

REPORT OF THE COUNCIL ON MEDICAL SERVICE

CMS Report 3-A-16

Subject: Paid Sick Leave
(Resolution 202-A-15)

Presented by: Robert E. Hertzka, MD, Chair

Referred to: Reference Committee A
(A. Patrice Burgess, MD, Chair)

1 At the American Medical Association’s (AMA) 2015 Annual Meeting, the House of Delegates
2 referred Resolution 202-A-15, “Measuring the Effect of Paid Sick Leave on Health Care Outcomes,”
3 submitted by the Medical Student Section. The Board of Trustees referred this issue to the Council on
4 Medical Service for a report back to the House at the 2016 Annual Meeting. Resolution 202-A-15
5 asked:

6
7 That our AMA recognize the positive impact of paid sick leave on health and
8 support legislation that offers paid sick leave; and that our AMA work with
9 appropriate entities to build on the current body of evidence by studying the health
10 and economic impacts of newly enacted paid sick leave legislation.

11
12 This report discusses government efforts on paid sick leave policies, provides examples of the public
13 health impact of paid sick leave on communities, outlines possible financing structures, discusses the
14 employer and employee perspectives, and recommends policy to encourage the adoption of paid sick
15 leave policies.

16
17 **BACKGROUND**

18
19 Lack of paid sick leave can have a health impact on individual workers and the public health.
20 Approximately 40 percent of private-sector workers in the US do not have paid sick time, and the lack
21 of paid sick leave is more pronounced among those employed in low-wage jobs. Highlighting the need
22 for paid sick leave is the changing structure of the family.¹ Dual-earning households have increased
23 significantly. Additionally, the fraction of children living with a single parent has increased. Taken
24 together, these societal shifts increasingly challenge workers to juggle both family and work.

25
26 The US is the only industrialized nation without a federal family-leave law that guarantees workers
27 may receive pay while taking time to care for themselves and their families. Through the Family and
28 Medical Leave Act, current federal law mandates that companies provide leave, but does not require
29 that it be paid.

30
31 Workers lose pay and may risk workplace discipline or job loss when they take sick time. Low-income
32 and minority families disproportionately bear the economic hardship and negative health impacts of
33 not having access to paid sick leave.² Low wage workers are typically least able to afford an
34 interruption of income.^{3,4} Access is particularly low among Hispanics, less educated workers, and low
35 wage workers.⁵ For example, about 60 percent of non-Hispanic whites have access to paid sick days

1 while only about 38 percent of Hispanics have this access.⁶ Level of educational attainment also plays
 2 a role in access to paid sick leave. About 54 percent of workers with some college have access while
 3 only about 22 percent of workers with no degree have access to paid sick leave.⁷ Further, 83 percent of
 4 workers making \$65,000 or more annually have access to paid sick leave while 28 percent of workers
 5 making up to \$20,000 annually have access.⁸ This lack of access exacerbates inequality between
 6 groups where there is not only a wage gap but also a benefits gap.⁹

7
 8 It is important to note that not all paid leave is paid sick leave. Various employers choose to grant paid
 9 leave differently due to varying benefit designs. Paid sick leave provisions vary for private and public
 10 employees and generally there are few leave requirements for private employers. More than half of all
 11 companies offer employees paid time off at the employee's discretion instead of a set number of paid
 12 sick days in addition to any paid vacation time, a benefit design that may be particularly preferable for
 13 healthy workers. Employees with discretionary paid time off days may enjoy the flexibility versus
 14 having employers control their paid time off. The Council notes that paid personal time off would
 15 have the same benefits for balancing work and family as paid sick days.

16
 17 **GOVERNMENT EFFORTS**

18
 19 Currently, four states and 20 cities have paid-leave laws. In 2006, San Francisco became the first
 20 locality in the nation to guarantee workers access to earned paid sick leave, including time off to care
 21 for children, parents, grandparents, spouses, domestic partners, and siblings. Subsequently, in 2008,
 22 Washington, DC passed a paid sick leave standard requiring all employers to provide each employee
 23 with an amount of paid sick leave depending on the employer's size. And in 2011, Connecticut
 24 became the first state to pass statewide legislation mandating paid sick leave. Defining who is covered
 25 under the law and the rate at which sick leave is accrued varies by state and locality. For example, in
 26 Connecticut, hourly workers in certain occupations are covered if they work for a business with 50 or
 27 more employees, and employees accrue one hour of paid sick time for every 40 hours worked with a
 28 maximum accrual of 40 hours.¹⁰ Conversely, California chooses to cover all employees working in
 29 California for 30 or more days a year after commencement of employment. Employees in California
 30 accrue one hour of paid sick time for every 30 hours worked and can accrue a maximum of 48 hours.¹¹

31
 32 Supporting paid sick leave is a major initiative pursued by the Obama Administration. In fall 2014, the
 33 Administration announced its support for the Healthy Families Act, which would allow millions of
 34 working Americans to earn up to seven days of paid sick leave each year.¹² Workers could use their
 35 acquired days for either themselves or to care for a sick family member.¹³ Identical bills have been
 36 introduced in both the House and Senate in 2015 and referred to committees.¹⁴ Also, in 2015,
 37 President Obama issued an executive order requiring federal contractors to offer their employees up to
 38 seven days of paid sick leave per year.¹⁵ The action will provide coverage for as many as 300,000
 39 workers whose jobs do not currently provide paid sick leave and many others with limited time-off
 40 benefits.¹⁶ The order will take effect in 2017.¹⁷

41
 42 **PAID SICK LEAVE IMPACTS ON PUBLIC HEALTH**

43
 44 Lack of paid sick leave can have substantial adverse effects on public health, including the spread of
 45 infectious disease and obstacles to preventive care.¹⁸ Research on the impact of paid sick leave
 46 policies has demonstrated benefits to employers, workers, families, and communities.¹⁹ Paid sick leave
 47 creates safer work environments and reduced spread of contagion.^{20,21}

48
 49 Children in low-income families are more likely to have health problems than children living in higher
 50 income families.²² Further, workers without paid sick days are more likely to work sick and are more

1 likely to delay needed medical care, which can lead to prolonged illness and worsen otherwise minor
 2 health issues.²³

3
 4 There is growing evidence supporting the positive public health impact of paid sick leave, stemming
 5 from a national health impact assessment.²⁴ The assessment found evidence that the policy would
 6 result in more workers taking needed leave from work to recover from illness, receive preventive care,
 7 and care for ill children.²⁵ These actions would reduce transmission of influenza in the community,
 8 foodborne disease in restaurants, and gastrointestinal infections in health care facilities.²⁶ Ultimately,
 9 the authors of the assessment concluded that the best available public health evidence demonstrates
 10 that paid sick leave would have significant and beneficial public health impacts.²⁷

11
 12 Paid sick leave has been shown to aid children’s health.²⁸ Studies show that children recover faster
 13 from illness when cared for by a parent.²⁹ The presence of a parent shortens a child’s hospital stay by
 14 31 percent.³⁰ When parents have access to paid sick days, they are able to take their children to well-
 15 child visits and to receive immunizations.³¹ A 2010 survey of San Francisco employees supports this
 16 assessment and found that parents with sick days were more than 20 percent less likely to send a child
 17 with a contagious disease to school, consequently reducing disease transmission and generating public
 18 health benefits for the community.³² Access to paid sick leave allows working parents to balance both
 19 their jobs and their children’s health while ensuring the family’s economic security. The Council notes
 20 that paid personal time off would have the same benefits of balancing work and family.

21
 22 The 2009 H1N1 flu pandemic highlighted the need for paid sick days. The US Centers for Disease
 23 Control and Prevention (CDC) estimated that, during the 2009 H1N1 outbreak, about 7 million
 24 additional individuals were infected and 1,500 deaths occurred due to contagious employees who did
 25 not stay home from work to recover.^{33,34} Lack of a paid sick leave workplace policy was correlated
 26 with a higher incidence of influenza-like illness, and an estimated 5 million additional cases were
 27 attributed to the absence of workplace policies like paid sick leave.³⁵ Further, the CDC estimates that
 28 the annual flu season constitutes a \$10.4 billion loss to companies in direct costs for hospitalizations
 29 and outpatient visits.³⁶ Proponents of paid sick leave policies state that workplaces are healthier and
 30 more productive when workers who become sick are able to stay home without losing pay.

31
 32 **EMPLOYER CONSIDERATIONS**

33
 34 Employers and employer groups are concerned that the costs of providing paid sick leave would be
 35 significant and correspond with negative impacts on the economy including stifled job growth.³⁷
 36 Some employers provide disability leave, typically through an insurance program that compensates
 37 employees for their time off; however, this is an employer benefit generally not offered to low income
 38 employees. Many parties agree with the goal of increasing the number of employers providing paid
 39 sick leave, but the debate lies in how employers provide this paid time off. Employers underscore the
 40 key distinction between policies that incentivize paid leave and those that mandate paid leave. Paid
 41 leave policies may burden and negatively impact employer operations, such as independent physician
 42 practices, and generally employers react more positively when they are incentivized to take specific
 43 action. Additionally, many employers provide paid leave through policies such as paid personal time
 44 off or flexible work schedules, which are policy flexibilities that may help ease the employer burden of
 45 providing leave.

46
 47 **FINANCING PAID SICK LEAVE**

48
 49 In three of the states mandating paid sick leave, programs are successfully funded by employee payroll
 50 contributions and provide benefits equivalent to 100 percent of a worker’s base salary. Other localities

1 with existing programs that provide infrastructure for paid sick leave generally fund these programs
2 through employee payroll deductions and provide partial wage replacement.

3
4 The Obama Administration has not only supported paid sick leave policies but also advocated funding
5 these policies. In calling on Congress to pass the Healthy Families Act, President Obama's fiscal year
6 2016 budget request included more than \$2.2 billion to create an incentive fund to help states pay for
7 family leave programs and an additional \$35 million in grants for states that are building infrastructure
8 to launch such programs.³⁸ The Department of Labor has already awarded \$500,000 to several states
9 and DC to fund studies on the feasibility of implementing paid leave.³⁹

10
11 There is a growing body of evidence that paid sick leave has a limited effect on employers. The senior
12 vice president for policy at the San Francisco Chamber of Commerce called the employer impact of
13 San Francisco's paid sick leave ordinance "minimal."⁴⁰ Three years after the law's implementation, 70
14 percent of employers reported no impact on profitability, and two-thirds of the employers expressed
15 support for the law.⁴¹ Similar support is evidenced in New York City, Connecticut, and Washington,
16 DC where reports of administrative burden were minimal, and localities have reported decreased
17 employee turnover and improved employee productivity and morale.⁴²

18 19 RELEVANT AMA POLICY

20
21 The general concept of mandatory paid sick leave is potentially inconsistent with current AMA Policy
22 H-420.979, which supports voluntary employer policies that provide employees with reasonable job
23 security and continued availability of health plan benefits in the event that leave by an employee
24 becomes necessary due to documented medical conditions. This policy further states that such
25 employer policies should provide for a reasonable period of either paid or unpaid medical leave to care
26 for oneself, including maternity leave, care for a member of the employee's immediate family, or
27 adoption or for foster care leading to an adoption. The Council notes that this policy concerns medical
28 leave, which generally is considered an extended absence, as distinguished from sick days.

29
30 However, AMA policy is consistent with required paid sick leave for medical students, residents, and
31 physicians. Policy H-405.960 directs the AMA to urge medical schools, residency training programs,
32 medical specialty boards, the Accreditation Council for Graduate Medical Education, and medical
33 group practices to incorporate or encourage the development of leave policies, including parental,
34 family, and medical leave policies, as part of the physician's standard benefit agreement. Additionally,
35 policy supports resident and fellow family and medical leave including fringe benefits and a minimum
36 of six weeks paid leave per year for residents and fellows for all purposes including family, vacation,
37 and sick leave (Policies H-310.929, H-310.912, H-310.908).

38 39 DISCUSSION

40
41 The Council recognizes the myriad socioeconomic issues involved with paid sick leave. Lack of paid
42 sick leave overwhelmingly affects those individuals least able to afford an interruption of income.⁴³
43 There are significant disparities in access to paid leave among workers with different educational
44 attainment and between Hispanics and non-Hispanics.⁴⁴

45
46 Many families lack the benefits to meet the evolving needs of today's families. Flexible paid sick
47 leave can be used to care for not only children but also parents. There are 44 million unpaid eldercare
48 providers in the US who experience loss of wages and risk losing job-related benefits like health
49 insurance.⁴⁵ Policies such as paid sick leave, paid time off, and flexible work schedules allow
50 employees to take care of sick elderly parents such as taking them to doctor's appointments and
51 making housing arrangements.⁴⁶

1 The Council recognizes the dual nature of paid sick leave as both a public health and an employer
2 issue. The Council finds a growing body of evidence supporting the conclusion that lack of access to
3 paid sick leave is a public health issue that can result in delayed screenings, diagnoses, and treatment.
4 Concurrently, the Council expresses concerns regarding the appropriateness of endorsing a sick leave
5 mandate on the nation's businesses. Access to paid sick leave is a widely shared goal. However,
6 various stakeholders disagree on how best to provide employees access to sick leave, and various
7 employers choose to provide such leave in varying ways through ad hoc policies like scheduling
8 flexibility, location adjustments, or policies such as paid personal time off. Accordingly, the Council
9 believes that any policy on this topic should be flexible and account for various employer policies that
10 in effect provide access to paid sick leave.

11
12 The Council understands employer concerns that providing paid sick leave has the potential to harm
13 the economic sustainability of businesses. While most localities with paid sick leave policies have
14 demonstrated little to no negative impact on business operations and prosperity, the Council
15 recognizes that providing paid leave may be unduly burdensome to some employers. In such instances,
16 the Council supports employers providing unpaid time off to mitigate the financial burden of
17 providing paid time off.

18
19 The Council recognizes that paid sick leave increasingly is garnering employer and legislative
20 attention and understands that studies continue to be released on the effects of varying paid sick leave
21 policies. As such, moving forward, the Council will continue to monitor evolving approaches for
22 providing discretionary paid time off.

23 24 RECOMMENDATIONS

25
26 The Council on Medical Service recommends that the following be adopted in lieu of Resolution 202-
27 A-15 and that the remainder of the report be filed:

- 28
29 1. That our American Medical Association (AMA) reaffirm Policy H-420.979
30 supporting voluntary employer policies that provide employees with job security and
31 continued availability of health plan benefits in the event leave becomes necessary
32 due to medical conditions. (Reaffirm HOD Policy)
- 33
34 2. That our AMA recognize the public health benefits of paid sick leave and other
35 discretionary paid time off. (New HOD Policy)
- 36
37 3. That our AMA support employer policies that allow employees to accrue paid time off
38 and to use such time to care for themselves or a family member. (New HOD Policy)
- 39
40 4. That our AMA support employer policies that provide employees with unpaid sick
41 days to use to care for themselves or a family member where providing paid leave is
42 overly burdensome. (New HOD Policy)

Fiscal Note: Less than \$500 to implement.

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