

NEW ESTIMATES OF FMLA ELIGIBILITY AND AFFORDABILITY

Unpaid leave continues to restrict access; Hispanic immigrant workers are the most excluded

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ACCESS TO FMLA IS RESTRICTED BY DESIGN.

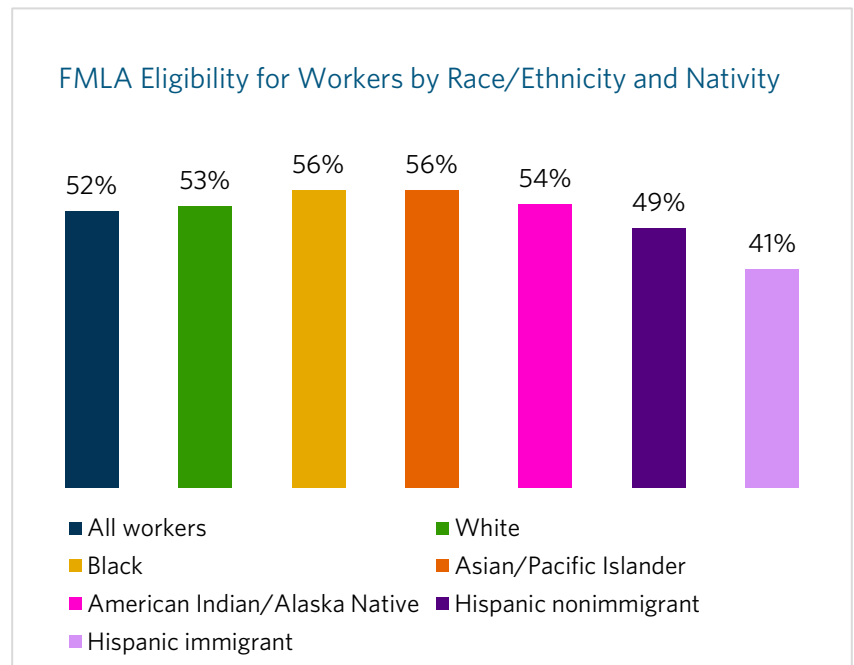
February marked the 30th Anniversary of the Family and Medical Leave Act (FMLA), a landmark policy that supports workers' basic need to care for themselves or their families. FMLA guarantees workers job protection while taking up to 12 weeks of leave to welcome a new child, address an injury or illness or care for an ill family member. Workers face two significant barriers to accessing FMLA: Restrictive eligibility criteria mean that many workers do not qualify, and the unpaid leave that FMLA offers makes it unaffordable for many.

JUST OVER HALF (52%) OF ALL WORKERS ARE ELIGIBLE FOR FMLA.

We find that just over half (52%) of all U.S. workers, excluding the self-employed, are eligible for FMLA. To be eligible for FMLA, workers must work for an employer for at least one year and at least 1,250 hours in the year preceding leave. They must also work for an FMLA-covered employer, which includes all public sector agencies, all public and private elementary and secondary schools and private employers with at least 50 employees within 75 miles.

ONLY 39% OF WORKERS ARE ELIGIBLE FOR AND CAN AFFORD SIX WEEKS OF LEAVE.

We find that fewer than one in four (39%) of all U.S. workers, excluding the self-employed, are eligible for FMLA *and* can potentially afford six weeks of unpaid leave—the average amount taken by employees. We estimate that workers can afford FMLA unpaid leave if their family's total resources does not fall below 200% of the Supplemental Poverty Measure (SPM) after subtracting estimated lost wages from taking unpaid leave.



CONSIDERABLE VARIATION EXISTS BY STATE.

We find considerable geographic variation in access to FMLA. The share of workers who meet FMLA eligibility criteria vary across states, ranging from 43% of workers in Montana to 61% in the District of Columbia. Differences in eligibility are due in part to variations in each state's economic base, which influence the types of jobs available (public vs. private sector) and affect whether workers or employers meet the job tenure, work hours and firm size criteria.

About the data: diversitydatakids.org has published new national- and state-level indicators estimating FMLA eligibility and affordability by gender, race/ethnicity, nativity and citizenship. Our estimates come from the U.S. Census Bureau's Current Population Survey, Annual Social and Economic Supplement from 2018 to 2022. We invite you to explore the data at: https://data.diversitydatakids.org/dataset?vocab_Subtopic=FMLA

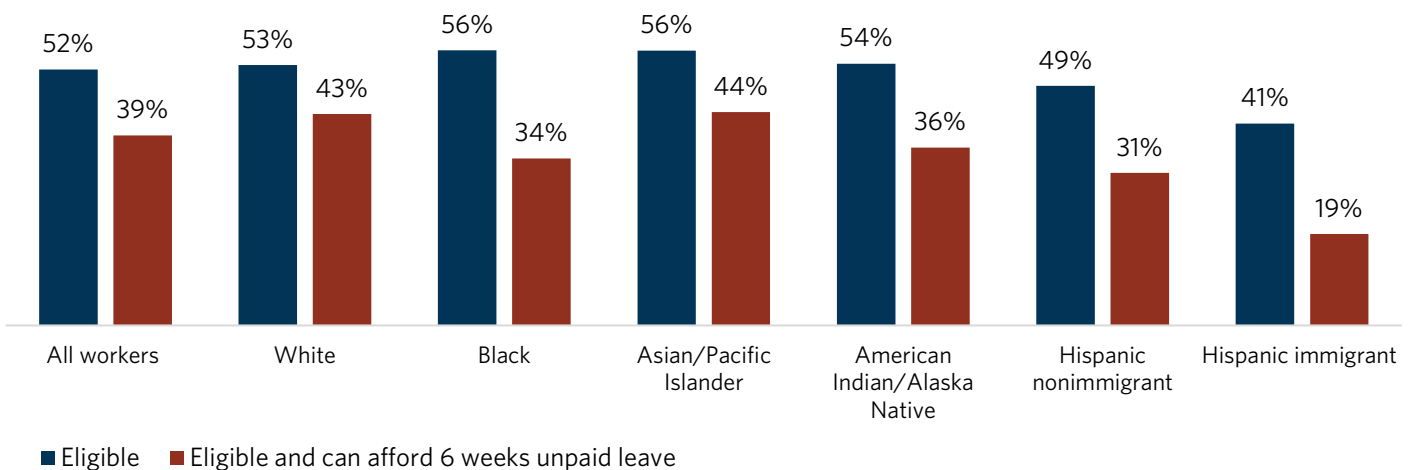
Read more: Our 2020 Policy Equity Assessment of the Family and Medical Leave Act provides an extensive analysis of inequities in FMLA's design, capacity and research evidence: <https://www.diversitydatakids.org/research-library/policy-equity-assessment/policy-equity-assessment-family-and-medical-leave-act>

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RACIAL/ETHNIC INEQUITIES PERSIST, WITH HISPANIC IMMIGRANT WORKERS HAVING THE LEAST ACCESS.

While access to FMLA is low for all groups of workers, disaggregating workers by race/ethnicity and by nativity for Hispanics reveals persistent racial/ethnic inequities in access. This is consistent with our [previous findings](#) on FMLA accessibility. Hispanic immigrant workers have the lowest eligibility among all racial and ethnic groups, with just 41% eligible for FMLA. Hispanic nonimmigrant workers fair somewhat better (49%), but their eligibility is still below other groups. When considering eligibility and affordability, racial/ethnic and nativity inequities widen, and the group most excluded from FMLA are again Hispanic immigrant workers: Only 19% are eligible and could potentially afford six weeks of unpaid leave. In contrast, 43% of White workers are eligible and could potentially afford six weeks of leave.

FMLA Eligibility and Affordability for Workers by Race/Ethnicity and Nativity



FMLA BARRIERS COMPOUND HISPANIC IMMIGRANT FAMILIES' ECONOMIC AND HEALTH INSECURITIES.

The inability to take leave when it is needed can lead to negative health outcomes; unequal access to FMLA by race/ethnicity and nativity can therefore contribute to health inequities. In [previous studies](#), our team has also shown that compared to other racial/ethnic groups, Hispanic immigrant parents earn lower wages and have less access to employer-provided health insurance and pensions. We have furthermore demonstrated that Hispanic and immigrant working families are less likely to earn family-sustaining wages and have access to employer-provided benefits. The restricted access to these public and private benefits has consequences for the children of Hispanic immigrants, who lose out on needed resources.

INEQUITIES WILL EXIST AS LONG AS FAMILY AND MEDICAL LEAVE REMAINS UNPAID.

In the absence of an inclusive national paid leave program, restricted access for all workers and inequities in access will continue. Over a decade of our research on racial and ethnic equity has found that to support workers and families fully and equitably, eligibility criteria for family and medical leave must be more inclusive, and a national paid leave policy should be implemented.

diversitydatakids.org is a project of the Institute for Child, Youth and Family Policy at the Heller School for Social Policy and Management at Brandeis University. We fill an urgent need for a rigorous, equity-focused research program with a mission to help improve child wellbeing and increase racial and ethnic equity in opportunities for children.

Questions? Contact us at info@diversitydatakids.org