

MEMO

To: MMA Policy Council
From: Janet Silversmith, Director of Health Policy
Re: Paid Sick Leave
Date: January 23, 2016

Introduction

In May 2016, the MMA Policy Council considered a variety of new topics that had been submitted to the MMA for policy consideration, including the issue of MMA support for paid sick leave legislation. The Council agreed to retain this issue for future deliberation. The issue was submitted by Carl Burkland, MD.

Background

Minnesota Law

Under Minnesota law, employers are not required to provide personal sick leave benefits. If an employer does allow an employee to take time off for his/her own injury or illness, however, the employer must also allow the employee to take time off as follows:

- to care for an ill or injured minor child, adult child, spouse, sibling, parent, mother-in-law, father-in-law, grandchild, grandparent or stepparent in the same manner the employer would allow an employee to use the leave for themselves.
- for themselves or a relative (as listed above) to provide or receive assistance because of sexual assault, domestic abuse or stalking.¹

These provisions apply as follows:

- Employees who have worked for the employer for at least 12 months
- Employees who worked at least half-time during those 12 months
- Employers that have 21 or more employees at one site and
- Employers are defined to include an individual, corporation, partnership, association, nonprofit organization, group of persons, state, county, town, city, school district, or other governmental subdivision.²

Any employer-provided time off for injury or illness need not be paid time off. However, if the employer provides paid time off for the illness or injury of the worker, time off for the illness or injury of a family member must also be paid. If an employee has more than 160 hours of sick leave available during a 12-month period, the employer may limit the employee's use of the sick leave for the illness or injury of family members, other than a minor child, to 160 hours.¹

¹ M.S. §181.9413

² M.S. §181.940

Federal Law

Federal law does not require employers to provide sick leave.

The Federal Family and Medical Leave Act (FMLA), adopted in 1993, entitles *eligible employees* of *covered employers* to take unpaid, job-protected leave for *specified family and medical reasons*.

In general, the FMLA provisions are as follows:

- Covered employers:
 - Private-sector employer, with 50 or more employees in 20 or more workweeks in the current or preceding calendar year, including a joint employer or successor in interest to a covered employer;
 - Public agency, including a local, state, or Federal government agency, regardless of the number of employees it employs; or
 - Public or private elementary or secondary school, regardless of the number of employees it employs.
- Eligible employees:
 - Works for a covered employer;
 - Has worked for the employer for at least 12 months;
 - Has at least 1,250 hours of service for the employer during the 12 month period
- Unpaid, job-protected leave of up to 12 workweeks in a 12-month period for one or more of the following specified reasons:
 - The birth of a son or daughter or placement of a son or daughter with the employee for adoption or foster care;
 - To care for a spouse, son, daughter, or parent who has a serious health condition;
 - For a serious health condition that makes the employee unable to perform the essential functions of his or her job; or
 - For any qualifying exigency arising out of the fact that a spouse, son, daughter, or parent is a military member on covered active duty or call to covered active duty status.
- An eligible employee may also take up to 26 workweeks of leave during a single 12-month period to care for a covered servicemember with a serious injury or illness, when the employee is the spouse, son, daughter, parent, or next of kin of the servicemember.

Under Minnesota law, the scope of the federal FMLA law is expanded, for purposes of pregnancy and parental leave only, to apply to all employers with 21 or more employees.³

In September 2015, President Obama issued an executive order requiring federal contractors to provide their employees with at least one hour of paid sick leave for every 30 hours worked, though individual contractors could opt for more. It also takes into account absences related to stalking, sexual assault or domestic violence. The orders, and subsequent regulations due by September 2016,

³ M.S. §181.940 to 181.944.

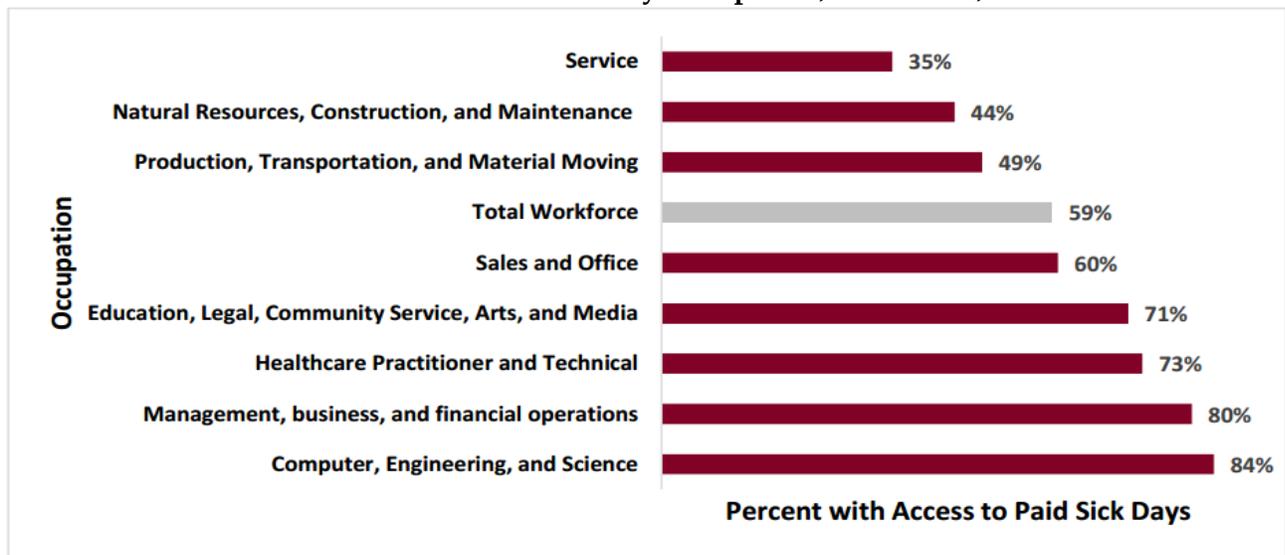
take effect January 1, 2017.

Data on Access to Paid Sick Leave

According to the Bureau of Labor Statistics⁴, 65% of all civilian⁵ workers have access to paid sick leave. The rates differ between private and public (non-federal) workers, 61% and 90%, respectively. The rates for full-time and part-time workers were 78% and 26%, and 74%/24% among private workers, and 98%/42% among public (non-federal) workers.

Minnesota-specific data on access to paid sick leave shows dramatic differences based on work setting and earnings, as demonstrated in the following tables:

Access to Paid Sick Leave by Occupation, Minnesota, 2012



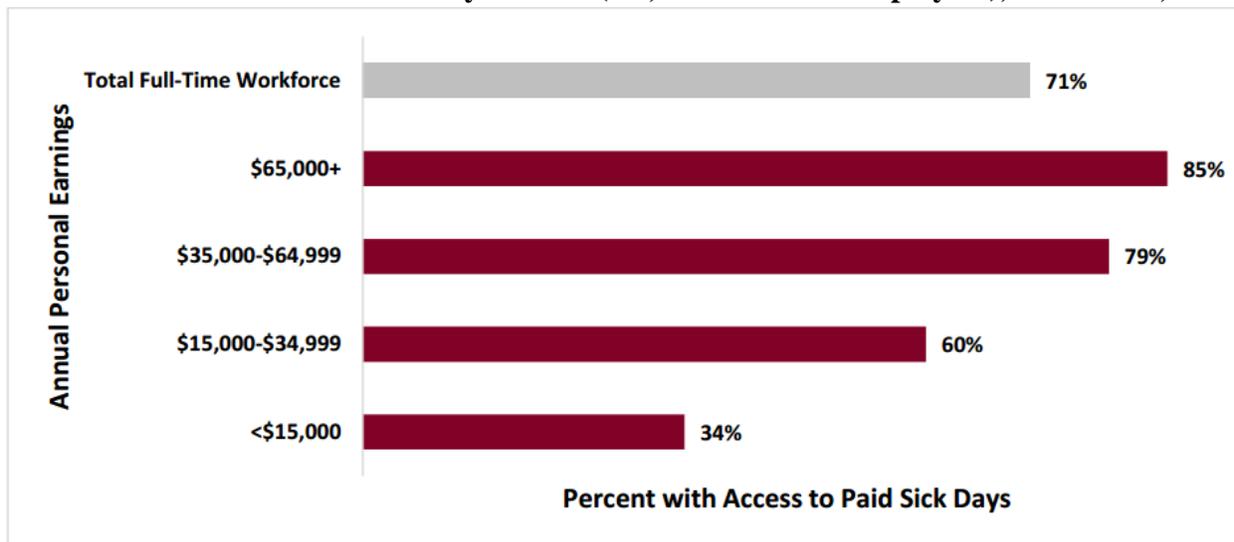
Note: Access rates are for individuals, 18 years and older, living in Minnesota area regardless of their place of work. Percentages and figures may not add to totals due to rounding. Source: Institute for Women's Policy Research analysis of 2010–2012 National Health Interview Survey (NHIS) and 2012 IPUMS American Community Survey (ACS).

⁴ Bureau of Labor Statistics, Selected paid leave benefits: Access, National Compensation Survey, March 2015.

⁵ Workers in the private, nonfarm economy except those in private households, and workers in the public sector, except the federal government.



Access to Paid Sick Leave by Income (FT, Year-Round Employees), Minnesota, 2012



Note: Access rates are for individuals, 18 years and older, living in Minnesota area regardless of their place of work. For the analysis of access rates by personal income levels, the sample was also limited to only full-time year-round workers. Dollar values are in constant 2012 dollars. Percentages and figures may not add to totals due to rounding. Source: Institute for Women's Policy Research analysis of 2010–2012 National Health Interview Survey (NHIS) and 2012 IPUMS American Community Survey (ACS).

Other State and Local Action

In 2006, the city of San Francisco became the first U.S. city to adopt a paid sick leave ordinance. Since that time, approximately 19 other cities have adopted local policies. In 2011, Connecticut became the first state to pass a statewide law, followed by California in 2013. Massachusetts voters passed a paid sick leave ballot measure in 2014, and in June 2015, Oregon became the fourth state to adopt paid sick leave legislation.⁶ The scope of the various laws varies from location to location.

Legislation on the issue of paid sick leave has been introduced in the Minnesota Legislature periodically, mostly recently in 2015 (HF 549 [Lesch], SF 481 [Pappas]). The recent proposal would require all employers to provide employees who have performed at least 680 hours of work for the employer or who have worked for that employer for at least 17 weeks, a minimum of one hour of paid sick leave for every 30 hours worked for that employer. The legislation did not advance.

In the fall of 2015, the Minneapolis City Council began deliberations on a paid sick leave ordinance. Under the proposal, any employer with one or more employees, unless a collective bargaining agreement was in place, must provide one hour of sick time for every 30 hours worked, up to 72 hours per year for employers with at least 21 employees, 40 hours per year for smaller businesses. The leave could be used for illness, preventive care, domestic abuse, sexual assault, and stalking. The proposal (which also included an advance work schedule provision) generated fierce opposition from many business groups. The Council has delayed action on the proposal until spring 2016 and a task force of stakeholders was convened to further refine it.

⁶ State and Local Action on Paid Sick Days. National Partnership for Women and Families, July 2015.

Health Impact

According to a March 2015 analysis and report by the Minnesota Department of Health, Center for Health Equity⁷:

- Paid sick leave and paid family leave are associated with many positive health outcomes for employees and their families. This includes lower rates of on-the-job injuries, increased use of preventive care, less stress and better maternal and child health outcomes, including lower rates of infant mortality.
- The same employees least likely to have paid sick leave or the financial capacity to forego wages are in occupations most likely to have contact with the public, especially food services, long-term care and health care.
- The lack of access to paid sick leave has public health implications and has contributed to contagious disease outbreaks. In Minnesota, at least 208 outbreaks of foodborne illness were linked to employees working while sick between 2004 and 2013, and 579 outbreaks were associated with person-to-person transmission in public settings from 2004 to 2011.
- Some of the communities most negatively impacted by factors associated with poor health—poverty, unsafe or unstable housing, and hunger—are also disproportionately affected by inadequate access to paid sick and family leave.
- Research supports increasing access to paid leave to improve health and income, reduce inequities and disparities starting in childhood, and reduce disease outbreaks.
- Inadequate access to paid leave adds significant costs to Minnesota employers' health care expenses and adds to the costs of publicly-funded health care programs.

Access to a full copy of the health department report, which includes additional research summaries, has been separately provided for Council member's review (see email for link).

Opposition

Opposition to paid sick leave policies generally comes from the business community. According to information on its website, the Minnesota Chamber of Commerce, "opposes mandating sick leave benefits or changing how they are structured and applied. Since many employers already address how employees can use myriad benefits for sick leave, it is not necessary for the Legislature to mandate specific "paid sick leave" accrual programs for employees."⁸

The number of analyses on the economic impact of paid sick leave laws are modest, but appear to suggest positive, or at least minimal, negative effects.^{9,10}

⁷ Minnesota Department of Health, Center for Health Equity. White Paper on Paid Leave and Health, March 2015.

⁸ Minnesota Chamber of Commerce. Draft policies 2015, Employee Leave. Accessed online January 15, 2016 at <http://www.mnchamberexecutives.com/files/596.pdf>.

⁹ See for example, Office of the District of Columbia Auditor. Audit of the Accrued Sick and Safe Leave Act of 2008, June 2013.

Council Consideration

Among the questions the Council may wish to consider during its deliberation on the issue of paid sick leave are:

- What other information or data, if any, are needed to fully understand the issue?
- Are there unique issues to understand relative to the impact of such policies on physicians as employers?
- Are there membership implications that need identification or discussion?

¹⁰ See for example, Appelbaum E, Milkman R, Elliott L, Kroeger T. Good for Business? Connecticut's Paid Sick Leave Law. Center for Economic and Policy Research, February 2014.