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Congress Should Consider Alternatives to Mandatory Paid Sick Leave

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The Healthy Families Act (HFA, S. 910), sponsored by Senator Ted Kennedy (D-MA), would require businesses with 15 or more employees to provide mandatory paid sick leave. While the law should help workers taking time off when they or a family member needs medical care, a paid sick leave mandate would lead to wage cuts, forcing workers to take their pay in the form of sick leave whether they want to or not. Congress could better meet the goals of the Healthy Family Act by providing tax relief, creating sick leave savings accounts, and allowing workers to bank compensatory time to use for sick leaves. These policies would give workers, rather than employers, control over how they receive their earnings and take time off work.

Paid Sick Leave Comes Out of Workers' Paychecks. Workers should have the flexibility to balance their work and family lives, and the law should facilitate this. Forcing companies to provide paid sick leave, however, would reduce employee control.

Eighty-two percent of employers already provide paid sick leave or another form of paid time off.¹ The Healthy Families Act (HFA) focuses on the few workers lacking this benefit who must take unpaid Family and Medical Leave Act (FMLA) leave when they fall sick. Simply requiring employers to provide paid sick leave will not make these workers better off.

When considering the cost of employing workers, employers focus on total compensation; they do not care whether workers take their pay in the form of wages or benefits. Employers currently pay their

employees an average of \$0.30 per hour in sick leave benefits and \$1.94 per hour in all forms of paid time off.²

If Congress requires employers to provide paid sick leave, employers would not increase workers' total compensation. Rather, they would increase the amount of compensation they provide as sick leave and decrease other benefits or wages, leaving workers' total compensation unchanged. The HFA would only change how workers receive their pay, not how much they are paid.

This is not just a theoretical argument. Empirical studies demonstrate that companies respond in exactly this way when the government forces them to provide more generous benefits. For example, when the government required health insurance plans to provide maternity coverage, the cost of health insurance premiums for women of child-bearing age and their husbands rose. Employers paid those higher premiums and reduced those workers' wages commensurately.³ Many other studies show similar results when the government has required employers to pay greater benefits.⁴ The HFA would change the composition of workers' pay, not its amount.

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Mandatory Sick Leave Reduces Worker Control. Thus mandating paid sick leave would reduce workers' control over their work lives. Today, employees who need paid leave can set aside savings for when they need to take unpaid time off work. The HFA would essentially force workers to do this, whether they want to or not. Workers living on tight budgets or struggling to support families might prefer more income and less time off. The HFA would legally prevent these workers from making that choice, even if they would rather not take a pay cut to get more sick leave.

The HFA also dictates how workers can take their time off work. While many workers would abuse the system and use sick leave as an excuse for tardiness or unannounced days off work, millions of conscientious employees would not call in sick without true cause. These workers would be prevented from using the time off that the HFA has reserved for sick leave for other purposes. These workers might want time off to watch a school play, help their children with homework, or engage in other family activities, but the HFA would deny them this flexibility. Congress should not tell conscientious workers that their earnings can only go toward some forms of paid leave but not others.

There are better solutions that do not force workers to take a pay cut in exchange for a heavily restricted benefit. Instead of requiring employers to provide paid sick leave, Congress should increase workers' take-home pay by reducing taxes, create sick leave savings accounts, and allow private-sector workers to take compensatory time.

Tax Relief. The FMLA guarantees most employees unpaid time off work when they or a family

member is sick. The goal of the HFA is to help workers pay for this time off work. Rather than require workers to pay for sick leave whether they want it or not, Congress should give workers more flexibility, including the ability to take needed sick leave, by reducing the tax burden facing American families.

Federal taxes cost an average of over \$21,000 per household.⁵ To help offset the financial cost of an illness, Congress should let families keep more of the money that they earn. A 2 percentage point reduction in every marginal income tax bracket would save a family of four with \$50,000 in taxable income \$1,000 a year, enough money to pay for seven or more sick days.

Savings Accounts. Congress could also help Americans prepare for illnesses by creating sick leave savings accounts. These accounts would operate like a traditional IRAs. Workers could put pre-tax dollars into the accounts, which they could invest in various low-risk bonds and similar savings vehicles. The government would not tax earnings in the account, and when workers need time off work because of an illness or to tend to a family member, they could draw on these savings. The same tax advantages that encourage employers to match contributions to a 401(k) plan would also apply. Upon retirement, any unused funds could be rolled into a retirement account or taken as a lump-sum, tax-free payment.

Savings accounts would work just like mandatory paid sick leave: Workers would trade take-home pay for more time off work. The crucial difference is that workers themselves would *choose* how much pay to trade for how much leave. And because the money going into the account would belong to the worker and could be used in retire-

1. Society for Human Resource Management, "2006 Benefits," Survey Report, 2006, Table G-1.
2. Department of Labor, Bureau of Labor Statistics, "Employer Costs for Employee Compensation (ECEC) Survey," Table 1: Civilian Workers by Major Occupational Group, Q4 2006, all civilian workers.
3. Jonathan Gruber, "The Incidence of Mandated Maternity Benefits," *The American Economic Review*, June 1994, Volume 84, No. 3, pp. 622-641.
4. See, e.g., Patricia M. Anderson and Bruce D. Meyer, "The Incidence of a Firm-Varying Payroll Tax: The Case of Unemployment Insurance," NBER *Working Paper* No. W5201, August 1, 1995, and Jonathan Gruber and Alan B. Krueger, "The Incidence of Mandated Employer-Provided Insurance: Lessons from Workers' Compensation Insurance," NBER *Working Paper* No. W3557, December 1990.
5. Brian M. Riedl, "Federal Spending 2007: By the Numbers," Heritage Foundation *WebMemo* No. 1390. March 8, 2007, at www.heritage.org/Research/Budget/wm1390.cfm.

ment, dishonest workers would have no incentive to game the system by taking sick leave when they are healthy.

Compensatory Time. Compensatory time would also help workers to spend more time with their families when they want to, not when the government says they can. Comp time is widely used in the federal government but is illegal for most private-sector employers. With comp time, workers can, at their request and with their supervisors' approval, work more than 40 hours in a week, saving the extra hours in a comp time "bank." When workers need time off work for any reason, they can draw hours from the bank. Comp time gives workers great flexibility to take time off when they need it, and for whatever reason that they need it, without encouraging abuse.

Conclusion. Congress should make it easier for employees to manage the demands of work and family life, but requiring employers to provide paid time off is the wrong approach. Employers would respond to mandatory greater sick leave benefits by reducing other benefits and wages. Congress should not force workers to take a pay cut to receive more sick leave. Instead of making this choice for workers, Congress should raise incomes by reducing taxes, creating sick leave savings accounts for workers, and allowing employers to offer comp time. Unlike a mandatory sick leave benefit, these policies would give workers more choices and greater flexibility to balance work and family life.

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