



Estimating the Costs and Financing of Family and Medical Leave Insurance in Colorado

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Economist
September 16, 2013

Summary

Providing the proposed family and medical leave insurance program in Colorado would cost \$414 million the first year and could be financed by employee-paid premiums totaling less than half a percent of total wages earned in the state. The tested proposal would create a statewide insurance pool to partially cover the wages of employees who miss work to take care of an ill parent, child or spouse, or for the birth, adoption, or foster care placement of a new child. It would also create medical leave insurance for workers' own illnesses or disabilities. All employees in Colorado would contribute to the Family and Medical Leave Insurance Program (FMLI), in much the same way that employers pay into the unemployment insurance program.

The program would provide a weekly benefit of 66 percent to 95 percent of the employee's wages – depending on how much he or she earns -- for up to twelve weeks. Workers must have worked the minimum of 680 hours per year to qualify. Workers with very low incomes would have a larger percentage of their wages replaced than those with higher incomes, since it is more difficult for low-income worker to take leave even if it is partially compensated. The maximum weekly benefit for all workers would be \$1,000.

CFI estimates that in the first year (2014), the proposed FMLI program would cost \$402 million in wage replacement payouts, and \$12 million in administrative costs. The total cost would equal 0.34 percent of total payroll in the state, which indicates that Colorado could finance the program with some type of premium on wages that would amount to less than half a percent of total wage and salary income in the state. The average weekly benefit for individuals taking leave would be \$644.

The Basic Proposal

The Colorado Fiscal Institute estimated the cost to provide a paid family and medical leave insurance program to Colorado workers that would partially cover the wages of employees who miss work to care for an ill family member, bond with a new baby or recover from their own illness or temporary disability. The program we tested had two components – family leave and medical leave. We based our estimates on a program that would:

- offer a maximum of 12 weeks leave;
- replace between 66 and 95 percent of a worker's wages based on his or her earnings;
- provide a maximum weekly benefit of \$1,000;
- be eligible to any worker who worked a minimum of 680 hours in the prior year.

The cost of the program could vary depending on how it is designed. Among the things that would affect the cost are changes to the maximum length of paid time off, the proportion of wages replaced, wage replacement percentages tied to income, the maximum weekly benefit, and the minimum hours an employee must work each year to qualify.

Table 1 shows the estimated total cost of the program for the first three years, the cost as a percentage of total payroll, the estimated number of workers eligible, and the number of workers expected to take paid time off each year. The cost of alternative scenarios is explored later in the report.

Table 1: Summary of Total FMLI Program Cost Estimates			
	2014	2015	2016
Average Weekly Benefit	\$ 644	\$ 657	\$ 671
Workers Eligible	2,240,666	2,271,587	2,302,935
Number Using Benefits			
Family Leave	17,701	17,946	18,193
Medical Leave	57,858	62,176	66,816
Program Benefit Cost			
Family Leave	\$ 109.7 million	\$ 113.5 million	\$ 117.5 million
Medical	\$ 292.3 million	\$ 320.7 million	\$ 351.9 million
Administrative Costs	\$ 12 million	\$ 12.4 million	\$ 12.7 million
Total Cost	\$ 414.1 million	\$ 446.7 million	\$ 482.2 million
Total Payroll	\$ 120.2 billion	\$ 125 billion	\$ 130 billion
Percent of Total Payroll	0.34%	0.36%	0.37%
The parameters of this estimate include: 12 weeks leave, tiered benefit structure, \$1000 weekly benefit amount cap, 680 work hours per year to qualify.			

Methodology of Estimated Costs

Determining the full cost of a family and medical leave insurance program involves five factors: 1) the number of workers eligible; 2) weekly benefits amounts; 3) the number of workers who use the program; 4) length of leave; and 5) administrative costs. Our estimates are based on a methodology developed by the Institute for Women’s Policy Research (IWPR), which calculated cost estimates for Washington State’s paid family leave insurance program.¹

¹ IWPR calculated the potential costs of an expansion of Washington’s family leave insurance program and the inclusion of a temporary disability insurance program to the 2007 Washington Family Leave Insurance legislation.

Colorado's Labor Force and Average Earnings

To estimate the number of workers in Colorado's employed labor force who would be eligible for the Family and Medical Leave Insurance program, we used the American Community Survey (ACS) 3-year estimates, Public Use Microdata Sample (PUMS). We also included currently unemployed people who worked in the previous year for 680 hours or more, in order to capture the entire population that could be eligible.

The average wage replacement was estimated from the same ACS PUMS data, which includes variables on "wages and salary in the past 12-months," "number of weeks worked in past 12-months," and "average hours worked per week." From these variables, we were able to tabulate "hours worked per year" and "weekly salary."² We then removed the employees who worked less than 680 hours last year to arrive at an estimate of the number of Coloradans who worked enough hours the previous year to qualify for the program.

Next we calculated the average weekly benefit based on various wage replacement proportions: The majority of workers would have 66 percent of their wages covered, with a cap of \$1,000 per week. But those with low incomes would have a greater percentage of their wages replaced. The program was designed this way since low-income workers would be unable to live on 66 percent of their total salaries and would be forced to continue working full-time despite the need for family and medical leave.

Table 2 shows the program's benefits for lower-income workers. The income levels follow the U.S. Department of Housing and Urban Development housing subsidy guidelines,³ which define "extremely low income" as earning 30 percent of the median income in a particular region, "very low income" as earning 50 percent of median income, and "low income" as earning 80 percent. An individual earning \$250 per week, for example, would qualify for 85 percent wage replacement, whereas an individual earning \$900 per week would qualify for 66 percent wage replacement. This assumes a median income of \$28,000 a year. Linking the benefit levels to median income every year will account for inflation and ensure that the real value of the replacement wage won't erode over time.

²Wage and salary data from respondent-conducted surveys is less accurate than actual IRS reported salary data, however the ACS data set used in his report contained a very large sample size (over 61,500), which should ensure accurate information.

³ Ideally, we would like to design a system that provides a higher wage replacement percentage based on the federal poverty level, but because the poverty threshold is determined by additional factors like family size, it would complicate determining eligibility and increase administrative costs. Thus the HUD structure, which is determined by income alone, was used.

Table 2: Wage Replacement Benefit Structure			
Income Level	Yearly Earnings	Number of Workers	Percent Wage Replacement
Extremely Low (30% AMI)	Below \$8,400	135,000	95%
Very Low (50% AMI)	\$8,400 - \$14,000	198,000	90%
Low (80% AMI)	\$14,000- \$22,400	281,000	85%
Other Incomes	\$22,400 above	1,686,000	66%

There was a discussion about setting a minimum wage replacement at \$250, rather than implementing a tiered percentage structure in order to ensure that low-income workers would not be effectively barred from utilizing the program. Under this requirement, however, there would be workers who would qualify for the program that actually earned less per week while working than the \$250 minimum wage replacement would pay out while on leave. Approximately 250,000 workers across Colorado would fall into this group. For this reason, the program was designed to tier-up by income level (i.e. replacement wage at a higher percentage) but not have a minimum benefit amount.

Given the distribution of earnings in Colorado, we estimated that the average weekly replacement benefit would be \$644.

The total amount of earnings reported from wage and salary income (total payroll) was taken from the ACS data and compared to the most recent Colorado IRS tax data. In 2010, Colorado workers earned \$102 billion in wage and salaries. We increased this figure by an annual rate of 4 percent (the average rate of payroll growth from previous years) to arrive at a payroll estimate for 2014.

Table 3: Colorado Labor Force Eligibility, Wage Replacement, and Payroll Base	
Worked 680 or more hours last year	2,240,666
Estimated Weekly Wage Replacement	\$644
Payroll Base (2014)	\$120.2 billion
<i>Source: CFI calculations using Colorado data from ACS PUMS. Dollars and population in 2014 terms</i>	

Estimating How Many Coloradans Will Use the Program

In estimating the percentage of eligible workers who will use the family and medical leave insurance program throughout the year, we relied on data from the two states that have similar family and medical leave insurance programs: California and New Jersey.

It is important to note that Colorado, unlike New Jersey and California, does not currently have a state temporary disability insurance (TDI) program on which to build a paid family and medical leave program. The New Jersey Family Leave Insurance (FLI) system has been operating since 2009 and was an extension of their existing temporary disability insurance (TDI) program. California’s FLI program has been in place since 2004 and also builds on a pre-existing state Temporary Disability Insurance (TDI)

program. Both states publish data on program usage, which we relied on to determine take-up or usage rates for Colorado.

Table 4: Usage Rates in California and New Jersey			
	California	New Jersey	Average Rate
Employment	16,432,990	4,120,680	
Family Leave Claims	139,593	30,162	
Percent of Employment	0.85%	0.73%	0.79%
Disability Claims	657,689	103,800	
Percent of Employment	4.00%	2.52%	3.26%
<i>Source: California Employment Development Department, New Jersey Department of Labor and Work Force Development, U.S. Department of Labor</i>			

New Jersey’s take-up rates for family leave (birth or adoption of new child or to care for an ill family member) are lower than California’s, in part because the program has not been operating as long. Take-up rates have increased each year by approximately 6 percent in California as public awareness of the program has grown.

Averaging the rate at which workers in California and New Jersey used those states’ family leave programs the first year they were offered, we concluded that approximately 0.79 percent of Colorado’s workforce, 17,701 people, will use paid family leave per year.

An average of 3.26 percent of the workforce in New Jersey and California received temporary disability insurance payments, or took medical leave. But because the temporary disability insurance programs were in place for many years in those states before their family leave insurance programs, it is reasonable to assume that use of the medical portion of Colorado’s FMLI program will be lower in the first year of its program. To adjust for this, we assumed it would take five years for Colorado to get to the usage rates seen in California and New Jersey. We deflated 3.26 percent by 6 percent annually to work backwards to find the rate we could expect in the first year of the program in Colorado. We estimated that 2.58 percent of the eligible population would use the medical leave insurance for their own illness or disability in the first year, 57,858 people.

Table 5: Colorado’s FMLI Program Usage Numbers in First Year		
	Number Using Benefit per year	Percent of Eligible Workforce
Family Leave Insurance	17,701	0.79%
Medical Leave Insurance	57,858	2.58%

Duration of Paid Leave

To estimate the number of weeks of leave that Colorado workers would use under the proposal, we used data from the 2008 Survey of Income and Program Participation (SIPP) and the 2000 Family and Medical Leave Act (FMLA) surveys. SIPP data was helpful to determine the number of weeks of paid

leave that women took following the birth of their first child. FMLA survey data was used to calculate the duration of weeks employees took for their own health reasons.

We estimate the average duration of medical leave for Colorado workers would be 7.85 weeks. This is much lower than the average duration in New Jersey and California, where workers can get benefits for a maximum duration of 26 weeks and 52 weeks, respectively, more than double Colorado’s proposed maximum.

Among Colorado workers using the paid family leave portion of the FMLI program, the average duration will be 9.63 weeks. This is more than the 5 weeks in 2010 for New Jersey and 4.84 weeks reported in California in 2005. Both states offer a maximum of only 6 weeks of paid family leave, compared to the proposed 12 weeks in Colorado.

Table 6: Estimated Weeks of Leave Under the FMLI Program	
	weeks
Family Leave Insurance	9.63
Medical Leave Insurance	7.85

Administrative Costs

We assume that, as in Washington, New Jersey, Rhode Island and California, the Colorado Family and Medical Leave Insurance Program would be administered by the Colorado Department of Labor and Employment. To calculate administrative costs, we first used a 3 percent administrative fee, which meant the yearly costs to administer the program would be roughly \$12 million.

We attempted to arrive at a more detailed calculation by drawing on information from past fiscal notes for bills affecting the Department of Labor and Employment. We estimated that the Department would need 20 full-time employees to administer a program that processed roughly 75,000 claims per year. Hiring 20 state employees at \$64,000 a year and \$1.5 million in operating expenses annually plus other personnel expenses, reduced the administrative personnel costs to just over \$4 million.

In addition to personnel costs, we assumed that there would be initial start-up costs, including technology and training, before the program could begin operation. Ideally, the Legislature would provide funding for the program or delay implementation a year or two before its launch in order to build the infrastructure necessary to run the program.

To calculate non-personnel administrative costs, we relied upon estimates in Washington state, which also did not have an existing temporary disability insurance program to build on when it created its state family leave insurance program. Washington established that its start-up costs over four years (2008-2011) would be roughly \$10 million and that ongoing administrative costs over that same time period would be \$13 million. The original state agency fiscal estimate projected that after these initial costs were incurred, the ongoing administrative expenses would be roughly \$8 million per year. Washington’s

estimate included information technology, training, maintenance, rulemaking, staff assistance and other basic administrative needs.

If Colorado's experience were similar to Washington's, Colorado would require roughly \$9 million per year for personnel and other administrative costs.

For the purposes of calculating total costs of the Colorado Family and Medical Leave Insurance program, we used the higher estimate of \$12 million.

Cost Estimates

In 2012, California's combined tax rate to pay for their family and medical leave programs was 1 percent of payroll, paid only by employees. New Jersey used a 0.78 percent payroll tax to finance its family and medical leave insurance programs. In both states, the contributions exceed program costs and benefits. CFI estimates that in its first year, the proposed program for Colorado would cost \$414 million, or 0.34 percent of all wages and salaries in the state annually.

Ways to Fund this FMLI Program in Colorado

There are a number of possible options to finance Colorado's program. Like Washington's family leave insurance program, it could be completely employee funded. It could be funded by workers and employers, as Social Security is today. There could be a ceiling on the amount of wages that are taxed or used to calculate the premium. For example, programs like unemployment insurance and Social Security establish a wage base and apply a tax or premium only up to a certain level.

One way to fund Colorado's program would be through an insurance premium applied to wages, similar to the current unemployment insurance premium on wages. Our calculation assumed that the Family and Medical Leave Insurance program premiums would be paid solely by employees. The amount of wages that would be subject to the premium would be capped. Table 7 shows a number of different scenarios that would generate the money needed to fund the proposed FMLI program in Colorado. The two parameters of the funding mechanism are "percent premium on wages," and "wage cap." As the wage cap rises, the premium paid by workers can fall and still generate the approximate \$414 needed to fund the program. Table 7 also shows the yearly premiums that individuals at various income levels would pay.

Table 7: Payroll Premium Funding in Program's First Year							
	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	Scenario 6	Scenario 7
Premium on Wages	0.42%	0.465%	0.5%	0.54%	0.575%	0.63%	0.7%
Yearly Premiums Paid By Income Level							
\$20K	\$84	\$93	\$100	\$108	\$115	\$126	\$140
\$30K	\$126	\$140	\$150	\$162	\$173	\$189	\$210
\$40K	\$168	\$186	\$200	\$216	\$230	\$220	\$210
\$50K	\$210	\$233	\$250	\$243	\$230	\$220	\$210
Max contribution	\$328	\$280	\$255	\$243	\$230	\$220	\$210
Wage Cap	\$78,000	\$60,000	\$51,000	\$45,000	\$40,000	\$35,000	\$30,000
Total	\$416 million	\$417 million	\$415 million	\$419 million	\$416 million	\$418 million	\$418 million

To put those premiums into perspective, someone making \$30,000 a year would pay between \$2.50 and \$4 a week in premiums depending upon the wage cap.

Because the benefit plateaus at income levels of \$78,000 and above, it is reasonable to set the wage cap, to which the payroll premium is applied, at or below that level. Under the weekly wage replacement benefit structure, a worker using the program would receive 66 percent of weekly wages up to \$1,000. This means an individual making more than \$1,500 a week would have earnings that exceed the maximum weekly benefit cap.⁴ Such an individual would make \$78,000 a year.

It is important to note that the premium on wages would apply to all workers in Colorado, even those who are not eligible for the program because they do not work the 680 minimum number of hours required. Our estimates are calculated under this assumption.

The total cost of the program is expected to increase each year due to population growth, inflation, and increases in applications for benefits as awareness of the program grows. We estimate that it will take five years to reach the maximum usage rate for the medical leave portion of the FMLI program. The estimates and payroll tax figures above were calculated to pay for the first-year cost, when use of the medical leave insurance will not be at its highest (2.58 percent of workers instead of the potential 3.26 percent).

⁴ \$1,000 divided by 66 percent is \$1,500 per week.

We also ran our model to include a 3.26 percent maximum usage rate in the first year of the program. That would increase the total cost to \$490 million from \$414 million. The increase in costs comes from the extra 15,000 workers who would use the medical leave insurance under this scenario. Table 8 shows the various ways to generate the needed \$490 million.

Table 8: Payroll Funding (full usage rate)							
	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5	Scenario 6	Scenario 7
Premium on Wages	0.5%	0.55%	0.6%	0.64%	0.68%	0.74%	0.83%
Yearly Premiums Paid By Income Level							
\$20K	\$100	\$110	\$120	\$128	\$136	\$148	\$166
\$30K	\$150	\$165	\$180	\$192	\$204	\$222	\$249
\$40K	\$200	\$220	\$240	\$256	\$272	\$259	\$249
\$50K	\$250	\$275	\$300	\$288	\$272	\$259	\$249
Max contribution	\$390	\$330	\$306	\$288	\$272	\$259	\$249
Wage Cap	\$78,000	\$60,000	\$50,000	\$45,000	\$40,000	\$35,000	\$30,000
Total	\$495 million	\$493 million	\$493 million	\$497 million	\$492 million	\$491 million	\$495 million

Tax and TABOR Implications

In designing the financial structure of the FMLI program, we considered its effect on state revenue collections. If the total \$414 million was exempt from tax or pre-tax, the state would lose roughly \$19.2 million in income taxes per year. To avoid this and also avoid taxing wages twice (once when earned and once when the benefit is counted as income), we believe the best way to finance the program is with a premium on wages.

All workers in Colorado would pay a small percentage of their total earnings for FMLI premiums. Workers would still be taxed on the full amount of their wages. So the premiums paid into the FMLI program will have been already taxed once at the state level and thus do not need to be taxed again when a worker goes on leave and receives replacement wage benefits. To accomplish this goal, the program will have to label the wage replacement income as an exemption for state income tax purposes. Federal Income taxes, however, are a different matter. The wage replacement could be considered income, just like any other form of income.

An example will help illustrate how this works:

Person A makes \$100 a week and she pays a 1 percent payroll premium into the Family and Medical Leave Insurance program pool. So \$1 of Person A's earnings goes into the pool. She still pays state

income tax on all \$100. So the \$1 that goes into the FMLI program leave pool has already been taxed at the state level. When Person A later has to take care of her ill father, she will receive \$66 a week as her wage replacement under the program, for up to 12 weeks. The wage replacement money will be exempt from state income taxes, but not federal income tax.

A fee or premium funding mechanism would not require prior voter approval under Colorado’s TABOR amendment. However, revenues collected for the program would be subject to the state’s TABOR revenue limit unless the program was specifically created as an enterprise.

Alternative Approaches

There are five parameters of the program that can be changed to alter its total cost:

- maximum length of paid time off;
- proportion of wages replaced;
- wage replacement percentages tied to income;
- maximum benefit per week;
- minimum hours worked per year to qualify.

The following scenarios are calculated by adjusting one parameter of the model while keeping all others constant.

Moving to a six-week maximum benefit would reduce the program’s cost to \$225 million from \$414 million (a \$189 million reduction) and cut workers’ yearly premiums required to finance it in half.

Table 9: 12 vs. 6 Weeks Max Leave and Premiums Required		
	12 weeks Maximum	6 week maximum
Premium on wages	0.42%	0.22%
Yearly Premiums Paid By Income Level		
\$20K	\$84	\$44
\$30K	\$126	\$66
\$40K	\$168	\$88
\$50K	\$210	\$110
Max contribution	\$328	\$172
Wage Cap	\$78,000	\$78,000
Total	\$416 million	\$218 million

Maximum Weeks of Leave	Paid Leave Cost
12 weeks	\$414 million
10 weeks	\$353 million
8 weeks	\$290 million
6 weeks	\$220 million

Making the wage replacement 66 percent for all workers instead of tying it to income would reduce total program cost to \$394 million. Replacing 55 percent of wages and keeping the \$1,000 per week benefit cap would reduce the program cost by \$43 million. Raising the weekly benefit cap to \$1,200 would increase the program’s cost by \$22 million.

Increasing the minimum number of hours an employee would have to work each year to qualify – to 1,040 from 680 – would reduce the number of eligible workers to 2,068,749 from 2,240,666 (a reduction of 172,000 workers). This would reduce the total program cost to \$382, a \$20 million reduction.

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