Statement for the Record

Submitted to the

U.S. House Ways & Means Committee

"Legislative Proposals for Paid Family and Medical Leave"

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On Behalf of

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The American Council of Life Insurers is pleased to submit this statement for the record for the hearing titled, "Legislative Proposals for Paid Family and Medical Leave (PFML)." ACLI thanks Chairman Richie Neal (D-MA) and Ranking Member Kevin Brady (R-TX) for holding this hearing on such a key public policy issue – the importance of paid leave for workers.

Paid family and medical leave is an issue that is catching fire in America today because of its profound implications for families' financial security and well-being. This topic is of vital importance to millions of Americans who provide care to a loved one. For too long, many U.S. workers, especially low-wage workers and employees of small businesses, have had to choose between their job and their family.

ACLI believes that paid family and medical leave benefits provided through employer-insurer partnerships are vital to the health of the workforce and the financial security of families.

This statement will highlight the role of the life insurance industry in providing short-term disability income solutions to employers and their employees, highlight the gap in coverage and offer solutions to expand the private marketplace in order to provide insured PFML benefits more broadly. Most importantly, ACLI urges Congress to utilize private sector solutions as it contemplates a broader federal proposal.

THE AMERICAN COUNCIL OF LIFE INSURERS

The American Council of Life Insurers (ACLI) advocates on behalf of 280 member companies dedicated to providing products and services that promote consumers' financial and retirement security. Financial security is our core business, and retirement security for all Americans is a critical mission. We protect 90 million American families with financial products that reduce risk and increase financial security, including life insurance, annuities, retirement plans, long-term care insurance, disability income insurance, reinsurance, dental and vision and other supplemental benefits. As society and work changes, we are committed to solutions that protect all Americans, regardless of where and how they work, their stage in life, or the economic status of their household.

ACLI members represent 94 percent of industry assets in the United States. Through private solutions, we provide the benefit of financial protection. In 2018, American families received $19 billion in both short and long-term disability income insurance benefits from the private insurance industry.[1] As the United States grapples with challenges related to family and medical leave, the insurance industry is an important part of how Americans are able to remain financially secure in the face of short- or long-term absences from work.

LIFE INSURERS' ROLE IN PFML

A comprehensive benefit offering helps employers to recruit and retain top talent. As such, employees want their employers to provide paid leave benefits.

Private disability income insurance offered by life insurers is the most common form of income protection for workers—allowing millions of American workers to maintain their income when a medical condition or the birth of a child keeps them out of the workplace.

[1] ACLI Factbook 2019 (https://www.acli.com/posting/rp19-010)

In 2018, the private employer-based system paid American workers approximately $5.2 billion in short-term benefits[2] as they recovered from conditions that kept them from working, including those associated with pregnancy and the birth of a child. The number one paid benefit of short-term disability claims (around twenty-five percent) is related to pregnancy and maternity.[3] If employers today are offering paid maternity leave, they are likely using short-term disability benefit products to do so.

Short-term disability insurers already provide much of the paid medical leave. Approximately 47 percent of all full-time civilian workers are provided paid medical leave under their employer's short-term disability plan and approximately 50 percent of civilian workers in a union have access to short-term disability benefits.[4] Short-term disability plans provide paid leave for employees' inability to work due to a medical condition. A common benefit under these policies pay for maternity leave – typically for a period of six-to-eight weeks following the birth of a child, and for additional paid time during pregnancy, if medically necessary. The typical short-term disability plan provides income replacement (usually between 60 to 70 percent) for 26 weeks.[5]

There is growing demand among consumers for flexible paid family leave options which consider that parenthood begins in many different ways and consumers increasingly want the ability to care for family members themselves. At the same time, employers want flexibility and choice in designing plans in a cost-effective manner. Private sector solutions are needed. In order to expand access to coverage and answer this increased demand, ACLI and its member companies are actively seeking changes to state rules to allow insurers to develop and offer family leave benefits. These benefits would be offered through disability income insurance policies or stand-alone policies through employer-sponsored group plans or individual employee purchases. The benefits could be provided for any leave taken by an employee to:

- care for a family member, including physical or psychological care;
- bond with the employee's child during the first twelve months after birth or placement for adoption or foster care with the employee;
- address a qualifying exigency as interpreted under the Family and Medical Leave Act, 29 U.S.C. § 2612(a)(1)(e) and 29 C.F.R. §§ 825.126(a)(1)-(8), arising out of the fact that the spouse, child, or parent of the employee is on active duty; or
- take paid time off under other circumstances to provide for a family member as specified in the policy of insurance.

ACLI is also exploring the potential use of risk pooling for PFML arrangements, to create economies of scale to make such products more affordable to employers and, therefore, more accessible to employees.

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[2] ACLI calculation based on 2018 National Association of Insurance Commissioners (NAIC) annual statement data.

[3] "Ten-year review of disability claims show trends in workplace absences." (http://workwell.unum.com/2018/05/ten-year-review-of-disability-claims-shows-trends-in-workplace-absences/) Retrieved May 6, 2019

[4] Bureau of Labor Statistics, 2018 National Compensation Survey, retrieved May 3, 2019 (https://data.bls.gov/cgi-bin/dsrv?nb)

[5] Benzinga.com, "A Guide to Disability Insurance," May 2, 2019 (https://www.benzinga.com/money/disability-insurance/)

Most disability carriers administer benefits for both short- and long-term disabilities and do so with minimum burden on employers and employees and without disruption of income benefits. Private disability insurers are able to properly manage and assist American workers whose short-term absences extend into the longer-term.

Life insurers not only help employers protect their employees who face short-term absences, they also provide services to seamlessly transition workers whose absences extend beyond the short-term. Information gathered during a short-term absence is used to ensure that those workers who are unable to return to work do not face a second significant financial disruption as their short-term benefits expire. Long-term disability benefits coordinate with short-term paid leave to ensure a continuous income stream for employees. The private industry typically makes benefit decisions very quickly without income disruption to employees.

Private plans benefit employees and employers alike. Life insurers offer employers the flexibility to provide coverage with equal or more generous benefits than may be required under law and allow multi-state employers the ability to provide equal benefits to all employees.

ACLI's carriers have the expertise, systems, and staff to provide and assist administration of PFML benefits in programs. Moreover, life insurers have assisted states in the administration of unpaid and protected family leave for decades. With their expertise, life insurers could help effectively manage any new programs rather than government creating new government-run mandated programs.

CHALLENGES FACING PFML COVERAGE

As previously noted, employers provide nearly half of all full-time civilian employees' access to short-term paid leave benefits. This demonstrates a private marketplace that is working. However, there is room to expand this important financial protection. Similar to the vibrant retirement savings system provided by employers that is incentivized by the federal government, incentives should be provided to expand short-term paid medical leave coverage by building on a private system that works well. Additionally, incentivizing employers to provide this safety net for their employees alleviates pressure on other government-run systems.

A formidable challenge comes from the small business community. Providing short-term paid and protected leave can be costly for small businesses—some of which are just starting and hoping to grow. In some cases, it may simply be the employer size that proves to be a barrier. For small businesses with fewer than 50 employees, only 28 percent of those employees have access to short-term paid leave benefits.[6] There is ample room to expand coverage among small businesses, and the insurance industry can be part of the solution.

OPPORTUNITIES TO EXPAND PRIVATE PFML COVERAGE

Incentivizing employers to offer or expand private-sector paid leave is a better approach than a mandatory, government-run program that could increase taxes, increase administrative costs, and displace private-sector market solutions. Policymakers should seek innovative solutions to harness the power of small employers coming together to offer their employees these benefits.

[6] Bureau of Labor Statistics, 2018 National Compensation Survey, retrieved May 3, 2019 (https://data.bls.gov/cgi-bin/dsrv?nb)

Incentivizing private market solutions for short-term paid medical leave—whether through insurance coverage, self-funded benefits by employers or some combination of the two—would cover more working Americans and would leverage the existing system that is already working well for many employers and employees. An incentive-based, private market approach would also avoid the additional cost of creating new agencies to administer and to pay covered leave. For example, Minnesota considered its own state-run PFML program in 2019. It was estimated the costs would exceed $900 million annually funded by a new tax on employees and employers.[7] The high costs of the program can also be difficult estimate. Colorado is currently considering a state-run PFML program that was initially estimated in March 2019 to cost approximately $900 million annually funded by a new tax on employees and employers.[8] The State commissioned a third-party actuarial report released in December 2019 that is $200 million-$1.2 billion higher than the initial projection.[9] Additionally, a government-run program would likely undermine the current private short-term disability marketplace causing disruption for employers and more importantly, the employees for which these programs are intended to help. The loss of the private short-term disability market could also put states at risk of losing premium tax revenue.

ACLI and its member companies have developed and are advocating for specific incentives to encourage more employers, especially small employers, to provide paid leave to employees including:

- tax incentives that build upon the Small Business Health Care tax credit targeting businesses that do not widely offer short-term disability coverage;
- make permanent and fine tune the Fischer PFML Tax Credit to allow employers that provide significant medical leave benefits to reduce cost of coverage and not be penalized for inadvertent errors regarding scope of employees who are covered;
- enact a "start-up credit" for small businesses that adopt a qualified paid leave plan; and
- encourage small businesses to adopt "automatic enrollment" policies so that their workforce is automatically covered by an employer's plan.

CONCLUSION

ACLI and its member companies are committed to working with lawmakers and employers to expand and develop innovative private market solutions to provide more working Americans with paid family and medical leave. Policymakers should take action to enhance the availability of PFML through proposals that incentivize employers' ability to voluntarily implement a private program. This approach will leverage the benefits already being provided by many employers through insurance and self-funded benefits and will efficiently and effectively expand that coverage to more working Americans.

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[7] Minnesota Management and Budget office supplied fiscal note from its fiscal note search engine topic "HF5."

[8] Family Medical Leave Insurance Program, S.B. 19-188, CO Legis. Fiscal Note, 1 (March 12, 2019).

[9] Goodland, *State-Run Family and Medical Leave Program Could Carry a Higher Price Tag, Study Says*, Colorado Politics, 2019, https://www.coloradopolitics.com/news/state-run-family-and-medical-leave-program-could-carry-a/article_1bf0136c-16db-11ea-a3b1-078366d15036.html (last visited January 24, 2020).