

## **Family Leave Insurance Potential Government Efficiencies**

The Joint Legislative Task Force on Family Leave Insurance asked Department of Labor and Industries (L&I) and the Employment Security Department (ESD) to examine the Family Leave Insurance legislation<sup>1</sup> (E2SSB 5659) to identify changes in the legislation that could result in efficiencies and reduced operating costs. L&I and ESD worked jointly to develop potential changes the Legislature could consider. Neither agency is supporting or recommending any specific changes. It is important to note that many of these changes have policy implications.

This paper reflects L&I's analysis of the potential government efficiencies. In most cases it was difficult to project cost savings for these ideas in isolation, and with the program funding structure unknown. The actual cost savings depend upon:

- Which combination (if any) of ideas are eventually adopted.
- Whether the legislature makes additional changes in eligibility.
- The decision regarding program funding.

L&I analyzed these ideas to determine their impact on the required computer systems, on the business workflow and on our customers. In some cases, there were some anticipated savings. In some cases, there were additional costs. Some costs were indeterminate at this time, based on the limited information available.

L&I also included concerns identified during analysis.

The proposed ideas for changes fit into the following four broad categories:

1. Make eligibility decisions easier and less time consuming.
2. Simplify benefit calculation.
3. Reduce number and cost of appeals.
4. Enhance integrity (prevent/pursue fraud).

### **1. Make eligibility decisions easier and less time consuming**

#### **Initial Eligibility Decisions**

##### **a. Simplify application process**

Current law: To implement the law as written, both ESD and L&I assumed that an applicant must provide verification of birth or adoption as part of the application process. The applicant must also have formally applied for leave with his/her employer as required under existing FMLA laws.

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<sup>1</sup> Chapter 357, Laws of 2007.

**Potential Efficiency:** Simplify the eligibility process by eliminating these requirements up front. Instead, require only one application, with no supporting documents required; the applicant would be asked to attest that he/she has had a newborn child or has adopted a child. Utilize a computer match (at a later date) to actually verify the birth or adoption. The Department would also not be expected to verify if the applicant provided the proper paperwork to their employer.

**Concerns:**

- This can increase the potential for benefit overpayments, and fraudulent claims.
- Benefit overpayments require collection from the recipient, which could be a financial burden to the individual. and an administrative burden to the department.
- The additional administrative activity may result in increased staffing needs for collection staff.

**Estimated savings:** If this change results in a more streamlined adjudication process, a potential savings of 1 FTE (approximately \$64,000) may be realized. Savings in imaging would be negligible. This would not reduce L&I's computer programming costs. We cannot estimate the number of benefit overpayments or possible fraudulent claims. California cannot provide data on which to base an estimate as they require documentation with their Paid Family Leave claims.

**b. Reduce interstate eligibility determination costs by requiring 680 hours of work in Washington for eligibility.**

**Current law:** The legislation doesn't require that hours worked to qualify for benefits have been earned in Washington.

**Potential Efficiency:** Reduce operating costs (the need to call out of state employers or search other states' data) by requiring only hours worked in Washington count against the required 680 hour eligibility minimum.

**Concerns:** This would mean Washington residents who have worked in another state for any part of the qualifying year may not be entitled to the benefit.

**Estimated savings:** Potential but indeterminate savings. It is unclear whether the savings would be for ESD or for L&I as L&I will look to ESD for confirmation of hours reported for applicants. ESD estimates savings of \$37,000 (.5 FTE) in FY 2013. This change would not reduce L&I's computer programming costs.

**c. Eliminate the option of direct withholding of federal income taxes.**

**Current law:** The legislation requires that each claimant be given the option of withholding federal income taxes on family leave benefits.

**Potential Efficiency:** Reduce computer programming and operating costs by eliminating this option.

**Estimated savings:** L&I estimated 3,600 hours in programming time to build a system to withhold and report federal income tax. L&I would still have to build a system to report federal income tax, which would require 2,700 hours in programming time. L&I estimates savings of approximately \$90,000 in programming costs.

**d. Eliminate the option for elective coverage of employers not covered and self-employed individuals.**

**Current law:** The legislation requires that employers of individuals who are not covered by FLI and self-employed persons may elect coverage in the Family Leave Insurance program. The employer or self-employed person must file a written notice of election with the Director, and coverage is effective on the date of filing the notice.

**Potential Efficiency:** Reduce operating costs by eliminating the elective option for employers of individuals who are not covered by FLI and self-employed individuals.

**Estimated savings:** The elective coverage requires development of a system to track hours, along with requiring the reporting of hours to the administering agency. L&I estimated 500 hours to create a system to track elective coverage. Costs for forms and staff time to obtain, validate, and enter information have not been determined. Eliminating elective coverage would reduce required computer programming by 500 hours, for an estimated savings of \$50,000. Estimated savings in benefits are indeterminate as we cannot estimate how many self-employed individuals and employees of non-covered employers would file claims.

### **Ongoing Eligibility Decisions**

**e. Eliminate required weekly filing for benefits.**

**Current law:** The legislation requires applicants file weekly.

**Potential Efficiency:** Reduce operating costs by having each applicant state on the initial FLI application for benefits what dates they plan to take family leave. The applicant would then be required to notify department if there are changes, as in the California program. This would eliminate some costs associated with each applicant filing a claim for each week he/she takes family leave.

**Concerns:** This will result in some benefit overpayments if there is a delay in notifying the department of changes in leave status.

**Estimated savings:** We estimate this may save up to one adjudicator FTE (approximately \$56,000 per year). It may also result in some savings in telephone costs, but the savings maybe offset by additional costs in adjusting benefits and assessing overpayments. This would not reduce L&I's computer programming costs.

**f. Allow for leave payments for weeks prior to the Department receiving a formal application.**

**Current law:** The legislation does not allow for paid leave to start until the application is filed.

**Concern:** This may require some coordination with the DSHS public assistance Temporary Assistance to Needy Families (TANF) program as applicants could qualify for and receive TANF benefits before applying for FLI benefits.

**Potential Efficiency:** If combined with the elimination of required weekly claim filing, this could ensure a more streamlined application process and applicants could accurately report the number of weeks of leave taken and whether he/she worked part-time during those weeks.

**Estimated savings:** Savings linked to the weekly claim filing elimination. Some negligible savings may result from a reduction in the number of checks mailed to claimants.

## **2. Simplify benefit calculation**

The first two possible efficiencies in this section, when considered together, have potential for cost savings. We have listed these ideas first, followed by the analysis for each.

- a. **Have the same maximum benefit for all qualified applications.**
- b. **Allow maximum \$250 weekly benefit for each week in which leave is taken unless an applicant takes leave for at least half their work week.**

**Analysis for possible efficiency 2a:**

**Current law:** The legislation requires the department to calculate the maximum weekly benefit for each applicant based upon the numbers of hours a week the applicant worked during the past year. If an applicant is not working full time, he or she qualifies for less than \$250 in weekly benefits.

**Potential Efficiency:** Provide a flat \$250 weekly benefit regardless of the number of hours worked weekly in the qualifying period as long as the applicant worked at least 680 hours during the qualifying year.

**Analysis for possible efficiency 2b:**

**Current law:** The legislation reduces benefits proportionally for less than full-time leave.

**Potential Efficiency:** Rather than having to calculate the benefit amount each week, have a simplified formula. For example, if an applicant who works full time takes 20 hours of leave a week or more, allow a \$250 weekly benefit. If the applicant takes 8 to 19 hours of leave a week, allow a fifty percent benefit, or \$125.

**Concerns:**

- May be difficult to determine whether the leave is half or more, depending on the applicant's work schedule. The impact on employers is hard to predict as individuals may take varying amounts of leave.

**Estimated combined savings for 2a and 2b:** The combined estimated savings on 2a and 2b, if both are implemented, could potentially reduce up front computer programming costs by \$24,000. The amount of time to adjudicate each claim may decrease slightly, but we don't anticipate this will significantly affect the time required by the adjudicator.

**c. Send applicant one check instead of two checks each month.**

**Current law:** The legislation requires benefit payments twice a month after the initial payment.

**Potential Efficiency:** Efficiencies possible when combined with recommendations above (eliminate weekly check-in and allow for payment of leave for weeks before the Department receives an application). This would require the applicant to state how long leave will be, and the Department would issue a single check for the leave period.

**Concerns:**

- Since the recipients of the FLI benefits are not working and have a new child, a single payment will pose a hardship for some individuals.

**Estimated savings:** Up to \$75,000 in mail and check processing costs in FY 2013. This would not reduce L&I's computer programming costs.

### **3. Reduce number and cost of appeals**

**a. Eliminate attorney's fees at the administrative level.**

**Current law:** The legislation allows the awarding of attorney's fees and costs at both the Office of Administrative Hearings (OAH) and Superior Court.

**Potential Efficiency:** Reduce these costs by eliminating the option of attorney's fees and court costs at the administrative hearings level. Savings may include the use of department staff rather than Attorney General Staff at OAH hearings, if the director elects not to be represented by an Assistant Attorney General (AAG) at OAH hearings. Additional savings will include the costs of agency attorneys at administrative hearings.

**Estimated savings:** Attorney's fee savings of \$1,138,176 in FY 2013. No staff savings are anticipated. This would not reduce L&I's computer programming costs.

**b. Limit appeals to Office of Administrative Hearings.**

**Current law:** The legislation requires the option of both hearings by a hearings officer (at the Office of Administrative Hearings) and a later Director-level hearing.

**Potential Efficiency:** Reduce appeals costs by eliminating the Director-level review.

**Concerns:**

- This could potentially increase the number of appeals that move forward to judicial review.

**Estimated savings:** \$70,000 in FY 2013, assuming no increase in appeals beyond OAH. This would not reduce L&I's programming costs.

**4. Enhance integrity (prevent/pursue fraud)**

**a. Provide for collections tools similar to Unemployment Insurance (UI) and Workers' Compensation.**

**Current law:** The legislation does not provide authority for warrants, garnishment, or lien authority to the operating department. These collection options are currently available to the Unemployment Insurance and Workers' Compensation programs.

**Potential Efficiency:** Provide the authority for warrants, garnishment, and lien authority.

**Estimated savings:** Indeterminate. This would not reduce L&I's computer programming costs.

## 5. Other

### a. Eliminate payments to the estates of deceased applicants.

**Current law:** Legislation requires payments owed to deceased applicants distributed according to applicant's will.

**Potential Efficiency:** Eliminate requirement to distribute benefits estates when applicants have died.

**Estimated savings:** No impact on computer programming costs. Based on L&I's experience in workers' compensation, locating appropriate recipients, responsible parties for an applicant's estates, is difficult. The impact on benefit and adjudicative costs are indeterminate.

### b. Offer Electronic Fund Transfer option for payment of benefit.

**Current law:** Legislation does not currently give applicants an option to have benefit payments directly deposited into a bank account.

**Potential Efficiency:** Give applicants the option of having FLI benefit payments directly deposited into applicants' bank account.

**Estimated savings:** None.

**Estimated Additional Costs:** This would increase the computer programming costs for L&I as direct deposit is not currently available in all workers' compensation cases. An additional 1,000 hours of programming would be required to implement this requirement, at an additional cost of \$100,000.

