earnings cap. If we raised the earnings cap from \$106,800 per year up to \$120,000, we could more than pay for Social Security Cares for every worker in the United States without increasing the payroll tax.

Alternatively, the program could be funded by allowing workers to trade their future Social Security funds for benefits during family and medical leaves during their working years. This would be simply a shift in benefits: for every day taken during a workers' career, their retirement age is increased by a day (or more if we model this to include interest payments). Workers will be able to borrow from their future selves at a risk-free interest rate (in real terms).

Financing the system by allowing workers to voluntarily trade time to care during their working years for time from retirement (subject to the maximum of 12 weeks per year and only for the kinds of leaves covered by FMLA) brings up a series of distributional questions. If high-wage workers continue to receive family and medical leave benefits from their employers, then disproportionately low-wage workers will “make the trade” and give up time in retirement, which leads to questions about the system's equity.

Further, how would the ability to trade benefits affect early retirement and benefit levels? If each day of Social Security Cares extends that individuals' retirement schedule by a day, then it should be that if the worker could retire early at age 62 but traded 12 weeks of leave, then now they can retire early at the age of 62 and 12 weeks. This may have distributional effects: if workers use Social Security Cares in their early employment years—when they earn less—and get relatively low benefits, but then are trading this for higher benefits in retirement (after a lifetime of earnings), what is the distributional impact?

One major concern with the idea of allowing workers to trade time to care for retirement benefits is that it threatens already-fragile retirement security. Yet for the vast majority of workers, making this trade when they have a child or need time off to care for themselves or others will entail retiring a few weeks or maybe a year later. This may be a small price to pay to have paid time off when a young family or family with a serious health crisis needs it most. One way to ensure that families do not use too much of their retirement would be to cap the length of leaves borrowed over a lifetime at one year. This would give families a 12-week leave for each parent at the birth or adoption of both of their children (the typical family has two children) and 28 weeks to cover own illnesses or caring for family members.

# Conclusion

President Franklin D. Roosevelt declared in 1938 that “the Social Security Act offers to all our citizens a workable and working method of meeting urgent present needs and of forestalling future need.”<sup>53</sup> Now, just as during Roosevelt’s tenure, Social Security must be able to meet the pressing needs of families and help them avoid future long-term needs.

Paid family and medical leave is not something that is very important to working families in most years, but when it is necessary it can be critical. It is stressful—and wonderful—when a new child comes into the family and stressful when someone is ill. Families should not have to add concerns about their paychecks to their already-long list of to-dos at these important times.

When we implemented Social Security in 1935, most families had a stay-at-home parent, usually a mother, to provide care for children, the sick, and the elderly. Now that most families do not have this setup, we need our policies to adapt. While families may have other pressing needs—funding a child’s education, for example—needing time away from work is a new pressing issue that has developed over the past half century.

The challenge is to develop a program that meets our policy goals of inclusiveness and has a political future. Now may be the time to think the unthinkable and acknowledge that the care work that used to be done by full-time homemakers now must be done by full-time workers and we must fix our policies to make it possible for workers to take time off when their families need them.

Paid family and medical leave is not something that is very important to working families in most years, but when it is necessary it can be critical.

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