

# TOWARD A 21<sup>ST</sup> CENTURY CITY FOR ALL

PROGRESSIVE POLICIES FOR  
NEW YORK CITY IN 2013  
AND BEYOND

## Promoting Work-Family Balance

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As in the rest of the nation, dramatic changes have taken place in how families work and live in New York City over the last generation. In particular, the rise in quality and extent of women's participation in the labor force has been one of the most important demographic changes over the last three decades. Women are now solidly in the labor market, not just as occasional workers whose earnings are add-ons to family income. They consider themselves the equal of men in their ability to be effective workers and their incomes are essential to the well-being of their families. At the same time, the unpaid work that women have always done to provide care for children and the elderly remains as important to families and society as it was when fewer women worked outside the home. The result is a fundamental challenge: New York City and the larger society have failed to grapple with the conflicts created as women have gradually moved into the labor market but are still expected to shoulder the majority of unpaid care work. In short, we have failed to develop the kinds of policies necessary to support working families as they exist in the 21st century.

The statistics reveal the extent of the change. The majority of women are now in the labor force,<sup>1</sup> and about half of the labor force in the United States is made up of women.<sup>2</sup> Most significantly, a majority of mothers work outside the home, including most mothers of children under the age of six and a little over half of all mothers with infants.<sup>3</sup> From March 1975 to March 2011, the labor force participation rate of mothers with children under age 18 rose from 47 percent to 70.6 percent (U.S. Dept. of Labor 2011). In New York City, both parents work in the majority of two parent families<sup>4</sup> and most women in two parent

<sup>1</sup> In 2010, 70.4 percent of women age 20 to 64 were in the labor force in New York City and 63.1 percent were employed (U.S. Census Bureau 2010b). Of the 123 million women age 16 years and over in the U.S., 72 million, or 58.6 percent, were labor force participants, either working or looking for work (U.S. Department of Labor). The different age ranges between the NYC statistics (20 to 64) and the national statistics (all women over 16 years of age, many of whom are still in school or have retired) probably accounts for much of the difference in percentage between the national and city statistics. Note that labor force participation is the percent of the population working or looking for work.

<sup>2</sup> Women made up 47 percent of the workforce in July, 2012 (Burns et al. 2012). Women account for more than half of all workers in several financial sectors nationwide: financial activities, education and health services, leisure, and hospitality.

<sup>3</sup> In 2011, the labor force participation rate of mothers with children under 18 was 70.6 percent. In 2011, 63.9 percent of mothers with children under age six participated in the labor force; 76.1 percent of mothers whose youngest child was between ages six and seventeen did so. In 2011, 55.8 percent of mothers with infants under one year old participated in the labor force. 56.9 percent of married mothers with infants participated in the labor force, while 53.2 percent of mothers of infants with other marital statuses did so. In 2011, 74.6 percent of mothers with marital status other than married with a spouse present participated in the labor force (U.S. Bureau of Labor Statistics 2011). In New York City, 61 percent of women with their own children under age six were in the labor force (U.S. Census Bureau 2010b).

<sup>4</sup> In New York City, 57.9 percent of married couple families with children have both parents in the labor force (U.S. Census Bureau 2010a). The majority of married couples with children under 18 have both parents in the labor force (U.S. Bureau of Labor Statistics 2011).

families are in the labor force.<sup>5</sup>

This tremendous growth of female employment outside the home has increased the financial security for women and families, and this growth has contributed the intelligence, energy, and productivity of all of our residents to our economy. At the same time, these changes have been accompanied by increased tensions between work and family responsibilities that harm workers and their families, in particular those with the fewest economic resources. Our workplace policies continue to assume that a breadwinner (almost always male) and a caregiver (almost always female) will divide the tasks of providing economic support and care for the family. But this assumption no longer holds. In New York City, single mothers head almost a quarter of a million families and, as noted, more than half of two parent families have both parents in the labor force (U.S. Census Bureau 2010a). The result is that most families in this city lack the time to care for their children as well as elders who need their help. It means that women (and men) whose earnings are essential to their families lose jobs and income because they need to care for their children or others in their families who depend on them.

The recession has only exacerbated these challenges. Of the approximately 6.9 million jobs lost during the heart of the recession, more than 75 percent belonged to men (Boushey 2009). In families where fathers lost their jobs, mothers picked up the slack, but the recession also revealed the poor quality of their options in the labor market. Women are more than twice as likely as men to work part time and consequently lack access to fair pay and critical benefits such as health insurance and pension benefits. And women who work while also caring for families often feel the pressure to work even if a family member is sick or a child needs care, for fear of losing their jobs.<sup>6</sup> Poor job quality for women and the need to provide care for their families leading to lower-paying employment have consistently meant a higher poverty rate for women and female-headed households leaving them more vulnerable to economic recession. With respect to the ability to withstand recession, lower paying jobs also mean that women's unemployment benefits – a barrier to poverty for many men and male-headed households – were far lower, often insufficient to provide meaningful income replacement. As a result, the most glaring statistic for women during the Great Recession was that their poverty rate skyrocketed to the highest in modern times – 16.2 percent of American women were in poverty in 2010 (Jacobsen 2012).

As we move further into the 21st century, women will clearly stay in the workforce – and that is for the good of all of us. But a public policy system that fails to recognize these changes in the structure of the workplace and the home hurts everyone. Instead, we must adopt legal and policy changes that recognize the impact of this demographic shift to help families meet the needs of the 21st century workforce and contribute to the health of the economy. U.S. policy trails the rest of the world when it comes to helping working mothers stay in the workforce and working families provide care for their children, but it does not have to be so.<sup>7</sup> It is crucial that work-family advocates and policy-makers draw on the countless helpful lessons from abroad that have been learned over several decades. In many countries, work-family reconciliation measures are long-standing, well-tested, politically popular, and widely understood to be economically feasible, as demonstrated by the fact that many governments have

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<sup>5</sup> In 2011, 68.7 percent of married mothers with a spouse present participated in the labor force (Ibid).

<sup>6</sup> In a recent survey, 50 percent of working caregivers said they were less comfortable taking time off from work to provide care due to the economic downturn (Evercare and National Alliance for Caregiving 2009).

<sup>7</sup> While 177 other countries guarantee paid leave for new mothers after childbirth, the United States provides no such insurance. And unlike 163 other countries around the globe, the United States has no guarantee of paid sick time that workers can use to care for themselves or for a sick relative in the event of a family health crisis (Heymann and Earle 2009).

maintained or expanded work-family policy provisions in recent years, while other social programs have been restructured or trimmed (OECD 2011).

Work-family policies have developed across diverse countries and have varied intellectual and political origins. A multitude of reasons have motivated the adoption and strengthening of work-family policies, including: stabilizing family income and preventing poverty; lessening inequalities linked to age, family structure, and household income; supporting “work-life balance”; furthering gender equality; granting parents time to care for their children; improving children’s educational outcomes; alleviating labor shortages; shoring up social insurance revenues; preventing the under-utilization of women’s accumulated human capital; increasing fertility; and raising firm-level or national-level productivity. There is no one-size-fits-all political trajectory. But the experience of other countries teaches us that policies that help families to provide care for their children and elders have been successful and politically popular.

Women’s growing role in the workforce changes the landscape of what families need and what society can expect families to provide. As the Shriver Report (O’Leary and Boushey 2009), which examined these changes, stated:

*[This demographic change in the workforce] changes how women spend their days and has a ripple effect that reverberates throughout our nation. It fundamentally changes how we all work and live, not just women but also their families, their co-workers, their bosses, their faith institutions, and their communities. Quite simply, women as half of all workers changes everything.*

## 1. Summary of Major Policy Proposals

This chapter will discuss in-depth the major policy proposals we believe are necessary to address the needs of the 21<sup>st</sup> century workforce as families struggle to meet their economic needs and provide care for their children and elders. The major policy proposals that New York City should consider in the next administration are summarized below.

### **Insure effective implementation of paid sick days legislation.**

New York City is poised to join Connecticut, San Francisco, Washington D.C., Seattle, and Portland, Oregon in guaranteeing most workers paid time off to deal with short-term illnesses and preventative care for themselves and their families. The way has been cleared for this important legislation to be passed by the City Council in the spring of 2013 to become effective in April, 2014. New York can be proud to be a leader in guaranteeing this important right. But passage of the law is not the end. It will need to be implemented and enforced in a way that protects all workers while helping business to comply. The rest of the country will look to New York City to see if a law like this can be effective without hurting business. The next administration should make proper implementation of this law a priority.

## **Combat pregnancy discrimination by enacting the New York City Pregnant Workers Fairness Act.**

No pregnant worker in New York City should be forced out of her job or denied reasonable job modifications that would allow them to continue working while maintaining a healthy pregnancy. The Pregnant Workers Fairness Act would not create a new legal framework. Instead, it would explicitly protect pregnancy and pregnancy-related conditions under the city's Human Rights Law, much as it now protects religious observances and workers with disabilities.

## **Outlaw discrimination against workers due to their caregiving responsibilities.**

There is currently no legal bar to discriminating against those with caregiving responsibilities in the workplace. The New York City Human Rights Law should also be amended to expressly prohibit discrimination on the basis of family responsibilities so that workers can't be fired or otherwise disadvantaged in the workplace solely because they must care for a close family member.

## **Develop incentives for employers to adopt flexible work and legislation that would grant workers "the right to request" flexible work.**

Flexible work arrangements are critical for workers struggling to succeed while caring for their loved ones. Unfortunately, unpredictable and rigid work rules make it impossible for many workers to cope with child care or other family needs. Workers often fear retaliation for requesting a modified schedule that would make it possible for them to provide this care. A "right to request" law, without imposing any requirement on the employer except to seriously consider the request, would expand access to flexible work and guarantee that workers would not suffer retaliation if they ask for a different work schedule.

## **Make New York City a "model employer" with respect to work-family issues.**

The city should lead the way in formulating policies that address paid leave and workplace flexibility issues for its own municipal workforce. Under state law, the mayor is responsible for determining pay, benefits and work rules for all municipal workers. Because of the number of union contracts and the authority delegated to individual agencies, paid leave rules and flexibility options are variable in the public workforce. Therefore, as a first step, the city should create a Task Force on Work-Family Balance to undertake a comprehensive analysis of the municipal workforce's access to paid leave and workplace flexibility with the goal of making recommendations for clear policies allowing all municipal workers to use any sick leave they have to care for family members who are sick or need preventive care, making paid family leave available to all municipal workers, creating policies that will encourage flexible work scheduling policies such as telecommuting, non-traditional scheduling and quality part-time work.

## **Improve access to high quality affordable child care.**

High quality, affordable child care is essential for workers who must earn a living and ensure their children are safe, well-cared for, and prepared for success in school and beyond. To the extent possible, the city should invest in the expansion of early learning opportunities, especially for low-income and at-risk children, by increasing infant and toddler services and full-day pre-kindergarten for all three- and

four-year-olds in New York City, develop a more coordinated approach towards service delivery to improve and sustain early care and education programs and services, and improve access for all families.

### **Improve administration of the public assistance system**

This includes better screening for disabilities and domestic violence, providing child care to women with pre-school age children, streamlining the application process, and reforming the sanction process. A family applying for cash assistance in New York City is in a desperate situation and needs immediate help. Many of those applying have disabilities that may impair their ability to make it through the extraordinarily complex application process, may call for other supports that the city can provide, and must be considered before imposing job requirements. Many have small children who obviously cannot care for themselves when their one parent is in a work placement. And in many cases when there has been non-compliance with a work requirement, the reason has to do with a real problem – illness, disability, transportation or child care – so that before imposing sanctions, agencies should be required to ensure that circumstances beyond the recipient's control were not responsible for the non-compliance.

## **2. Leave Issues**

It comes as a shock to many that unlike every other developed nation in the world, workers in the United States are not guaranteed any time off from work with pay – not for illness, not for family needs, not for vacation. Clearly, when all adult members of a family are in the labor force, the lack of any paid time off from work presents an enormous problem when a child is sick or a parent or spouse needs emergency help. And when there is a new baby to care for or a family member has a prolonged illness, New York, like the rest of the nation, does not ensure that paid leave will be available or that job security will be maintained. Improving paid leave policies would be a big step in helping workers balance their work and family obligations. This is a labor issue, a work-family issue, a poverty issue, a women's issue, and a public health issue. It is critical that American workers, like their counterparts around the world, have paid time off when they need it to care for themselves or their family members.

The gaps in our leave policies are most significant in two areas: 1) the need for effective implementation and extension of the recent legislation in spring of 2013 regarding paid sick days (the right to take small amounts of paid time off when a worker or family member is ill) and 2) the lack of any paid family leave (extended paid leave to care for a new baby or a family member with an extended illness). Both of these gaps are discussed in this section.

### **Paid sick time**

As of 2012, nearly half the workers in New York City did not have any paid sick days, mirroring the situation throughout the nation (Rankin 2012, 3). This means that between 1.4 and 1.6 million working New Yorkers lacked any kind of paid leave they can use when they or a family member are sick – or for any other purpose (Ibid, 7). The lack of paid leave falls particularly heavily on the working poor. Almost two thirds of low-income New York workers (66 percent), a majority of whom are women, and 40 percent of moderate income New Yorkers do not have even a single day of paid sick time to use for themselves

or their loved ones (Ibid, 7). Indeed, 60 percent of low-income working mothers—and an even greater proportion of single low-income working mothers, by definition the sole caregivers for their families – lack paid sick time (Ibid, 3). Hispanic workers in particular lack this benefit – fully 76 percent of all Hispanic workers in New York City are currently without any access to paid time off, a truly shocking statistic (Ibid).

The situation is also worsening, especially for middle-income families in New York City – in 2007, 56 percent of the near poor had paid sick leave compared with only 41 percent in 2011; moderate- and higher-income workers with paid sick days dropped from 62 percent to 58 percent (Ibid, 6). This is not surprising. The length and intensity of this recession has reduced workers' bargaining power over benefits, and the future does not look much brighter: The Bureau of Labor Statistics projects the largest area of job growth from 2006 to 2016 will be in the service sector, where women predominate, but which is also least likely to offer paid time off of any kind.

Lack of paid sick time can create a public health crisis. Over half (56 percent) of workers who prepare, handle, or serve food and 43 percent of those whose jobs put them in close contact with children or the elderly lacked any paid sick leave in 2012(Ibid). A 2011 study by University of Pittsburgh researchers estimates that the absence of workplace policies such as paid sick days results in five million additional cases of flu annually in the U.S. population (Kumar et al. 2011). An analysis of federal National Health Interview Survey data by the Institute for Women's Policy Research projects that 1.3 million emergency room visits could be prevented in the United States each year by providing paid sick time to workers currently without it, reducing medical costs by \$1.1 billion annually, with over \$500 million in savings for Medicaid and Medicare (Miller 2011). The potential emergency room savings for New York City alone are estimated at \$39.5 million annually, with substantial savings to the city, which covers about 19 percent of its Medicaid costs with the remainder covered by the state and federal governments.<sup>8</sup>



Despite the obvious benefits of a policy that would insure workers a minimal amount of paid time off when they or a family member is sick, opposition from organized business associations has been strong. Nationally, the U.S. Chamber of Commerce, the National Restaurant Association, and the National Federation of Independent Businesses (NFIB) have actively opposed paid sick days legislation and were able to stop enactment in Denver, Colorado. Here in New York City, the Partnership for the City of New York and New York City's five borough Chambers of Commerce have been the chief opponents of the policy. Their argument is that it will hurt small business, even though the membership of the partnership and the chambers are overwhelmingly larger businesses. Indeed, many smaller businesses support the New York City paid sick time law, in large part because businesses that have these policies would prefer a level playing field with their competitors who do not. In fact, the law adopted in New York City in 2013

<sup>8</sup> Estimate of emergency department savings provided by Kevin Miller, Institute for Women's Policy Research, January 10, 2012. Estimate of New York City share of Medicaid costs provided by Christina Fiorentini, Budget and Policy Analyst, NYC Independent Budget Office, January 13, 2012.

will exempt the smallest businesses so that businesses with fewer than 15 employees will only have to provide job protection when workers are ill, not paid sick time. Furthermore, businesses that provide paid sick days to their employees benefit from greater workforce stability, greater worker productivity,



and reduced contagion for the workforce (Sasha Corporation 2007; Meyer et al. 2001; Stewart et al. 2003; CCH Inc. 2006; Restaurant Opportunities Centers United 2010; Smith and Kim 2010). Studies from the Economic Policy Institute show that the cost of paid sick days to business in New York City is small (2012).

### The status of legislation for paid sick time and other short term leave

The Healthy Families Act, a federal law to guarantee paid sick time, has been introduced in every Congressional session since 2005, but has never passed. The law would provide up to seven days of paid sick time for all workers in businesses with 15 or more employees (H.R. 1876, 112th Congress).<sup>9</sup> Because of gridlock in the U.S. Congress, however, states and localities have taken the initiative to provide paid sick time as a baseline worker right, arguing that all workers should be entitled to a minimal amount of

paid time to use when they or a family member is sick. In 2006, San Francisco passed the first paid sick days law requiring all businesses in the city to provide paid sick time, requiring nine days of paid sick time for workers in larger businesses with ten or more employees and five days in businesses with fewer than ten employees (San Francisco Ordinances Section 12W). The law has been a great success in San Francisco and many in the local business community have admitted, despite its original opposition, that it has been a good thing for the city.<sup>10</sup> Studies have demonstrated that San Francisco has done as well or better in job creation than neighboring counties without a paid sick days law (Miller and Towne 2011).

Other paid sick days laws were passed in 2007 in Washington D.C.; in 2008 by initiative in Milwaukee, Wisconsin;<sup>11</sup> in 2011 in the state of Connecticut, in Seattle, Washington, and as part of a living wage bill in Philadelphia, Pennsylvania; and in March 2013 in Portland, Oregon. Bills for paid sick days have been introduced in 22 states and localities and it is expected there will be more laws passed in the next year.

<sup>9</sup> The Congressional tracking service gave this bill a 1 percent chance of passing in the 2011-2012 Congress.

<sup>10</sup> Kevin Westlye, Executive Director of San Francisco's Golden Gate Restaurant Association, has even said that paid sick days "is the best public policy for the least cost. Do you want your server coughing over your food?" (Warren 2010; Institute for Women's Policy Research 2011).

<sup>11</sup> Governor Walker and the Wisconsin legislature overturned the will of almost 70 percent of Milwaukeeans who voted in favor of paid sick leave by withdrawing the home rule power of localities to pass paid sick days legislation.

In New York City, a paid sick days bill co-sponsored by a veto-proof majority of the City Council (38 members) was originally proposed in 2009, but was held up by the refusal of the City Council speaker to bring it to a vote. The bill was finally passed in May 2013 and a mayoral veto was overridden in June 2013. The enactment of the bill was a tribute to a strong coalition and concerted political pressure from women's, labor, immigrant and worker's rights groups, public health groups, and religious leaders as well as the perseverance of the bill's sponsor, Gale Brewer and progressive members of the City Council. The bill as revised in order to gain the speaker's support will provide all workers in New York City with a guarantee that they cannot be fired or otherwise retaliated against for taking up to 40 hours of time off to care for their own or a family member's illness, injury, or need for medical care, and will require all businesses with 15 or more employees (with the exception of certain manufacturing businesses) to provide 40 hours of paid sick time for all of their workers. The bill will go into effect in April, 2014.

The New York City paid sick time law covers only private sector workers because state law gives the mayor the exclusive right to determine pay and benefits for municipal workers.<sup>12</sup> Many of the contracts with municipal unions covering New York City workers' sick time limit the amount of time these workers can use for sick family members. Limiting sick leave to a worker's own illness or need for care is an artifact of a society where the worker was often not the family member responsible for care of others in the household. The mayor can change this and New York City can be a model, ensuring that its own policies allow workers to use their sick leave for sick family members who have no one else to turn to for care.

The only other law covering short-term time off in New York City is a pioneering law protecting domestic violence victims. In New York City, domestic violence victims cannot be fired for being a victim and are entitled to "reasonable accommodations" to deal with the violence. The law has been interpreted to guarantee unpaid time off to attend to health and safety issues caused by the violence (N.Y.C. Admin. Code § 8-107.1).

## Paid family leave

Paid family leave – the right to more extended leave than normally needed for a regular illness – is even rarer than paid sick time. The right to pay for an extended leave barely exists in the United States – only two states (New Jersey and California) guarantee it and approximately 18 percent of American employers voluntarily offer some form of paid leave when needed to care for a new child or a seriously ill family member (Society for Human Resource Management 2012). Neither New York State nor New York City addresses this issue. Like the lack of paid sick time, the lack of paid family leave is more problematic for lower-income New Yorkers than for higher-level earners who may be able to afford to take some time off without pay.<sup>13</sup> In addition, women workers most often take time off from work to care for a new child or a sick loved one and they often lose their jobs as a result. The importance of women's wages for families makes their job loss, at a time of increased financial obligations, especially dangerous for the economic health of families. Extended leave without pay or job protection can also disrupt a

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<sup>12</sup> New York State law provides specifically that "in the City of New York the mayor by order may grant vacations, sick leaves and leaves of absence to its officers or employees with or without pay and adopt rules and regulations in relation thereto" (McKinney's Municipal Law, GMU. Law, Section 92).

<sup>13</sup> The highest 10 percent of wage earners are six times more likely to have paid family leave than the lowest 10 percent of wage earners (Human Rights Watch 2011).



woman's work force attachment with long-term economic consequences for both her and her family (Houser and Vartanian 2012, 6-7). For families who simply cannot give up income, the stress of having to care for a new child or provide care for a child or parent who is seriously ill while working full-time can be devastating.

At the same time, paid family leave insurance is a win-win for business. Since all currently enacted programs finance family leave insurance through small deductions from workers' paychecks, there is no cost to business. Research has shown that paid family leave leads to business savings by increasing employee retention, lowering turnover costs, improving productivity and enhancing worker loyalty and morale (Appelbaum and Milkman 2004; Rudd 2004). A study of California's paid family leave program found that an overwhelming majority of California employers believe the program has had a positive or neutral effect on business (Appelbaum and Milkman 2004, 4).

Up until now, it has been left up to individual businesses to determine if and to what extent to provide paid leave. Although many businesses chose to provide some form of paid time off to their workers, the lack of public policy on this issue left too many New Yorkers with no access to paid leave.

## The status of legislation for longer-term leave

The only law that provides rights in such a situation is the federal Family and Medical Leave Act (FMLA), which applies only to large businesses (over 50 employees), to workers who have worked 1,250 hours in the past year, and guarantees only unpaid leave, which severely limits its use, especially among low-income workers (29 U.S.C. 2601 et. seq.) It provides twelve weeks per year of job-protected unpaid leave to those who qualify to bond with a new child or take care of a seriously ill family member. However, the FMLA's restrictions mean that only about half of the workforce is covered by the law,<sup>14</sup> and of those covered, many are unable to take advantage of the time off because it is unpaid.

New York City workers are also entitled to Temporary Disability Insurance (TDI) under a state plan financed by employee and employer payroll deductions which provides a weekly benefit to workers who are temporarily disabled for any reason for up to twelve weeks (N.Y. Workers' Comp. Law § 201). The state TDI program includes coverage for pregnancy if the mother must miss work, and for a number of weeks following the birth of a baby for the birth mother. TDI does not cover fathers or care of children who are adopted and the benefit level, half of a worker's salary up to \$170 per week, has not risen since the 1980s. The TDI program also lacks clear job protection, which means employees in businesses of fewer than 50 employees – or those who do not meet the hours threshold of the FMLA – would not necessarily be entitled to their job back if they take leave under the TDI program.

The FMLA and the state TDI program provide an inadequate patchwork of guarantees. To date, there has been no federal initiative to enact a national paid family leave program and discussions of using the social security system to support a paid family leave insurance program are nascent and unlikely to gain support in the near future. The best way to provide a long-term paid family leave benefit at the state level involves an insurance system through which small premiums, paid through payroll deductions, fund benefits when a worker needs them. An existing temporary disability insurance (TDI) system can easily

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<sup>14</sup> In 2007, the Department of Labor estimated that there were 141.7 million workers in the United States but only 76.1 million of them were eligible for FMLA leave (U.S. Department of Labor 2007).

be expanded to include paid family leave insurance, but only five states and Puerto Rico have such a program and only two of them, California and New Jersey, have added family leave insurance to their TDI programs.<sup>15</sup> Both programs have been successful in helping working families and neither has burdened business (Appelbaum and Milkman 2011).

New York State seems to be the next logical place to enact a paid family leave program. Indeed, bills to amend the TDI statute to include time off to care for a new child or seriously ill family member – financed exclusively by payroll deductions from employees, not employers – were passed in the New York State Assembly in 2007 and 2009, but failed to pass the Senate. Advocates are renewing efforts to make paid family leave a reality in New York State during the coming year.

While enacting a family leave insurance program on the city level, where no broad based insurance system exists, would be extremely difficult, the mayor does have the ultimate authority over benefits for employees of the city. Paid family leave is virtually non-existent for the municipal workforce. Although policies vary depending on the union contract and the particular department or agency, it is very unusual for city workers to have long-term paid family leave. The mayor could change this. A study of the exact policies that exist and the cost of providing such leave would probably be necessary, but New York City should take the lead, to the extent possible, in ensuring that the municipal workforce has access to extended leave when needed for family care.

### 3. Leave Policy Proposals

#### **Effectively implement paid sick days legislation**

New York City's paid sick days law covers more workers and more businesses than any other such law passed to date. The country will be watching to see if this law can be effectively implemented and enforced to protect workers without hurting business. The next administration should make such implementation a priority.

#### **Support efforts to enact paid family leave at the state level**

Adding paid family leave to the TDI insurance program in New York State will help all workers in New York City. The city should endorse efforts to secure paid family leave at the state level and the next mayor should use the bully pulpit of leading the largest city in our state to help fight for this addition to the state insurance system, which will cost the state and employers nothing.

#### **Ensure that both paid sick days for family members and paid family leave are available to municipal workers**

Under state law, the mayor is responsible for determining pay and benefits for all municipal workers. Because of the number of union contracts and the authority delegated to individual agencies, paid leave availability is variable in the public workforce. However, a clear policy by the mayor allowing all municipal workers to use any sick leave they have to care for family members who are sick or need

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<sup>15</sup> The difficulty of enacting a free-standing new program for paid family leave is demonstrated by the state of Washington which passed paid parental leave in 2007, but has yet to implement it because of the cost of setting up a new program.

preventive care would help a large number of workers and also set an example. In addition, although New York City probably cannot enact a program to make paid family leave available to all workers in the city, the mayor could make paid family leave a priority for the municipal workforce.

#### 4. Pregnancy and Care Giver Discrimination

Despite our nation's civil rights laws, workplace discrimination against pregnant women and caregivers is on the rise. According to the U.S. Equal Employment Opportunity Commission (EEOC), pregnancy discrimination claims filed with the EEOC have risen by 35 percent. Here in New York, the statistics are shocking: New York has the largest number of pregnancy and caregiver discrimination cases of any state in the country (Calvert 2010, 17).



Discrimination that prevents pregnant women and caregivers from staying at their jobs or advancing at work poses a significant threat to family economic security. When a pregnant woman is fired, she risks losing her health care, and even her house and ability to feed her family. When a new mother, back from maternity leave, is passed over for a promotion because her boss thinks she can't handle the job, her lower base income leads to lower lifetime earnings. Moreover, when a man is denied family leave because of an assumption that caring for children is women's work, his family loses out on much-needed caregiving.

Through its Families at Work Legal Clinic, A Better Balance has heard from an increasing number of low-wage pregnant women, mothers, and other caregivers who complain about unfair treatment and discriminatory terminations. Recently, one woman's employer said he "should have fired her on the spot"

when he found out she was pregnant. Another was told by her supervisor, “you can’t keep your job with this situation,” pointing to her pregnant belly.

Although pregnancy bias is often open and blatant, other more subtle forms of pregnancy discrimination are increasing as well. Frequently, pregnant workers, especially low-wage women in physically demanding jobs, are removed from their positions, placed on unpaid leave, or fired when they seek an on-the-job work modification such as relief from heavy lifting, increased access to water, a chair, or minimal time off for a pre-natal appointment or childbirth. This discrimination is pushing New York City women out of the workforce and all too often, deeper into poverty. For example:

- A pregnant care attendant submitted a doctor’s note with a lifting restriction and was immediately sent home. She told her employer she could work and her employer ended up firing her anyway after saying they could not accommodate her. She ended up moving into a shelter and stayed there into her eighth month of pregnancy.
- A pregnant desk clerk at a large New York hotel chain asked to sit for a few minutes during her nine-hour shift. Her employer denied her requests, and she ended up being pushed out of her job and onto public assistance.
- A pregnant receptionist in a doctor’s office was required to take a full day off every time she needed to miss work for a pre-natal appointment. Her employer (a doctor) also wouldn’t let her take lunch breaks. She was ultimately fired.

On the federal level, this form of pregnancy discrimination persists due to a court created loophole between the Americans with Disabilities Act (ADA) and the Pregnancy Discrimination Act. Because pregnancy is not considered a disability pursuant to the ADA, even as amended, many courts have held that employers are not obligated to accommodate most pregnant workers in any way (unless they have a pregnancy-related disability) – even though employers routinely make similar modifications for workers with other temporary health issues or limitations.<sup>16</sup> On the state level, courts have also made clear that pregnancy is not a “per se” disability.<sup>17</sup> Although the New York City Human Rights Law offers broader protections than both federal and state law, there is no clear statutory language guaranteeing New York City women the right to a reasonable accommodation for pregnancy, childbirth, and related medical conditions. Confusion and misinformation are rampant among employers and employees alike.

Pregnant women desperately need clear legal protections, like those afforded other workers, which allow them to stay on the job safely, and promote healthy pregnancies and the economic security of their families. No pregnant woman should be forced to choose between her job and a healthy pregnancy (Bakst 2011). Even though the New York City Human Rights Commission interprets the New York City Human Rights Law’s disability provision to cover most pregnancy limitations, legislation is still necessary and desirable. Pregnant women prefer informally resolving issues without interference from a government agency because many fear that involving the government might result in retaliation. Moreover, agency interpretation is not set in stone and could change with a new administration. Finally, pregnant women cannot afford to wait weeks or months for an agency investigation that may or may not

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<sup>16</sup> Courts are permitting employers to accommodate workers covered by the ADA and/or injured on the job while refusing to accommodate pregnant workers (*Wiseman v. Wal-Mart Stores, Inc.*; *Serednyj v. Beverly Healthcare*; *Young v. United Parcel Service, Inc.*).

<sup>17</sup> See *Card v. Sielaff* (“[t]he status of being pregnant does not qualify as a disability per se.”); and see *Kennebrew v. New York City Housing Authority* (“...mere pregnancy is not a disability”).

result in a finding of “probable cause.” There is little certainty. According to the Human Right’s Commission’s own records, as of September 2012, the average age of pending pregnancy discrimination cases is 376 days – far longer than any pregnancy (Mulqueen).

Thankfully, legislators at the local, state and national level have taken action to better protect pregnant workers. In November 2012, City Council Members James Vacca, Brad Lander, Annabel Palma, and Debi Rose introduced the New York City Pregnant Workers Fairness Act, a bill similar to the federal Pregnant Workers Fairness Act introduced in May. The city law also includes a notice provision, which would require employers to inform pregnant women about their rights at work. New York’s Governor Andrew Cuomo recently announced the groundbreaking Women’s Equality Agenda, a ten-point plan to promote fairness and equality for women across the state. The agenda would not only require employers to provide reasonable accommodations for pregnancy and childbirth unless doing so would be an “undue hardship” for the employer, but would also protect parents from discrimination at work (Cuomo 2013, 122-126). Ensuring pregnant workers, new mothers, and all caregivers are adequately informed of their rights should be a critical piece in any effort to combat discrimination and promote equal opportunity. The city should be pursuing such measures wholeheartedly.

In addition, ensuring that pregnant workers are treated consistently equal to employees with disabilities makes good business sense and is critical to a productive economy. According to the U.S. Women’s Chamber of Commerce, providing accommodations to pregnant workers benefits their businesses by “reducing turnover costs and improving the retention of pregnant employees, increasing employee productivity, engagement and morale, and reducing litigation costs associated with defending discrimination claims brought by pregnant workers.” Moreover, because most New York City employers are familiar with the “reasonable accommodation” requirement for disabled workers and may already be making accommodations for pregnant workers, there is every reason to believe that pregnancy, which is only a temporary condition, can also be successfully accommodated by employers when such accommodations do not impose an undue hardship.

Although the vast majority of A Better Balance intake calls relate to pregnancy and maternity leave, we frequently hear from mothers and other caregivers who face job loss and discrimination because of their need to care for their loved ones. Every day, workers in New York City are fired, demoted, not promoted or denied other employment benefits due to their family responsibilities, including workers caring for children, older adults, ill spouses or other family members with disabilities. As Baby Boomers grow older, caregiving is on the rise – the percentage of adults offering care or financial support for their aging parents has more than tripled in the last 15 years (MetLife Mature Market Institute 2011, 2). This means that more and more caregivers, particularly women and low-wage workers, struggle daily to provide, and care, for their families (Ibid, 7). Caregiver discrimination cases brought by low-wage workers nationwide show that many are refused small allowances for child or family care, even in emergencies (Bornstein 2011). Unlike more affluent families, these workers face insurmountable challenges when family emergencies arise. For example:

- A clerical worker was fired when he requested a reduced work schedule to care for his ill mother.
- A record keeper/research assistant who had worked for the same employer for 15 years was laid off when her job was eliminated and her new position, which required unpredictable hours and

weekends, could not be negotiated to allow her to ensure her eleven-year old daughter was not left home alone at night.

- A retail worker was fired after requesting a schedule change to care for her special needs child.

Although caregiver discrimination is increasingly common, no New York or federal statute expressly prohibits discrimination based on family responsibilities. As a result, most caregiver cases are brought using a patchwork of civil rights laws that leave many workers unprotected. The New York City Human Rights Law is one of the strongest in the nation, yet employers are still free to discriminate against caregivers. This is a loophole that must be closed to ensure that all New Yorkers, especially low-wage workers, have equal opportunity. If enacted, the New York State Women’s Equality agenda, mentioned above, would provide this critical protection for parents across the state.

## 5. Pregnancy and Caregiver Discrimination Policy Proposals

Discrimination that prevents pregnant women and caregivers from staying on the job is a significant threat to family economic security. It also thwarts women’s advancement in the workplace. To ensure pregnant women and caregivers have access to equal opportunity in the workplace, New York City must:

- Explore every legal option to **prevent discrimination against pregnant women and caregivers**, including strengthening enforcement of existing laws.
- Amend the New York City Human Rights Law to **explicitly guarantee reasonable accommodations for pregnancy, childbirth and related medical conditions** unless the accommodation imposes an “undue hardship” on the employer.
- Amend the New York City Human Rights Law to **expressly prohibit discrimination on the basis of family responsibilities**.
- New York City Council should pass a resolution supporting **the New York State Women’s Equality Agenda**.

## 6. Work Rule Issues

Paid leave for short-term illness and longer-term care is critical, but not sufficient, to ensure economic security for family caregivers on the job. Flexible work arrangements (including flexible scheduling, part-time work, and telecommuting) are crucial to the well-being and success of workers struggling to care for their children, aging parents, or disabled loved ones. Abundant research shows that workplace flexibility reduces employee stress, encourages healthier lifestyles, and improves the long-term health of employees (A Better Balance: The Work and Family Legal Center 2010). In addition, parents with workplace flexibility can better ensure their children’s health and well-being. Research shows that parents with access to workplace flexibility are more likely to be involved in their children’s education and health care, resulting in numerous long-term benefits (Flatley McGuire and Kenney 2010).

Employers also benefit from flexible work arrangements and policies. In today’s globally competitive economy, flexibility is a powerful tool to recruit and retain top talent and enhance productivity. Workplace flexibility also helps to prevent turnover and high attrition rates, saving employers millions of dollars each year (A Better Balance: The Work and Family Legal Center 2010). Following the first-ever White House Forum on Workplace Flexibility in March 2010, the President’s Council of Economic Advisors issued an in-depth report on the economic benefits of flexible work arrangements (Council of Economic Advisors

2010). Although many business leaders and workplaces recognize flexibility as a strategic business imperative, too many employers continue to resist the concept. Rigid and inflexible workplace rules – and a lack of control over when, where, and how work gets done – continues to make it difficult, if not impossible, for many workers to care for their families without jeopardizing their economic security.

Lack of workplace flexibility impacts workers across the economic spectrum, but plays out differently depending on sector and income level. For example, professional workers typically have access to paid leave and considerable flexibility in their starting and stopping times (Williams and Boushey 2010, 69). Nevertheless, professional workers often have barriers to taking advantage of flexible work arrangements (Richman et al. 2006, 11). When workplace flexibility is available, workers are often reluctant to request it, even when flexibility is desperately needed or the benefits would be significant. Research reveals that nearly 80 percent of employees do not take advantage of corporate flexibility policies because they are concerned about jeopardizing their careers (Galinsky et al. 2004). Long work hours and “flexibility stigma” – particularly regarding part-time work – push many professional workers, especially mothers with caregiving responsibilities, out of the workforce (Williams and Boushey 2010, 54).

For middle-income workers, inflexible work rules can make it difficult to meet day-to-day work-family challenges. Middle-income workers have far less access than professional workers to flexible scheduling and telecommuting. All too often, middle-income workers are subject to rigid, highly supervised schedules, and they might be fired for being a few minutes late (Ibid). Furthermore, mandatory, unscheduled overtime often wreaks havoc on middle-income parents who attempt to “tag-team,” or arrange their schedules so that one parent is caring for children while the other parent is working (Ibid).

Lower-income workers face the most acute work-family challenges and deserve special attention. Low-wage workers, particularly low-wage working women, have the greatest amount of family caregiving responsibilities. Families below the official poverty line are more than twice as likely to provide at least 30 hours of unpaid care a week to parents or parents-in-law (Heymann 2005, 102). In addition, lower-wage workers and their children face significantly more health challenges than middle and higher-income workers (The Urban Institute 2005). For example, one study found that nearly one-third of welfare-to-work mothers are caring for children with chronic illnesses (Williams and Boushey 2010, 11). Low-wage workers have exceptionally high levels of work-life conflict because, in large part, they lack the financial resources with which to deal with them.

Although low-wage workers are most in need of workplace flexibility and greater control over their work schedules, they are least likely to have access to it. Low-income workers, especially those in the retail, janitorial, child care, and restaurant industries, are more likely than higher-earning workers to work irregular and non-daytime shifts; 20 percent of employed parents in the lowest income quartile work evenings compared to 7 percent of those in the highest quartile (Boushey et al. 2007; Heymann 2000, 103). Nearly 70 percent of low-income workers cannot change their scheduled start or stop time if needed (Gynn and Venator 2012). Like middle-income workers, low-income workers also experience mandatory, unscheduled overtime, which makes planning for child care and elder care all the more challenging (Richman et al. 2006, 11). Furthermore, low-income workers often suffer an adverse job action or job loss when they lack flexibility to handle family emergencies or routine personal and family

issues, such as doctor's appointments and parent-teacher conferences, which require some time off but do not qualify for FMLA leave (Ibid, 15).

While salaried workers may need flexible work arrangements to reduce their work hours, many low-wage and hourly workers would prefer to increase their salaries by working more hours as few can support their families on anything less (Madland 2009). To make ends meet, many part-time workers juggle two or more part-time jobs at the same time. However, the quality of part-time employment is often exceptionally poor. Part-time workers, who are disproportionately women, are often paid less per hour than full-time workers doing the same or similar work (Maloney 2010). This "part-time penalty" is most severe in the sales sector, with part-time employees earning less than 60 percent of the wages that an equivalent full-time employee earns per hour (Maloney 2010, 3). Furthermore, many part-time workers do not receive the same benefits as full-time workers, including health insurance, paid time off, and sick days (Maloney 2010, 3).

Outdated laws and policies that exclude part-time workers jeopardize family economic security and do not reflect the modern workforce. New York City should be a model for the nation and evaluate its laws and policies to ensure pay parity and equitable treatment for part-time workers. In addition, low-wage workers would greatly benefit from predictable scheduling, greater advance notice of scheduling, and/or schedule choice (Richman et al. 2006). Scheduling problems are particularly prevalent in the retail industry, where workers are often uncertain of their schedule until the last minute. Many workers are also required to make themselves available to an employer by being "on call," without being guaranteed a shift or any compensation; this troubling practice creates an almost impossible situation for a mother who needs to arrange child care in advance in order to work.

Following the lead of a growing number of businesses, employers should recognize that flexible work arrangements can improve the organizational bottom line by boosting the recruitment and retention of talented employees, decreasing turnover, and improving productivity. Nevertheless, the mere creation of flexible policies and practices is not enough to achieve these benefits. To be effective, managers and senior leaders should proactively promote workplace flexibility and ensure that workers who take advantage of flexible work arrangements feel supported and rewarded. If employees feel that they can use flexible work policies without penalty, they will be happier, more loyal, more productive, and more likely to utilize available benefits.

Although employers have an important role in promoting flexible work arrangements, there is also a critical need for policymakers to support workplace flexibility. Statutes that promote flexible work time are an important potential tool in relieving the tension of work/family balance issues for workers and their families. Flexible working statutes strengthen the ability of individual employees to find solutions that allow work-life reconciliation, but in a manner that takes account of employers' business and operational requirements. The large majority of high-income countries have introduced flexible working statutes aimed at making it easier for employees to change how many hours, and when and where they work within their current job. These laws have expanded access to flexible work (Danziger and Boots 2008) caused few problems for employers and improved gender equity (Hegewisch and Gornick 2008). Here in the United States, the Working Families Flexibility Act, H.R. 1264, introduced in the 111th Congress in the House of Representatives by Carolyn Maloney (D-NY), would specifically protect workers from discrimination or dismissal for requesting a flexible schedule (Working Families Flexibility Act, H.R. 1274,



111th Congress 2009). While the law does not require employers to grant such requests, it does require them to meet with their employees to discuss the requests and explain in writing if they choose to deny them. This approach could encourage more candid conversations about families at work and open the door to significantly more flexible work arrangements.

While policymakers have an important opportunity to support fair and flexible work policies through legislation, governments are also uniquely positioned to lead by example as a “model employer.” Many state governments, most notably Michigan and Arizona, have promoted and publicized the benefits of their workforce’s telecommuting and flexible work policies, which can support the needs of workers while addressing issues like traffic congestion and rising gas prices (Fetterman et al. 2009; City of Houston 2006). For example, the Michigan Occupational Safety and Health Administration (MIOSHA) eliminated rigid scheduling requirements to allow greater scheduling flexibility and more employees to telecommute. According to one report, “these adjustments not only met the needs of the employees surveyed, they resulted in increased productivity and enhanced services for the agency” (Ibid, 18).

Local governments are responding too. In September 2006, Mayor Bill White of Houston launched a two-week experiment in which employees of major corporations were allowed to alter their work schedules in order to decrease traffic congestion after learning from an initial study that increased flexibility would result in an annual savings of over \$1 million. More than 140 organizations signed up for the experiment, which enabled as many as 20,000 employees to work flexible schedules. The change in commuting patterns resulted in a savings of more than 5.8 percent in travel time for 32,000 peak-time commuters on two of Houston’s major freeways.

The federal government has also shown the potential savings associated with flexible work policies. For example, the federal government’s telecommuting policies resulted in savings of more than \$30 million a day during snowstorm-related closures in 2009 and 2010 (Council of Economic Advisors 2010, 13). By implementing flexible work policies in local, state, and federal agencies and then tracking the benefits, government can encourage private employers to promote workplace flexibility in their own workplaces.

New York City is uniquely positioned to lead by example and to serve as a “model employer” on workplace flexibility. In 2009, New York City was the eleventh largest employer in the United States; if public authority employees who are not directly on the city’s payroll are included – such as employees of the Metropolitan Transit Authority (MTA), New York City Housing Authority (NYCHA), and the Health and Hospitals Corporation (HHC) — New York City is the country’s fourth largest employer (Braconi 2001, 8). Given the size and prominence of its workforce, New York City has a tremendous opportunity to serve as an example for both public sector and private employers by implementing workplace policies that are fair, flexible, and family-friendly.

The New York City Comptroller’s office has analyzed the city’s payroll data from 2010 and highlighted some concerning statistics. The base salary of female municipal employees is 8 percent lower than their male counterparts; when gross earnings including overtime are considered, this wage gap increases to 20 percent (Liu 2011, 15). Furthermore, the New York City Comptroller compared wage differentials between men and women in four sectors in New York City (for-profit, non-profit, state/federal government, and local government) and found that female municipal workers with children had the largest wage gap when compared to their male counterparts (Ibid, 12). According to the New York City

Comptroller's analysis, women with children working in municipal government receive 21.4 percent less pay than their male counterparts with children (Ibid). The New York City Comptroller's report suggests that the maternal wage gap in New York City's municipal workforce could be due to the lack of paid parental leave and workplace flexibility.

While the strict regulation of civil service pay scales may help to limit wage gaps between men and women in local government for particular occupations, the corresponding rigidity of work rules in municipal government could account for the higher-than-expected wage gap for women with children found in a regression analysis. The lack of paid parental leave and flexible work schedules in many city agencies could have a snowball effect on women who have children and who have difficulty taking advantage of opportunities for overtime and promotions (Ibid, 13).

Although the New York City Comptroller's report strongly suggests that the pronounced maternal wage gap in New York City's municipal workforce is due in part to a lack of flexibility and paid leave, information on the benefits of municipal workers is difficult to obtain. Among New York City workers, specific benefits and workplace policies vary between and within agencies; access to flexible work arrangements and paid leave benefits vary based on job position, union contracts, and specific agency policies. As one of the nation's largest employers, New York City has an incredible opportunity to implement flexible and family-friendly policies that will increase productivity, improve efficiency, and support the many caregivers in the city's workforce. Before New York City can be a model employer, however, it must increase transparency around employee benefits and undertake a comprehensive analysis of the municipal workforce's access to paid leave and workplace flexibility.

## 7. Work Arrangement Policy Proposals

Flexible work arrangements are critical for workers struggling to succeed in the workplace while caring for their loved ones. Unfortunately, unpredictable and rigid work rules make it impossible for many workers to cope with child care or other family needs. New York City should lead the way in promoting workplace flexibility.

Specifically, the city should:

- **Develop incentives for employers to adopt flexible work** and legislation that would grant workers "the right to request" flexible work (including the ability to refuse overtime, limit work hours, or create a flexible work schedule) without penalty.
- As a first step, the city should **create a Task Force on Work-Family Balance** to identify barriers/key challenges by sector and make recommendations. In conjunction with the Task Force, the City Council should study the pronounced maternal wage gap in both the municipal and private sector workforce and make recommendations.
- The city must make every effort to serve as a "model employer" by implementing workplace policies that are fair, flexible and family-friendly. As a first step, the city must **increase transparency in the New York City municipal workforce around employee benefits and undertake a comprehensive analysis of the municipal workforce's access to paid leave and workplace flexibility**. The city should also pilot a flexible work initiative in a city agency.

## 8. Non-Parental Child Care

One of the most significant challenges facing working parents in New York City is the inability to access quality, affordable child care. There was great anxiety this year as advocates, parents, and educators watched to see if Mayor Michael Bloomberg would cut roughly one-third of the city's subsidized child care slots. Thankfully, he did not cut these programs (Knafo 2012). However, this crisis underscored what is readily apparent – high quality, affordable child care is essential for workers who must earn a living and ensure their children are safe and well-cared for. Quality child care also significantly impacts a child's social, physical and cognitive development – a growing body of research shows quality care helps prepare children for success in school and beyond (Center for Children's Initiatives 2011a, 2). It is also good for our economy: for every dollar invested in quality care and early learning programs, New York State generates \$1.86 in additional spending, creating jobs and supporting the local economy (Clothier and Poppe).

Despite these benefits, working families face desperate shortages and crushingly expensive care: the cost of care in New York is rising by \$730 per year. To address these problems, the city must increase access to quality, affordable early care, and education services and after-school care and develop a more integrated, coordinated approach towards early care and education.

### Accessibility

Generally speaking, a family of three in New York City must earn less than \$37,060 (or up to 200 percent of the federal poverty level) to be eligible for a child care subsidy (Institute for Children, Poverty and Homelessness 2012, 1). There are almost 665,000 families who meet this criteria, and are thus likely eligible for subsidies, but due to a shortfall in public funding, only a small fraction are actually granted



one (Ibid). In fact, 90 percent of the children who are currently getting child-care subsidies are in families making less than 135 percent of the federal poverty line (\$25,000) (Center for Children's Initiatives 2011b). This means that a huge percentage of low-income working families who are eligible are not receiving the child-care subsidies that they deserve and desperately need. According to the Center for Children's Initiatives, there are more than 40,000 city families on waiting lists for

subsidies (Center for Children's Initiatives 2012). The shortage of care for children under the age of three is especially acute. There is only one licensed child-care slot for every five babies in need of one (Ibid).

President Bill Clinton's 1996 welfare overhaul promised to provide child care so that low-income families could successfully transition into the workforce, but most families are now finding this promise comes up short and are left wondering how they can fulfill work requirements without adequate child care

(Goodman 2010). Of equal concern is the fact that a significant number of working families between 200-275 percent of the federal poverty level fail to qualify for subsidies altogether, yet desperately need them. These families are living paycheck to paycheck with no government support to meet the increased cost of quality care. According to a recent report by the Center for Children's Initiatives, they are caught in the middle: they have no access to a subsidy, yet are unable to afford the private preschool programs filled by professional parents (2011a, 6). These vulnerable New York City families deserve support too.

## Affordability and quality

Quality and affordable child care is absolutely essential for parents to be able to go to work and advance in their careers. In one recent survey, New York City parents were asked the hypothetical question, "What Will You Do if the City Closes Your Child's Child Care or After-School Program?" (Campaign for Children 2012). Half of the parents using child care responded that they would quit their jobs to stay home with their children (Ibid, 2). If this result came to pass, it would not only devastate the families who depend on such income, but the city's economy would suffer from the lack of workforce participation as well.

High quality child care not only allows parents to work and stay on the job, it has great benefits for children, with gains lasting even 30 years (Rochman 2012). Research has shown that children in low quality child care experience high stress levels, which is an indicator of more problems later in life (Ibid). Another study revealed that low-income children who are put in high quality programs had significantly greater gains than low-income children in low quality programs in terms of social skills, behavioral skills, and vocabulary (Ibid, 4).

Unfortunately, New York is the least affordable state for both center-based infant care and center-based care for four-year-olds (ChildCare Aware of America 2012, 16-19). The average annual cost of infant care in a center is \$14,009 in New York State, compared with \$11,823 in California (which is still the fifth least affordable state) (Ibid, 16). The average cost for infant care in New York City is even worse, over \$19,000 per year (Center for Children's Initiatives 2012). In New York City, child care is the single greatest expense for low-income families, costing even more than housing and food (Institute for Children, Poverty and Homelessness 2012, 1). Low-income working families in New York City are often stuck; they often earn too much to be eligible for a voucher so they instead must turn to unstable arrangements and situations that sometimes even turn out to be unsafe, to the horror of parents who discover this after the fact (Williams and Boushey 2010,16-22). Older children are left home alone, often in dangerous neighborhoods, and are sometimes forbidden from going outside (Ibid, 21). For those who can afford more reliable center-based care, high quality centers remain out of reach (Ibid).

The lack of quality, affordable child care is unsustainable for the vast majority of working families in New York City. Quality child care truly can mean the difference between employment and unemployment or living in poverty and making ends meet. Parents should not have to choose between keeping their children safe and a paycheck. The city must strengthen its investment in early care and education programs, including making full-day pre-kindergarten available for all three- and four-year-olds. Moreover, the city must make every effort to develop a more integrated, coordinated approach to the maze of government programs and services in New York City. These steps are critical if we are committed to keeping parents earning and children learning.

## 9. Child Care Policy Proposals

High quality, affordable child care is essential for workers who must earn a living and ensure their children are safe, well-cared for, and prepared for success in school and beyond. Unfortunately, desperate shortages and crushingly expensive care often makes it impossible for working families. All too often, parents are forced to choose between quality care and a paycheck. New York City can and must do better. Specifically, the city should:

**Invest in the expansion of early learning opportunities**, especially for low-income and at-risk children, by increasing infant and toddler services and full-day pre-kindergarten for all three- and four-year-olds in New York City.

**Develop a more coordinated approach towards service delivery** to improve and sustain early care and education programs and services, improve access for all families and promote better outcomes.

Currently, **city agencies do not share data effectively and policymaking is still siloed among city agencies**. This approach fails to engage and harness the expertise, capacity and funding already in the system.

**Ensure appropriate funding for subsidies and slots** to support what the evidence shows works to get better outcomes for children. The city has appropriate expectations for quality, but our investments (rates per child) don't support that vision. All children need access to quality.

## 10. Financial Support for Single Parents

Our social and economic safety net was created during the Great Depression and, despite its many inadequacies, has provided some protection for many of the most vulnerable members of our society. Social security, unemployment insurance, aid to the aged, blind, and disabled (which became the SSI program) have survived over 60 years and that safety net was strengthened with the passage of Medicare and Medicaid in the 1960s and the Food Stamp program soon afterward. Most Americans support and believe in these programs.

The Aid to Families with Dependent Children (AFDC) program that provided cash assistance to single parents with children is the only safety net program from the Great Depression era that has been abolished. The *raison d'être* of that program was the notion that one parent cannot provide both financial support and care for a child and that, therefore, society has an obligation to support a single parent so that she can provide the care a child under 18 needs. Also underlying the AFDC program was the reality of the 1930's workforce, which was predominately male with few women, and even fewer women with children, participating.

In 1996, Congress repealed AFDC and replaced it with a Work First program called Temporary Assistance to Needy Families (TANF) that required single parents receiving aid to meet work requirements and limited the time that could be spent receiving cash assistance. The most benign policy justification for the change was the belief that, given women's prevalence in the workforce and the acceptance of children in child care, we as a society had no obligation to provide cash support for female-headed households so they could provide care for their children. The priority became getting

these single mothers to work. But though society's expectation of poor, single mothers shifted from believing these mothers should be at home caring for their children to insisting that these mothers should have jobs, nothing changed in the workplace to make it more likely that they could obtain or keep those jobs while still caring for their children. All of the issues described above that have emerged because women are now in the labor force are even more pronounced for poor, single mothers: lack of paid leave to deal with family needs, lack of flexible work options, discrimination, and lack of child care. As difficult as those issues are for the entire work force, they are even more difficult for women who lack any financial resources and who are often, in addition, dealing with their own or a child's disability.

Female poverty – or more accurately, mother and child poverty – persists throughout the state of New York and has not been alleviated by the replacement of AFDC with TANF.<sup>18</sup> Families in which women are the heads of households make up 57.5 percent of all families in the state of New York living in poverty (New York Women's Foundation 2008, 3). One-third of all female-headed households in the state live under the poverty line (Ibid). One factor, which keeps women and children poor, is the lack of workplace support to balance work and family. Without recognition of the particular challenges that poor, single mothers face in caring for their children and meeting workplace obligations, the demographics of female poverty will not change.

New York City's policies over the past 20 years have penalized poor women who need cash assistance and made it extremely difficult for them to receive it. The welfare application process should be a point of entry for desperate families not only to receive cash assistance, but also to receive an evaluation of their other needs and information about where to find help. For example, if the head of the household is dealing with a disability, there may be specific services that can help overcome that disability or make it possible to work despite it. Rather than seeing the application process as a time to evaluate what help might be available to address the problems of our most vulnerable families, New York City welfare policies are aimed in the first instance at keeping families off the welfare rolls.

The Great Recession of the last few years demonstrates graphically that New York City is hostile to providing cash assistance even to the desperately needy. In 2009, in the heart of the recession, when unemployment in the city was at an all time high, the cash assistance rolls were reduced. Food Stamp and Medicaid programs saw increases but the number of families receiving cash assistance went down.<sup>19</sup> One explanation could be that the TANF (known as the Family Assistance program in New York City) application process was not streamlined in recognition of increased need, as were the application procedures for Food Stamp and Medicaid programs (Ibid, 16). In addition, although regulations require that the city has a "duty to assist" applicants for assistance, that directive is routinely violated (NYSSL Sec 341(1); Sec 342; N.Y. Comp. R. & Regs. 18 § 385.12(c); Federation of Protestant Welfare Agencies 2012, 6).

The city also has used its sanction process to keep poor women off the welfare rolls. At any given time during the past administration, 25 percent of all welfare recipients were being sanctioned or in the

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<sup>18</sup> Indeed, changes in the cash assistance program have resulted in that program being far less available as a support for families in poverty. In the state of New York in 1994-95, Aid to Families with Dependent Children (AFDC) reached 81 percent of households with children living in poverty. In 2009, the program served only 33 percent of these families (Center on Budget and Policy Priorities 2010).

<sup>19</sup> From March 2006 to March 2011 the number of Supplemental Nutrition Assistance Program (SNAP – formerly Food Stamp) recipients in NYC increased by 66 percent and the Medicaid roles increased by 10 percent. By comparison, during that period the public assistance case-load dropped 12 percent (Federation of Protestant Welfare Agencies 2012, 2).

sanction process.<sup>20</sup> Sanctions are imposed for minor infractions and are often improperly imposed (Federation of Protestant Welfare Agencies 2012, 5-9). If the recipient is able to request a fair hearing, she will usually win, as the agency loses most hearings, a clear indication that the sanctions are improper (Ibid, 8).<sup>21</sup> However, for many recipients, the process of requesting a hearing can be difficult. Sanctions, if not appealed within the proper time frame, can cause extreme economic distress for families in poverty.<sup>22</sup>

Many of those who rely on welfare as a last resort do so because a disability makes it difficult for them to work (Skinner et al. 2009; Loprest and Maag 2009). Yet the disability screening that the city does is woefully inadequate. Addressing problems caused by a disability could go a long way in helping many recipients. The welfare office is a good point of contact for evaluating whether an individual has an illness or condition that needs treatment and may be a barrier to work.

Finally, the application job search process is a barrier to receiving assistance and a problem for a single mother with children. The city imposes a requirement that applicants for assistance job search 30 hours a week if they have children (35 hours if they do not) as part of the application process. The application period is 30 days for families with children and 45 days for families without children, and many appointments are required during that time. If an applicant misses an appointment, assistance is denied. Furthermore, no assistance is given during this period and accessing child care can be difficult. Mothers are pressured to use whatever care might be available even if it is not the best care for the child, and if there is a child care emergency or an illness of either mother or child, the application is denied.

## 11. Policy Proposals for Single Parents

### **Improve screening for disabilities and other issues such as domestic violence that may impair an applicant's ability to find work.**

A family applying for cash assistance in New York City is in a desperate situation and needs immediate help. Many of those applying have disabilities that may impair their ability to make it through the extraordinarily complex application process, may call for other supports that the city can provide, and must be considered before imposing job requirements. Because so many people seeking assistance have disabilities, appropriate screening is essential to assess whether a disability is present and work out ways any disability can be treated or accommodated. There are other barriers, such as domestic violence, which also need to be carefully screened at the application stage.

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<sup>20</sup> From April 2006 through April 2009, 25 percent of New York City family cases with at least one adult or minor head of household were sanctioned or in the sanction process. The New York City welfare agency's March 2012 caseload work activities engagement report reveals that 34 percent (20,995) of the total households (61,263) engaged in welfare work programs in New York City are sanctioned or in the sanction process, and 22 percent of the broader category of "engageable" households (92,149) are sanctioned or in the sanction process (Federation of Protestant Welfare Agencies 2012; Human Resources Administration 2012).

<sup>21</sup> The city welfare agency, Human Resources Administration, withdraws 63 percent of sanctions when hearings are requested and has won only 23 percent of hearings in cases they defended.

<sup>22</sup> A study of welfare sanctioned families indicated that young children in sanctioned families are more likely than other children whose families are receiving welfare to have food insecurity or be hospitalized. Children in sanctioned families have a 30 percent higher risk of having ever been hospitalized; 90 percent higher risk of hospitalization during an emergency room visit; and 50 percent higher risk of food insecurity (Children's Sentinel Nutrition Assessment Program 2002).

## **Ensure that child care is available for women with children who are not school age.**

Small children cannot take care of themselves while their parent is engaged in job search or work requirements. Insuring quality care for pre-school age children whose parent is fulfilling work requirements is essential for the most vulnerable children in our city. No parent can be expected to work when her child lacks proper care.

## **Reform the sanction process.**

In many cases when there has been non-compliance with a work requirement, the reason has to do with a real problem – illness, disability, transportation or child care. Before imposing sanctions, agencies should be required to ensure that circumstances beyond the recipient’s control were not responsible for the non-compliance. This could also be an intersection point for assessing whether a disability is interfering with the recipient’s ability to work. In addition, sanctions should be lifted as soon as a recipient complies rather than withholding assistance for a specific amount of time with no recourse for the family. A bill pending in the New York State Legislature (A.3423A (Wright)/S.6910 (Savino)) would improve the sanction process in these ways, but the city can implement much of what is in that bill as a matter of policy.

## **Improve the application process and take “duty to assist” seriously.**

Streamlined application processes will help ensure that those who desperately need assistance can get it. Some of the improvements in the application processes that have been applied to other assistance programs, such as on-line applications, simpler applications and telephone interviews, should be used for cash assistance programs as well. In addition, all eligibility workers should be trained in how to assist applicants for assistance as required by law.

## **12. Lessons from Abroad**

Throughout this chapter, we have emphasized that New Yorkers – like all Americans – need substantially more generous public supports aimed at helping them reconcile paid employment with family responsibilities. We have argued in favor of extending rights, and expanding public investments, in several types of work-family supports, including paid sick leave, paid family leave, protections from discrimination against caregivers, rights to flexible working time, non-parental child care for children of all ages, and financial support for single parents.

As we have reported, some of these policies are in place in other U.S. states and cities (e.g., paid family leave in New Jersey, paid sick days in San Francisco) and we should learn from those cases as we assess policy options for New York. We also know that many other high-income countries, with populations and labor markets similar to those in the U.S., grant many of these rights and benefits. The policies that those countries have adopted can serve as a model for us as we move forward on these issues.



## Paid sick leave

In their report, Jody Heymann, Hye Jin Rho, John Schmitt, and Alison Earle Heymann, Rho, Schmitt, and Earle, vividly titled “Contagion Nation,” synthesize sick leave policies in 22 affluent countries (2009). Heymann et al. found that, as with paid parental leave, only the United States does not guarantee that employees receive some paid sick leave. They also found that their 21 study countries (where sick leave is provided and reimbursed) use a variety of approaches to support workers with illnesses who are unable to work temporarily.

## Paid family leave

Paid family leave, which includes parental leave, is widespread across high-income countries, both within and outside of Europe. In their study of parental leave policies in 21 countries, Rebecca Ray, Janet C. Gornick, and John Schmitt found that all of their study countries (with the exception of the United States) provide paid parental leave at the national level (2010, 196-216). In many countries, parental leave rights for workers are widely available and amply paid for several months in duration, and financed by social insurance funds. Ray et al. report that paid parental leave policy designs are complicated and multidimensional – incorporating complex rules about financing, coverage, eligibility for both mothers and fathers, benefit structures, duration, and flexibility vis-à-vis intermittent and part-time take-up. In some countries, leave policies are coordinated with policies supporting non-parental child care, such that parents can choose to either take leave or to utilize a public child care slot.

A large research literature has assessed the effects of paid family leave on multiple outcomes (Hegewisch and Gornick 2011, 119-138; Earle et al. 2011, 191-210). According to this research, paid leaves that are relatively short in duration have positive effects on women’s employment outcomes, but long leaves can harm women’s labor force trajectories (Hegewisch and Gornick 2011). Several researchers have assessed the “turnaround” point – that is, the duration after which leaves become problematic – and the consensus in the literature is that leaves longer than about six months may lead to negative effects on women’s labor force outcomes. They also report that leave designs can raise the probability that men take up the leave to which they are entitled; factors that raise fathers’ take-up include high wage replacement, payment structures that benefit families specifically if fathers utilize their leave options, and rules that prohibit men from transferring their leave rights to their female partners.

Alison Earle and her colleagues report that paid parental leave policies are associated with lower rates of infant and child mortality; that women who receive paid maternity leave are significantly more likely to return to the same employer after giving birth (which has economic advantages for both workers and employers); and that the longer the period of leave granted to fathers, the more involved they are with their infants and families, in both the short- and longer-term (Earle et al. 2011).

## Discrimination

The United States might also look abroad for useful lessons regarding antidiscrimination measures. The European courts provide a useful starting point. Equality between men and women in employment was a founding principle of the 1957 Treaty of Rome, the treaty that led to the European Union (EU); it prohibited unequal pay for equal work in member countries. Even though it is widely agreed that the

motivation for addressing pay discrimination was the elimination of unfair competition for firms that were unable to benefit from women's discounted labor, the treaty subsequently served as the basis for policies and approaches more directly aimed at gender equality.

Since then, the European Court of Justice has variously confirmed the rights of women as primary caregivers to work reduced hours, and has confirmed that employers must carry some of the costs of raising future generations and must provide some accommodation to women when they carry out such tasks. In addition, the European Court has found in various judgments that unequal or adverse treatment of part-time workers constitutes disparate impact (or indirect sex discrimination) because the majority of part-time workers are women working reduced time because of their responsibilities as primary caregivers (Hegewisch 2005; Heron 2005, 35-54).

### **Inflexible work rules**

Across Europe, and in other high-income countries as well, another dimension of work-family policy is on the rise: greater control over the number of hours worked and over the scheduling of those hours (Hegewisch and Gornick 2008).

In Sweden, since the late 1970s, parents have had the right to reduce their working hours to 75 percent (with pro-rated compensation) until their children reach school age. No other country has adopted a similarly comprehensive approach; however, the 1997 EU Part-Time Work Directive (a measure that is binding on all 27 EU countries), while not mandating such approaches, called on member states to provide greater workplace flexibility and to find mechanisms to ensure that such flexibility was to the mutual benefit of workers and employers.

A number of countries, including the Netherlands, Germany, France, and the United Kingdom, adopted legislation in the early 2000s to give workers a right to request reduced hours and/or changed work schedules. The 2010 EU Parental Leave Directive (also binding across all EU countries) includes a right to request a temporary change in working hours for all parents returning from parental leave.

In their review of rights to flexible scheduling, Hegewisch and Gornick stress that these policies strengthen the ability of individual employees to find solutions that allow work-family reconciliation, but in a manner that takes account of employers' business and operational requirements (Ibid). Moreover, they argue, flexible scheduling rights have the potential to prevent a "human capital" (especially women's) from being wasted; studies have revealed that when women cannot find work with the "right hours," they often take jobs far below their professional experience and qualifications. Hegewisch and Gornick also report that evaluations of statutes supporting flexible working hours show that the laws have caused few problems for employers, and that gender equality improves most where laws are interpreted broadly (and not narrowly focused on part-time work).

### **Non-parental child care**

Although U.S. public policies provide some support to families to cover the costs of child care, many other countries provide far more extensive support. One recent Organization for Economic Cooperation and Development (OECD) study assessed child care costs as faced by single parents who earn their country's average wage, and who have two preschool-aged children (2011). This OECD study found

that single parents in the U.S. face costs equivalent to 43 percent of net family income (where net family income is the sum of gross earnings plus cash benefits minus taxes and social contributions). Overall, the OECD reports that 27 of the 30 countries studied reduce child care costs for parents much more substantially than does the United States. In fully 16 of the 30 included countries, out-of-pocket costs for these parents are less than 10 percent of net family income.

The authors of this OECD report observe that “financial supports for child care are particularly important for poor and sole-parent families who often face major time and money constraints. Access to affordable formal child care helps parents in these families to participate in paid work, reduces poverty risks and supports child development” (Ibid, 143).

### Support for single parents

All affluent countries provide some cash support for low-income parents, in many cases targeted on single parents. The United States provides some cash support with tax benefits (for low-income employed parents) in place at the national level, and limited cash transfer programs (for those in or out of paid work) operating primarily at the state level. In recent years, there has been a strong trend across the states toward replacing cash benefits with non-cash benefits.

Many other high-income countries provide much more comprehensive cash supports, and they do that using a variety of instruments. Two key policy tools – neither of which operate in the United States – are widespread in other countries. These are 1) family allowances, i.e., grants available to all families with children, which are provided in nearly all other high-income countries, and 2) advanced child support payments, which are provided by law in half of the OECD countries (OECD 2011). Perhaps not surprisingly, child poverty rates in the United States are among the highest in the industrialized world.

## 13. Conclusion: Toward a New Policy Model

The policy designs from abroad should be informative, as policy options are accessed for New York City, New York State and the United States. They provide some encouraging lessons about their advantageous effects on multiple outcomes, including family economic well-being, gender equality in the labor force, and economic conditions for employers.

There is necessity and value to looking abroad – at other similar countries, with better outcomes – for policy inspiration. There are countless concrete lessons to be learned. And while this chapter does not speaking exclusively of Europe, there has been a focus on European policy initiatives among the examples. This can be a politically perilous approach in the United States, and that is true more now than ever, given the economic crises that are unfolding in some European countries. A full discussion of the origins of that crisis is beyond the scope of these analyses, but one thing is certain: generous work-family policies are not the cause. No existing social science research concludes otherwise. And, in fact, the Nordic countries, the Benelux countries, Germany, Switzerland – that is, many of the most generous providers – all have lower unemployment rates and lower debt-to-GDP ratios than does the United States. This nation has much to learn from these countries about work-family policy design.

## Funder Acknowledgments

We are deeply grateful for financial support from the Brooklyn Community Foundation, the Charles S. Revson Foundation, the J. M. Kaplan Fund, the New York Foundation, the Open Society Foundations, the Robert Sterling Clark Foundation, and the Scherman Foundation. The opinions expressed in this work are solely those of the authors and do not represent those of the funders, The Graduate Center, or the City University of New York.

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