Life Insurance Industry Response to Paid Leave Proposals

Non-COVID-19 specific federal and state paid leave proposals should be addressed separately from COVID-19 emergency response legislation. When government-mandated PFML laws provide coverage only through a government-run program that is funded through taxes or assessments, the American Council of Life Insurers (ACLI) will affirmatively advocate to allow an employer to opt out of the government funded program via the purchase of private insurance or through self-funding of the mandated coverage. The ACLI may oppose legislative language that will not allow an employer to opt out of the government-funded program via the purchase of private insurance or through self-funding of the mandated coverage.

ACLI supports sustainable paid family and medical leave laws (PFML) that include the preservation of the ability for coverage through private short-term disability income insurance or other private means. When government-mandated PFML is proposed, ACLI will support legislation that allows employers to meet the mandated coverage requirement through: a plan that fully comports with the mandate requirements via private insurance coverage; a self-funded plan; or, a combination private insurance/self-funded plan.

ACLI supports laws that allow life insurers to expand the availability of wage replacement coverage for family leave purposes. Enhancing the availability of this coverage is best done via amendment to a state's accident and sickness/disability income insurance law, where such coverage can be provided as a rider to a disability income insurance policy or on a freestanding basis, as disability income insurance currently provides the most extensive coverage to employees for wage replacement purposes. Any such law must provide applicable definitions, outline the minimum standards for qualifying events, and require the disclosure of policy benefit.

Incentives will encourage more employers to offer paid leave benefits.

The Fischer tax credit provides employers with a credit for wages paid to lower income workers that take leave to care for a newly born or adopted child, for their own medical care, and to care for a family member. However, the two-year initial duration of the credit and subsequent one-year extension do not provide the certainty and ability to plan for a longer term for employers considering offering a paid leave benefit. The credit should be made permanent, or at a minimum, for at least 5 years. Further, the Fischer credit should be modified to ensure that employer sponsored short-term disability insurance coverage and other paid medical and family leave benefits would qualify for the credit. Beyond the Fischer credit, additional targeted tax incentives could make offering paid leave benefits to employees more attractive. When employer sponsored family leave plans are offered on a cost shared or employee paid basis, premiums can be made more affordable for low income workers

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through premium tax credits like those established in the Affordable Care Act for health care coverage.

The cost for businesses starting up a new PFML plan can be offset by offering them a start-up credit like the credit available for starting up a retirement plan.

The recently enacted SECURE Act enhanced that start-up credit. Arrangements such as multiple employer trusts and associations may enable more small employer groups the opportunity to offer paid leave benefits. To make such arrangements easier to facilitate, legislation should facilitate better coordination between the DOL and States over oversight and reporting to ensure consistent application across States over licensing, registration, certification, financial reporting, examination, and audit.

Employer-based paid leave provides the most generous benefits in the most efficient manner possible.

New employer mandates impose additional costs on employers and may limit the ability for new and innovative businesses to develop and flourish. A nimble economy offers the greatest opportunity for new and innovative businesses to develop new and more generous leave benefits. Mandated paid leave requirements would pose significant challenges for many of those businesses that are not yet be able to offer paid leave to their employees. The Cassidy–Sinema proposal provides a $5,000 payment for new parents funded through the future reduction of the child tax credit. While employer paid leave programs are clearly preferable, ideas such as Cassidy-Sinema ensure that families have resources to provide for their families while on job protected leave while helping American businesses compete globally and add jobs to local economies.

Continue leveraging private sector management to coordinate absence benefits with other benefits offered by employers.

By relying on the private sector to work with employers, this coordination can be better aligned with each employers' overall benefits package.