

# WebMemo



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## Mandatory Paid Sick Leave Need Not Cut Workers' Pay

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Legislation that the new 111th Congress will likely debate early in its first session would require employers to provide their employees with at least seven days of paid sick leave a year. Though intended to help employees, this proposal would reduce many workers' pay. It raises benefit costs for the few businesses that do not already provide paid sick leave, and these companies would respond to such increased costs by reducing wages. The legislation forces workers to take part of their earnings as paid sick leave—whether they want to or not.

A simple modification would correct this unintended result: Congress should both permit and require employers to allow employees to cash out their paid sick leave benefits as they accrue. This modification would give all workers access to paid sick leave without requiring employees to take a pay cut.

**Mandatory Sick Leave on the Agenda.** High on the 111th Congress' agenda is mandatory paid sick leave. In the last Congress, Sen. Edward Kennedy (D-MA), Chairman of the Senate Health, Education, Labor and Pensions Committee, sponsored the Healthy Families Act (HFA, S. 910). President-elect Barack Obama, Vice President-elect Joe Biden, and Sen. Hillary Clinton (D-NY) were among the 23 senators co-sponsoring the legislation.

The Healthy Families Act requires businesses to provide full-time employees with at least seven days of paid sick leave a year. The vast majority (86 percent) of full-time workers already have paid leave they can take when they fall ill.<sup>1</sup> Workers at larger

businesses have modestly greater access to paid leave than workers at smaller firms, but in every sector of the economy the vast majority of workers have access to paid leave.<sup>2</sup>

Members of Congress support the HFA to help the minority of workers without sick leave balance their work and family lives. No one wants workers to face a choice between coming to work sick or losing their jobs. However, as written, the HFA will force many employees to take a pay cut.

**Mandated Benefits Come Out of Paychecks.** When the government requires businesses to provide employees with specific benefits such as paid sick leave, companies comply with the law. However, little of this cost comes out of profits. Employers care about the total compensation they pay their workers, not the division of that compensation between wages and benefits. Numerous academic studies show that employers respond to mandated benefits by providing the benefit and reducing wages by an offsetting amount.<sup>3</sup>

The average employee in 2008 earned \$0.31 per hour in sick leave benefits and \$2.03 per hour in all forms of paid time off.<sup>4</sup> Sick leave is a benefit that costs employers money. If Congress makes paid sick

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leave mandatory, companies will respond by cutting workers' pay by approximately the cost of providing the sick leave. Indeed, history has already demonstrated that companies respond to the higher benefit costs by lowering wages: When Congress required employer-sponsored health insurance plans to cover maternity care, employers offset this new cost by cutting employee pay.<sup>5</sup> Ultimately, paid sick leave comes out of workers' paychecks.

**Less Choice for Workers.** The Healthy Families Act would not increase workers' total compensation. Rather, it would require workers to take less of their compensation as cash wages and more as time off, whether they want to or not. Some workers would gladly make this trade; others would lose out. Many healthy workers who rarely fall sick would rather not take a pay cut to fund sick leave they will probably not use. Other workers cannot afford to take a pay cut in these current economic conditions. By forcing workers at companies without paid sick leave to take a pay cut, mandatory paid sick leave legislation gives employees fewer choices and less control.

As former Treasury Secretary Larry Summers observed, mandated benefits have many of the same labor market effects as raising taxes on workers.<sup>6</sup> Therefore, Congress should not raise taxes on workers during the middle of a steep economic downturn.

**Allow Workers to Cash Out Sick Leave.** Members of Congress understandably want workers to have the flexibility to take time off work when they

or a family member are ill. Few Members of Congress want to force workers to take a pay cut. A simple provision would accomplish both these goals.

Congress should require any company that provides the minimum mandatory paid sick leave benefits to allow its workers to cash out, at their request, paid sick leave benefits as they accrue. Under such a system, workers would still have the flexibility to take paid sick leave when they need it. However, Congress would not force workers to take a pay cut. Instead, this provision would grant any worker the option of taking their paid sick leave benefits in cash, thereby getting back the earnings they would lose with their pay cut.

Requiring companies to allow workers to cash out their sick leave benefits would give workers, instead of Congress or companies, control over how they receive their compensation. It would enable workers who need it to take paid sick leave without forcing healthy employees or employees who cannot afford lower wages to take a pay cut.

**Recommendations to Congress.** More than four-fifths of employers provide paid leave benefits their employees can take when they are ill. Many in Congress want to ensure that workers employed by the minority of firms that do not offer paid sick leave can take time off work when sick without jeopardizing their jobs. This is understandable. However, mandatory paid sick leave legislation would force workers to take a pay cut, as companies would respond to the higher benefit costs by lowering wages. Workers' total compensation would

1. U.S. Department of Labor, Bureau of Labor Statistics, "Employee Benefits Survey, Table 21, at <http://www.bls.gov/ncs/ebs/benefits/2008/ownership/civilian/table21a.htm> (January 7, 2009).
2. *Ibid.*
3. See Jonathan Gruber, "The Incidence of Mandated Maternity Benefits," *American Economic Review*, Vol. 84, No. 3 (June 1994), pp. 622–641; 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; 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; Price Fishback and Shawn Kantor, "Did Workers Pay for the Passage of Workers' Compensation Laws?," *Quarterly Journal of Economics*, Vol. 110, No. 3 (August 1995), pp. 713–742.
4. Department of Labor, Bureau of Labor Statistics, "Employer Costs for Employee Compensation (ECEC) Survey," Table 1.
5. Gruber, "The Incidence of Mandated Maternity Benefits."
6. Lawrence Summers, "Some Simple Economics of Mandated Benefits," *American Economic Review*, Vol. 79, No. 2 (May 1989), pp. 177–83. Summers demonstrated that mandated benefits act like a tax on workers equivalent to the difference between the cost to employers of providing a benefit and the value workers attach to that benefit.

remain unchanged, but they would be forced to take more of their earnings as paid leave. Congress should not force workers to take a pay cut. Instead, Congress should give workers control over their earnings. If Congress passes mandatory paid sick

leave legislation, Congress should give workers the right to cash out their paid sick leave benefits as they accrue.

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