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Social Security Cares

Why America Is Ready for Paid Family and Medical Leave

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Introduction and summary

Our economy is fueled by individuals who combine work with parenting or with caring for an elderly or ailing relative. Two-thirds of families today are led by two income-earners or a single-parent wage-earner, which means no one can easily stay at home in these families—whether to take care of a sick child or elderly parent, to care for a newborn child, or even to take care of themselves in the event of a serious illness.¹

While the phenomenon of workers combining work with care is not new, one thing is now clear: This trend is not going to be reversed but rather will continue to accelerate. In fact, in 2010 half of all births to women under age 30 were to single mothers.² If a single mom or one of the breadwinners in a two-earner family must stay at home to care for an ill child, then they may face loss of pay, loss of opportunity to advance in the workplace, or, in the worst cases, loss of a job. While these scenarios are most likely for those workers earning the lowest wages, no worker in the United States is fully protected against these possibilities.³

This is where our proposed Social Security Cares Act would come into play. The proposed new law would establish a national paid family and medical leave program as part of Social Security. This new program would provide partial wage replacement for workers across the country who temporarily need to take time off from their jobs to tend to their own medical condition, to care for an ill family member, or to take care of and bond with a newborn or newly adopted child.

While paid family and medical leave would be a new addition to our system of social insurance, it is built on historic programs put in place during the New Deal and expanded over time to protect workers against the loss of income due to a range of unexpected and planned events. Social insurance—including unemployment insurance, old age and survivors insurance (commonly referred to simply as Social Security), and Social Security disability insurance—is financed through a payroll tax on employers and employees. Our most prominent social insurance programs—old age and survivors insurance and Social Security disability insurance—are run through the Social Security Administration.

Providing paid family and medical leave through social insurance administered by the Social Security Administration would benefit more than just the workers facing the strain of balancing work and care—it would also benefit businesses and taxpayers.

Businesses, in particular small businesses, would have a more productive and stable workforce and would not have the burden of administering insurance for their workers.⁴

Taxpayers would benefit too. The reason: There are a number of administrative efficiencies that would be gained by operating Social Security Cares through the Social Security Administration, including access to an expansive national infrastructure currently administering numerous federal programs serving individuals across our nation. A national program could also help avoid confusing and unnecessary variation across states and preserve scarce resources for overburdened state governments.

This paper explains in detail the benefits of administering paid family and medical leave through the Social Security Administration—specifically the Center for American Progress’s proposed Social Security Cares program.⁵ Under this proposal, the commissioner of the Social Security Administration would establish an Office of Paid Family and Medical Leave within the agency to administer the Social Security Cares program.⁶ In this way, the expertise of the Social Security Administration staff would be immediately brought to bear in the design and implementation of the new law, relying on their experience at setting standards, evaluating applications, and adjudicating disputes.⁷

There is also historical precedent for this proposed new program. The implementation of the new Social Security Cares program would not be the first time that the Social Security Administration has enhanced the protection it offers to American families. In fact, Social Security has evolved over time to serve Americans’ changing needs, as laid out in a companion paper by Heather Boushey and Sarah Jane Glynn.⁸ The Social Security Act was originally passed in 1935 to provide income security for seniors but has since grown to include Social Security disability insurance—benefits for workers who are expected to be out of work due to disability for a year or more (1956)—and supplemental security income, a purely need-based income for persons with disabilities (1972).⁹

Social Security also adapted to shifting demographics over the decades. In 1983 Congress ensured that funds would be available to sustain aging baby boomers by pre-emptively boosting revenue and adjusting the retirement age.¹⁰ In addition,

the Social Security Administration has demonstrated that it has the capacity to handle at least a small percentage of claims quickly through the Compassionate Allowances Initiative and Quick Disability Determinations, two programs that expedite the applications of workers whose medical conditions make them more likely to qualify for Social Security disability insurance.

As a result of these prior successes, there is reason to be optimistic about the implementation of Social Security Cares. The Social Security Administration already administers claims through a process requiring a lengthy application and evaluation procedure. To be sure, as we discuss in detail below, the Social Security Administration does currently have challenges administering the Social Security Disability Insurance program in a timely manner due to large increases in the caseload and lack of adequate funding to administer it. But the Social Security Cares application and claims evaluation process would be far simpler than that associated with Social Security disability insurance payments.

Under Social Security Cares, a large number of cases—those related to leave for pregnancy, child birth, or baby bonding—will be easy to prove and less open to interpretation. The Social Security Administration can model such determinations on the existing Social Security Survivors Benefits program, which requires the proof of death of the beneficiary. In the case of pregnancy or baby bonding, the claimant will merely need to show proof of birth or adoption of the child. In addition, there are programs similar to Social Security Cares from which administrators can glean valuable lessons.

Two states, California and New Jersey, have been offering their residents a paid family leave program for several years, and their experience is instructive.

For short-term disability insurance claims or claims to care for a person with a serious illness or short-term disability, the Social Security Administration will be able to use strategies for evaluating similar claims developed in the five states—California, Hawaii, Rhode Island, New York, and New Jersey—with statewide temporary disability insurance programs.

In 1993 Congress laid the foundation for Social Security Cares by passing the Family and Medical Leave Act, which requires covered employers to give workers job-protected unpaid leave for designated health and family reasons. The Family and Medical Leave Act would provide the qualifying standards for the admin-

istration of Social Security Cares, thus saving substantial time and effort in the implementation process of the proposed new program benefits.

Social Security Cares would also establish a uniform national process for obtaining paid family and medical leave in the United States instead of what the current system requires, which is based on a mixture of state- and employer-specific policies. No one will lose access because they change locations or switch jobs. To ensure the effectiveness of a national paid family and medical leave insurance, implementing the new Social Security Care program will depend on:

- A focused outreach campaign
- A simplified and timely application process
- A fair and timely appeals process
- A well-trained staff

Briefly, here is why these four ingredients are important to the successful implementation of our proposed Social Security Cares program.

A focused outreach campaign

A campaign will be needed to boost public awareness about the benefits of Social Security Cares and the availability of the program administered by the Social Security Administration. This campaign should be targeted at potential beneficiaries, including those caring for or likely to care for sick children and elderly relatives.

The outreach campaign should also be targeted to the public at-large to stress that as a social insurance program, Social Security Cares will be a self-sustaining program that does not add to the federal budget, and that the program will be there for you when you need it.

A simplified and timely application process

The purpose of a paid family and medical leave program is to allow people to leave the labor market for a short period of time, receive wage replacement during the absence, and seamlessly return to work. In order for the program to be effective, the application process will need to be as simplified and streamlined as possible so that those who apply will either quickly receive their benefits or be told that they do not qualify.

A fair and timely appeals process

The Social Security disability insurance program has been under fire recently for the untimely and uneven handling of appeals.¹¹ The Social Security Administration should certainly work to correct these problems, but regardless, the challenges will unlikely be as significant for the Social Security Cares program. For one, a number of the qualifying reasons for taking leave under Social Security Cares are very straightforward, and for those that are less clear-cut, the agency can learn from the procedures used in states currently operating temporary disability insurance programs.

Second, the financial stakes are lower for the federal government with Social Security Cares because this is a temporary program with a limit of up to 12 weeks of leave (as compared to long-term disability insurance, which could leave a worker out of the workforce for the rest of his or her life). These factors mean that more applicants will receive benefits during the initial determination process rather than needing to await benefit confirmation through the appeals process.

A well-trained staff

In order to ensure timely and fair applications and appeals, staffing for Social Security Cares would best be served by drawing on the experience of training and retaining staff from a the multitude of existing social insurance programs, including Social Security Disability Insurance, Survivor's Benefits, and Old Age Insurance.

In the main text of our report, we will demonstrate why the Social Security Administration is the right place to administer this new Social Security Cares program and then detail how exactly the program will work in practice. But let's cut to the chase: We already have the tools to provide working families the paid time off they need to care for loved ones and themselves—the time-tested Social Security program. Swift passage of this proposal can be followed by efficient and effective implementation by the Social Security Administration. For the millions of low- and middle-income Americans struggling every year to make ends meet and keep their jobs when an emergency arises or a new child is welcomed into the family, passage of the proposed Social Security Cares Act cannot happen soon enough.

Social Security Cares unpacked

Most employees in the United States who need to take leave from work following the arrival of a new child, the serious illness of a family member, or their own serious illness, have no options for income replacement. At best, federal law may protect them from losing their job, but only if they have been employed for long enough (at least 12 months), worked enough hours (at least 1,250 hours in the previous year), and work for a large enough employer (at least 50 employees in a 75-mile radius). These restrictions mean that about half of private-sector workers are ineligible for job-protected leave¹², and nearly 90 percent of those who needed leave but did not take it cited financial reasons.¹³

Social Security Cares, a program proposed in the Center for American Progress report “Helping Breadwinners When It Can’t Wait” and included in the Center’s proposal to modernize Social Security, “Building It Up, not Tearing It Down,” would begin to address these inadequacies in our current federal employment laws.¹⁴

Social Security Cares would provide up to 12 weeks of partial wage replacement for eligible workers who need to take leave from work in order to bond with a child after birth or adoption, to recover from their own serious illness, to provide care for a seriously ill family member, to assist an active member of the military in deploying, or to care for a military service member with a serious injury or illness, the same length of leave and qualifying conditions provided under the Family and Medical Leave Act.¹⁵ Like the Family and Medical Leave Act, Social Security Cares leave would be gender neutral, meaning that men and women qualify for the same amount of leave, which would encourage greater uptake by men. Social Security Cares expands the definition of family to include domestic partners and other family members, as nine states and the District of Columbia have already done.¹⁶

In order to insure workers with labor force attachment, coverage would be based on whether a worker has established the necessary employ-

ment history to be eligible for Social Security Disability Insurance. Eligibility is age-adjusted, meaning that younger workers with less work-history can still be covered. Because eligibility is tied to lifetime employment history, not tenure or hours with a specific employer, workers who hold multiple part-time jobs, work for small businesses, and those who have changed employers within the previous year are not penalized, provided they have sufficient labor force attachment.

Social Security Disability Insurance eligibility requirements and more information on the workers who would be covered under Social Security Cares are explained in greater detail in the Center for American Progress report “Comprehensive Paid Family and Medical Leave for Today’s Families and Workplaces: Crafting a Leave System that Builds on the Experience of Existing Federal and State Programs.”¹⁷

There are several ways that the program could potentially be funded, outlined in *Helping Breadwinners When It Can’t Wait* and *Building It Up, not Tearing It Down*. For the purposes of the reports in this series, we assume the funding mechanism would mirror how it was done in California and New Jersey. In California, payroll taxes toward the longstanding disability insurance trust fund increased to 1.2 percent of payrolls, using the State Disability Insurance wage base (this fund covers both State Disability Insurance and Paid Family Leave), and, in New Jersey, a new trust fund was established equal to 0.12 percent of payrolls, using the Social Security wage base.

Social Security Cares would include language to prevent retaliation and discrimination against leave takers, but unlike the Family and Medical Leave Act would not require job protection. Social Security Cares leave is intended to be taken in conjunction with this existing leave law for those workers who qualify, and to extend its protections to part-time workers, workers in small businesses, and domestic partners would need to be addressed through separate legislative action.

A flexible agency

How the Social Security Administration responds to America's changing needs

Social Security Cares represents the next major evolution for an agency, the Social Security Administration, which has already adapted several times to serve the changing needs of American families. The Social Security Administration is an independent agency that administers Social Security, a social insurance program consisting of retirement, disability, and survivors benefits. Benefits are funded by Social Security payroll taxes on workers' earnings, which are paid by American workers and their employers, and the amount of the benefit is calculated based on an employee's long-term contributions.

Congress amended the Social Security Act to include benefits for disabled workers in 1956. But many people recognized the need for a wage replacement program to assist disabled workers in the 1930s when the Social Security Act originated. In fact, former President Franklin D. Roosevelt's 1934 U.S. Committee on Economic Security proposed that Congress pass a temporary disability insurance program and conduct further studies to develop a system for permanent disability.¹⁸ After enactment of the 1935 Social Security Act, which did not include either temporary or permanent disability insurance, serious thought was given to expanding the program to provide such benefits, though there was active opposition to the program stemming from concerns about both high costs and administrative difficulties in making disability determinations.

The issue was debated in Congress throughout the 1940s and early 1950s, until Social Security disability insurance, which provides monthly permanent disability insurance benefits, was added in 1956, followed by supplemental security income in 1972, which provides purely need-based income for persons with disabilities.¹⁹ Temporary disability insurance was dropped as a concept due to concern that employees would "work the system" to create fraud; that the costs of the program would be high; and that the program would crowd out state programs and charitable efforts.²⁰ The Social Security Administration therefore was never given the opportunity to effectively develop such a program.

The Social Security program also can adapt to shifting demographics. In 1983, a commission studied Social Security and reviewed demographic data about the United States. The commission looked to projections showing that the system

would struggle to pay benefits to the so-called baby boomer generation—those born between 1946 and 1960. The commission recommended boosting revenue by initiating a gradual raise in the retirement age and by raising payroll taxes. Congress successfully passed legislation to do both.²¹

In addition, since February 2008 Social Security demonstrated resilience in another way: using computers to expedite review of applications for disability benefits from applicants who clearly meet the relevant standards. Social Security’s Quick Disability Determinations program uses a “computer-based predictive model” to “identify cases where a favorable disability determination is highly likely and medical evidence is readily available.” The Social Security Administration is now seeking to further expand the Quick Disability Determinations program.²² This process will be extremely useful in making quick determinations for the medical disability component of the Social Security Cares program.

Another program, Compassionate Allowances, provides an additional shortcut to disability benefits for a set list of conditions that is still growing. In October 2011 the Social Security Administration added 13 new conditions to the list of qualifying disabilities for a current total of 113.²³ The Compassionate Allowances program has simple criteria: By alleging one of the listed conditions, the applicant is designated an application automatically, and Social Security expedites processing of the claim.²⁴ Lessons from the Compassionate Allowance program can be applied to expediting claims for leave associated with the birth or adoption of a baby, which will be easy to demonstrate and should automatically qualify an individual for Social Security Cares benefits.

To be sure, the Social Security Administration is far from flawless in processing claims for Social Security disability insurance. For instance, there is wide variation among State Disability Determination Services in the initial decision to allow or deny a claim for disability insurance.²⁵ Some of the variation may be explained by differences in industry, but may also be a result of different judgment calls that lead to differential access. In the past year, the *Wall Street Journal* has also reported on a wide variation in the awarding of benefits depending on the lawyers and judges involved in appealing cases.²⁶ In creating a new program, the Social Security Administration would need to be careful not to replicate the same flaws and inconsistencies that are part of the Social Security disability insurance program.

The Center for American Progress is a nonpartisan research and educational institute dedicated to promoting a strong, just, and free America that ensures opportunity for all. We believe that Americans are bound together by a common commitment to these values and we aspire to ensure that our national policies reflect these values. We work to find progressive and pragmatic solutions to significant domestic and international problems and develop policy proposals that foster a government that is “of the people, by the people, and for the people.”

