



SENATOR
MARIA ELENA DURAZO
LEGISLATIVE FACTSHEET

Senate Bill 1090 (Durazo)

Early Application for Paid Family Leave and Disability Insurance Benefits

Summary:

SB 1090 provides working families with more timely access to Paid Family Leave (PFL) and State Disability Insurance (SDI) benefits by allowing workers to apply for these benefits prior to the start of their leave.

Background:

Almost all private sector employees and some public sector employees pay into California's Disability Insurance Fund, which funds the PFL and SDI benefit programs.

PFL provides partial wage replacement when a worker is unable to work because they are caring for a seriously ill or injured family member, bonding with a new child, or addressing a military exigency. SDI provides partial wage replacement when a worker is unable to work due to an injury or illness that prevents them from working.

PFL and SDI cover approximately 18.7 million workers across the state. These programs are entirely employee-funded through a payroll contribution into the SDI Fund. In 2024, employee contributions are 1.1% of their wages.

Currently, workers can receive up to 60 or 70 percent of their regular income while on leave, up to \$1,620 per week, for up to eight weeks of PFL and up to 52 weeks of SDI within any 12-month period. Workers must be on leave for 7 days prior to qualifying for SDI benefits. Starting in 2025, lower-to-middle income workers will receive up to 90 percent of their regular income from PFL and SDI.

To access these benefits, a worker must wait until they have started their leave from work and then apply to the Employment Development Department. This means that they are unable to apply to receive PFL and SDI until they have already experienced a

qualifying life event, i.e., become disabled from working, begun caring for a seriously ill loved one, welcomed a new child, or begun addressing a military exigency. In contrast, workers requesting job-protected leave from their employer can be required to provide 30 days' notice of any anticipated leave.

Importantly, once a worker's PFL or SDI claim is complete, the EDD has 14 days to provide payment to the worker. The rate at which PFL and SDI payments are made within 14 days varies from 50 percent to 91 percent depending on the month. Additionally, the EDD sometimes requires additional information from the worker or their healthcare provider to complete the claim, adding additional delay after application. As a result, California workers must go without income for 2 weeks or longer before receiving their SDI or PFL benefits.

Other states with paid family and medical leave programs such as Massachusetts, Colorado, and Oregon have prevented this harm by allowing workers to apply for benefits up to 60 days in advance of their leave.

Problem:

California workers are not permitted to apply for PFL and SDI until they are already disabled from work, caring for an ill family member, addressing a military exigency, or bonding with a new child. To access PFL or SDI benefits, a worker must first go onto unpaid leave for several weeks or more without confirmation of whether they will be approved for benefits and how much money they will receive in weekly PFL or SDI benefits.

For workers with lower incomes, disproportionately those who identify as women, born outside of the United States, or Black or

Latinx, missing several weeks of wages prior to confirmation of benefits is not an option.¹ Indeed, for Black households in the Los Angeles area, the median value of liquid assets is \$200. For Mexican and Latine-non-Mexican households it is \$0 and \$7 respectively.²

Workers who do not have the savings to cover several weeks of expenses without their regular income while waiting for SDI or PFL benefits are less likely to take leave from work when their healthcare provider recommends it, to bond with a new baby, or to care for a sick family member.³ For pregnant workers, especially Black and Latina women, the inability to take leave may contribute to serious health consequences, including disproportionate rates of postpartum depressive symptoms.⁴ Earlier access to benefits and confirmation of benefits and benefit rates would empower workers to follow their healthcare provider's recommendations to take the leave that they need and to plan for their families' wellbeing.

Requiring workers to wait until they are in the midst of dealing with a significant family or health event makes the application process more difficult than necessary. A new parent caring for an infant around the clock may have limited time or energy to apply for PFL. A worker recovering from a significant surgery or taking a month-long leave to care for a sick parent may find it more difficult to focus on and complete detailed paperwork. Allowing workers to apply before they are on leave would improve the application process for both workers and the EDD.

Moreover, the requirement that a worker not apply for PFL or SDI until their leave starts also causes significant confusion, because of how it differs from standards for providing employers with notice of leave; under California law, workers may be required to provide their employer with 30 days'

notice of an anticipated leave.⁵ The separate timelines for requesting PFL and SDI from the EDD and job-protected leave from an employer only increase difficulty for workers already dealing with a significant life event.

The inability to apply for PFL or SDI in advance of an anticipated leave can cause significant stress and financial harm, especially to lower-income families, and in some cases, may prevent workers from taking the leave that they need for their own health, or their family's health, altogether.

Solution:

SB 1090 would ensure more equitable access to the SDI and PFL programs by allowing workers to apply for SDI or PFL up to 30 days in advance of an anticipated leave. Under this bill, workers will receive their benefits either within 14 days of their completed application or on the date their eligibility for benefits begins, whichever is later.

This small change would enable workers to apply before they are in the midst of a significant health or caregiving need. It would also provide workers with more economic certainty by allowing them to know whether they qualify for benefits and how much money they will receive before beginning an unpaid leave from work. Finally, it would make PFL and SDI more accessible to lower-to-middle income families, especially those of color, by decreasing the wait to receiving their benefits.

Contact:

Jennifer.Richard@sen.ca.gov

(916) 651-4024

Katie Wutchiett

Kwutchiett@legalaidthatwork.org

(415) 593-0064

Sponsors:

Legal Aid at Work

¹ <https://laborcenter.berkeley.edu/low-wage-work-in-california/#worker-profile>

² The Racial Wealth Gap, California Budget & Policy Center, Dec. 2018, <https://calbudgetcenter.org/resources/the-racial-wealth-gap/>.

³ Paid Family Leave Payments Don't Add Up for California Workers, California Budget & Policy Center, Feb. 2022

⁴ Black Women Need Access to Paid Family and Medical Leave, Center for American Progress,

<https://www.americanprogress.org/article/black-women-need-access-to-paid-family-and-medical-leave/>; MIHA Data Snapshot, California by Race/Ethnicity, 2013, California Department of Public Health, https://www.cdph.ca.gov/Programs/CFH/DMCAH/MIHA/CDPH%20Document%20Library/2013-2015/Snapshot_ByRaceEthnicity_2013-2015.pdf

⁵ Cal. Code of Regs., tit. 2, § 11091(a)(2).