

**Statement by The ERISA Industry Committee
to the
Committee on Education and Labor
Subcommittee on Workforce Protections
U.S. House of Representatives**

Hearing
**The Healthy Families Act (H.R. 1784): Examining a Plan to Secure
Paid Sick Leave for U.S. Workers**

March 11, 2020

Introduction and About The ERISA Industry Committee (ERIC)

Chairwoman Adams, Ranking Member Byrne, and members of the Subcommittee, thank you for this opportunity to submit a statement for the record on behalf of The ERISA Industry Committee (ERIC) for the hearing entitled, “The Healthy Families Act (H.R. 1784): Examining a Plan to Secure Paid Sick Leave for U.S. Workers.”

ERIC is a national advocacy organization that exclusively represents large employers that provide health, retirement, paid leave, and other benefits to their nationwide workforces. ERIC advocates on the federal, state, and local levels for policies that promote flexibility and uniformity in the administration of employee benefit plans. The member companies that we represent employ thousands of workers in every state and are leaders in every sector of the economy. These companies provide and completely fund generous paid sick leave benefits that support millions of workers and their families across the country. Each of you and your constituents likely engage with an ERIC member company on a daily basis when you drive a car or fill it with gas, use a cell phone or computer, visit a bank or hotel, fly on an airplane, watch TV, benefit from our national defense, go shopping, dine out or at home, receive or send a package, use cosmetics, or enjoy a soft drink.

Paid sick leave is a critical benefit for today’s workforce, not only providing employees with job security and financial stability while dealing with an illness but also improving how society reacts to the spread of illnesses in general. This reality is only made more evident by the effect that COVID-19 continues to have on employers and employees around the world. While exigent circumstances may require a prompt policy response, it is critical to consider all relevant aspects of any policy change and to ensure that well-intended actions do not have negative or counterproductive consequences, especially on employers already providing and funding generous paid sick leave to workers across the country.

As Congress and the House Committee on Education and Labor Subcommittee on Workforce Protections (the Subcommittee) consider the federal paid sick leave proposal contained in H.R. 1784, it is important to recognize that millions of employees currently receive valuable paid sick leave benefits that are provided by large, multistate employers. These benefits

are largely possible because of the ability of large employers to design and provide uniform, generous paid leave benefits to their employees across the nation, regardless of what city or state they work in. In recent years, however, there has been a proliferation of state paid sick leave laws that have made it increasingly difficult for large employers to provide these generous, uniform paid leave benefits to all of their workers.

Large, multistate employers believe that paid sick leave is a critical benefit. However, the current patchwork of state paid sick leave laws has, in many cases, placed disproportionate burdens on employers and has negatively impacted their ability to design and provide potentially more generous paid sick leave benefits. Therefore, ERIC strongly recommends that the Subcommittee considers our comments and that several aspects of H.R. 1784 be amended in order to expand access to the best paid sick leave benefits for as many Americans as possible.

Regarding H.R. 1784, ERIC is particularly concerned about:

- The lack of federal preemption of competing state and local paid sick leave ordinances;
- The inability of employers to apply reasonable employee eligibility requirements; and
- The need for clarity regarding employer flexibility in administering the carry-over of paid sick leave benefits

Comments

I. A Federal Paid Sick Leave Standard Should Include Preemption of State and Local Laws Addressing the Same Area of Policy

The legislation recognizes that a number of employers already offer paid sick leave and exempts those employers from the requirements of the law. However, it does not provide the same protection from state and local paid sick leave laws. The greatest source of paid sick leave benefits for workers today remains large, multistate employers that have the flexibility to design and administer benefit programs best tailored to the needs of their employees. However, the current patchwork of conflicting and duplicative state and local paid sick leave laws has a negative impact on the ability of large employers to continue providing generous paid sick leave benefits. Many state and local paid sick leave laws place costly reporting and administrative burdens on employers, neither of which add any value to the benefits ultimately received by employees. Instead, these burdens have had an unintended opposite effect by draining resources from employers that may have otherwise been used to expand the paid leave benefits that employers are able to offer their employees.

Consequently, this bill should preempt the additional layers and complications of a state patchwork by preempting state and local paid sick leave laws. Such preemption would provide the same recognition of employers that already provide and fund their own paid sick leave that

the bill provides by exempting such employers. Adding preemption language to H.R. 1784 would allow employers to establish a single, uniform paid sick leave benefit for all of their employees across the country, regardless of which state or city they operate or work in.

II. A Federal Paid Sick Leave Standard Should Restrict Benefit Eligibility to Direct Employees Who Have Been Employed for at Least 90 Days

A significant factor behind large employers' ability to design and provide generous paid sick leave benefits to their workers is the flexibility that they have to establish uniform standards of employee benefit eligibility. By requiring workers to be employed for a certain period of time before becoming eligible for employee benefits, like paid sick leave, employers are able to ensure that benefits are provided in the most meaningful and efficient manner. We, therefore, encourage the Subcommittee to amend H.R. 1784 to allow employers to limit benefit eligibility to those who have been employed for at least 90 days.

III. Clarification Should Be Provided as to Employer Ability to Design and Administer Paid Sick Leave Benefits

Large employers already offering generous paid sick leave benefits are responsible for carefully providing and solely funding these benefit programs to millions of Americans. To ensure that employees have access to paid sick leave at the beginning of each year, and to avoid needless recordkeeping associated with tracking earned paid leave, large, multistate employers "front-load" all paid leave that would be accrued over the course of the year. Employees can then use the leave when necessary without regard to having to earn it over the course of the year. Unused leave is not relevant as the full amount of paid sick leave is front-loaded again at the beginning of the new year. These policies not only help employers by cutting down on costly tracking requirements, but also benefit employees by eliminating the need for them to accrue leave slowly through the year. Many states have recognized the benefits of front-loading paid sick leave time and do not require carryover of unused leave at year-end if the employer establishes a policy that front-loads the leave at the beginning of the year.

As currently drafted, H.R. 1784 requires accrued but unused paid sick leave time to be carried over to the following year while also limiting the total paid sick leave time that can be accrued by an employee to 56 hours in any given year. Many large employers provide greater than 56 hours per year in paid sick leave, with some providing unlimited paid leave. Any company that front-loads paid sick leave at the beginning of the year should not be required to carryover unused sick leave. We encourage the Subcommittee to add clarifying language to H.R. 1784 that outlines the ability of employers to avoid carry-over of accrued but unused paid sick leave time by front-loading all required paid sick leave time at the beginning of the year.

Conclusion

Thank you for this opportunity to share our views with the Subcommittee. The ERISA Industry Committee and our member companies are committed to working with Congress on a

solution that allows employers to continue providing generous paid sick leave benefits without placing unnecessary administrative burdens on employers or adding to the complex patchwork of conflicting state and local paid sick leave mandates. We look forward to working with the Subcommittee and all other interested parties to enact legislation that expands access to paid sick leave benefits for more Americans without any unintended, negative consequences to those already receiving these valuable benefits.