

Washington
Paid Family & Medical Leave

State and Voluntary Plan Program Usage



Employment Security Department
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State and Voluntary Plan Program Utilization by Employer Size

December 2021

Purpose: This report was developed in response to ESSB 5097¹ calling for analysis of leave usage among employees covered by voluntary plans and the state plan, as well as usage by employer size. Making use of survey data collected from active voluntary plan employers, in conjunction with Paid Family and Medical Leave (Paid Leave) administrative records, this report analyzes leave usage for employees working for voluntary plan employers compared to those covered by the Washington state Paid Family and Medical Leave program. This report contains data and estimates regarding the 2021 fiscal year, from July 1, 2020 through June 30, 2021.

This report addresses the questions about Voluntary and State Plan usage in clause 2 of section 3 in ESSB 5097. It does not include job protection-related analyses to be developed in collaboration with the Paid Family and Medical Leave Advisory committee, described in clause 1, nor does it include analyses of benefits used under the amended family member definition, described in clause 3. Those analyses will be available in future reporting.

Background

Washington State Paid Family and Medical Leave

The Washington state legislature enacted the Paid Family and Medical Leave Insurance Program (Paid Leave) in 2017 with bipartisan support.² Washington was the fifth state in the nation to implement such a paid leave program and the first to do so from scratch, rather than building on a long-standing temporary disability program.³ Premium contributions are shared between employees and employers. Premium assessment began in 2019 and benefits became available in 2020.⁴

¹ [Engrossed Substitute Senate Bill 5097](#):

Sec 3. (2) By December 1, 2021, the employment security department must submit a report to the appropriate committees of the legislature with the following information: (a) Program utilization by employees covered under approved voluntary plans compared to employees covered under the state plan; and (b) Program utilization by employees working for employers with 50 or more employees compared to employees working for employers with fewer than 50 employees.

² SSB 5975, codified as RCW 50A. Subsequently amended by SHB 1399.

³ California, New Jersey, Rhode Island, and New York all had existing temporary disability insurance systems in place prior to implementing the family leave component.

⁴ For a comprehensive look at the Paid Family and Medical Leave program, see the annual program report to legislature.

Voluntary Plans

In lieu of participating in the Paid Leave plan offered by the state, an employer may apply to run their own equivalent leave program – called a Voluntary Plan – for family leave, medical leave, or both. If approved, employers are essentially opting out of participating in the state Paid Family and Medical Leave program to offer their own leave program to employees.

Employers are approved to do so when their proposed plan meets or exceeds state plan requirements, such as the amounts of leave offered, monetary benefit payments, and premium withholdings.⁵ Voluntary plans become active on the first day of the quarter immediately following the approval of the plan and are active for twelve months from the date of approval. For the first three years, the plan is reviewed annually by the Employment Security Department (ESD). During this process, plans are reassessed to verify they continue to meet program requirements, including the requirements of any new legislation that may have passed since prior approval, such as the ESSB 5097 family member expansion.

Voluntary plan employers continue to submit quarterly wage and employment records to ESD. For any employee taking leave, they may request ESD calculate how much the employee would receive in benefits under the state plan to ensure they are providing benefits that meet or exceed what the state plan benefits would be. Active voluntary plan employers are obligated to keep records on their paid leave program for six years, though there are no detailed requirements around specific information to be included on claims records, such as the extent to which they need to distinguish by types of leave or other characteristics.⁶

In the case that an employee works for multiple employers and is potentially covered by more than one plan – state, voluntary, or a combination – the employee is considered to be covered by the employer for which they worked the most hours during their qualifying period.

Methodology & Summary Data

Voluntary Plan Administrative Data

As voluntary plan employers submit quarterly wage reports to ESD, Paid Leave program administrative data includes information about these employers and their employees. However, it is clear from the data that some confusion remains about the reporting process. Evidence of this includes such things as some employers not submitting quarterly wage reports after their voluntary plan has been approved or reporting sporadically, missing some quarters in a year. The ESD Leave and Care Division audit team has been conducting audits of voluntary plan employers regarding their paid leave program to ensure employers understand requirements and to address any gaps. Because the Washington State Paid Leave program is relatively new, audits to date have focused on educating and supporting employers to successfully fulfill their responsibilities. Under the law, Voluntary Plans may ultimately be terminated due to noncompliance. For the purposes of this report, in cases where we do not currently have sufficient

⁵ [Complete List of Voluntary Plan-Employer Plan Requirements](#)

⁶ RCW 50A.30.080: Employers whose employees are participating in an approved voluntary plan must maintain all reports, information, and records as relating to the voluntary plan and claims for six years and furnish for the commissioner upon request.

extractable data from the quantitative data system, we are unable to confidently classify employer size for some employers. Estimates of wages and employment are based on averages of employment and wages in those quarters for which we do have data.⁷ Further detail on methodology of estimates can be found in the appendix.

As of the end of fiscal year 2021, there were 277 active employers with approved voluntary plans, data describing which can be found in Table 1. Most (88%) voluntary plan employers cover both family and medical leave, with 11% offering a medical-only and 1% offering a family-only plan.

Table 1: Voluntary plan employers by plan type and employer size

	Family and Medical Plan	Medical Only Plan	Family Only Plan	All Plan Types
Known Employer Size	221	28	3	252
<i>Small Employers</i> ⁸	144	12	3	159
<i>Large Employers</i> ⁹	77	16	0	93
Unknown Employer Size ¹⁰	23	1	1	25
All Voluntary Plan Employers	224	29	4	277

Source: WA Paid Leave Administrative Data 7/1/2020 - 6/30/2021, retrieved 10/11/2021

Small employers make up 57% of all voluntary plan employers, large employers account for 34%, and the remaining 9% comes from businesses whose size we do not know in the administrative program data. A bigger share of small businesses offer combination family and medical plans, 91 percent, compared to larger businesses, which are eight percentage points lower (83%).

Table 2 depicts the employment and wage distribution of the 252 voluntary plan employers with known wage and employment data. Despite representing only about a third of the voluntary plan employers with known wage and employment data, large employers make up 98% of employment and 99% of total gross wages. In total, 116,916 employees are covered by voluntary plans, which account for about 3% of all covered statewide employment. Across fiscal year 2021, there were an estimated \$31.7 billion total gross wages earned by employees under voluntary plans, about \$276 million coming from employees at small businesses and the remaining \$31.4 billion coming from employees at large businesses. In sum, this accounted for 13% of statewide gross wages in fiscal year 2021.

⁷ Additionally, any comparison to which employers had active voluntary plans in the prior years is not advisable due to inconsistency in how these data were captured in records to date.

⁸ Small employers are those with fewer than 50 employees.

⁹ Large employers are those with 50 or more employees.

¹⁰ Employer size only becomes available through employer quarterly reporting. Currently there are several voluntary plan employers being audited to assure accurate reporting.

Table 2: Employment and gross wages of voluntary plan employers by size

	Employment	Share Statewide Employment	Total Gross Wages ¹¹	Share of Statewide Gross Wages
Small Employers	1,908	0.2%	\$276,478,033	0.5%
Large Employers	115,009	5%	\$31,466,243,837	17%
All Employers	116,916	3%	\$31,742,721,870	13%

Source: WA Paid Leave Administrative Data 7/1/2020 - 6/30/2021, retrieved 10/11/2021

In general, Voluntary Plan employers tend to be among higher wage employers. Table 3 shows the share of employment broken into income brackets based on employers' overall average annual wages, comparing Voluntary Plan to statewide employment. Voluntary Plans are heavily skewed towards employers with higher overall average wages, with 68 percent of known employment at employers with an average annual wage of \$150,000 or more, compared to the statewide 13 percent.

Table 3: Share of Employment by Employers' Overall Average Annual Wage

	Voluntary Plan Employment	Statewide Employment
Less Than \$50,000	2%	45%
\$50,000 - \$99,999	18%	30%
\$100,000 - \$149,999	12%	11%
\$150,000 or More	68%	13%

Table 4 provides some additional supplemental data collected at the time of voluntary plan application. Here we can see that roughly a third of voluntary plan employers indicate they withhold some premiums from their employees, 94% offer job protection measures for employees taking leave who have been employed for at least nine months and worked at least 965 hours in a twelve-month period before the leave began (required for large employers), and 96% currently provide health benefits in addition to paid leave benefits.

Table 4: Supplemental data of voluntary plan employers

	Share of Voluntary Plan Employers
Withholding Premiums	32%
Offering Job Protection	94%
Offering Health Benefits	96%

¹¹ Employment and wages are estimates based on quarterly averages taken from FY21.

Voluntary Plan Survey

No data on voluntary plan benefits is collected as part of the Paid Leave administrative data system, meaning we have no direct comparison data on benefits usage in the program administrative data. As the Leave and Care division discussed with authorizing environment and advisory committee stakeholders during the bill analysis of ESSB 5097, the data collected to estimate utilization – rates, lengths, and benefits – would largely originate from an email survey sent to voluntary plan employers.¹² To increase response rates, the survey was intentionally kept short with data collection focused on the needed information to assess utilization of voluntary plan paid leave benefits, such as the number of employees taking leave, the average weeks of leave taken, and the amount in benefits paid out for paid leave, as well as employer background information (employer size, main county of operation, and industry).

In order to obtain the largest possible survey response rate, the Leave and Care Division reached out to voluntary plan employers multiple times and in a variety of ways over a period of about two months.

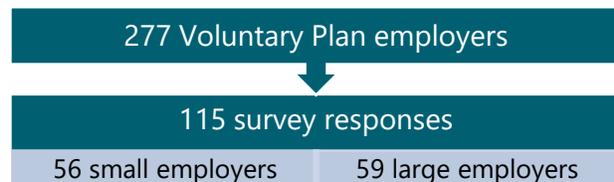


The survey was administered through a standard survey application and the initial email was sent in conjunction with a communication detailing legislative changes from the 2021 session and how those changes affect employers with voluntary plans. Roughly one week later a reminder was sent and then a final reminder was sent on August 4.

After those responses were collected, the Leave and Care Division staff then reached out individually to each active voluntary plan employer contact¹³ who had not responded, beginning August 16 and continuing for two weeks. These were personalized phone and email contacts where staff instructed employers on the particulars of the data collection, such as how to respond multiple times if they represent multiple employers.

In the hopes of obtaining a more substantial response rate, the division added a second round of individual direct contacts with voluntary plan employers soliciting their benefits information. This process consisted of reaching out to employers who had not yet responded to the survey, and also included contacting some employers who had responded to verify data accuracy. This round of contact was carried out through September and was our final attempt to gather survey response data.

These efforts resulted in a total of 115 responses to the voluntary plan survey: 56, or 49%, coming from small employers and 59, or 51%, coming from large employers. The survey responses somewhat over- represent large employers, when



¹² Complete survey can be found in the appendix.

¹³ Employer contact may include contact information for the staff or for an employer agent (third party administrator) that manages the employer’s voluntary plan with the state.

assessing relative to sizes of voluntary plan holders for which we have known employer size information in the administrative data. These 115 responses represent an overall employer response rate of 41%, however they cover 78% of the known employees covered by voluntary plans.

Because there is no direct guidance on the way voluntary plan employers keep records on leave taken by employees, it is hard to determine the precision in the survey results and comparability to the state program administrative data. This is especially true where voluntary plan paid leave benefits may exceed the state plan (e.g., covering additional reasons for leave or additional family members prior to July 2021). To the extent that there is variation in how Voluntary Plan employers capture and categorize this data, there may be some differences from how the state program data system captures similar information. We also expect that employers with robust paid leave programs and systems for tracking leave that make it easier to respond to this kind of data request would have been more likely to respond to the survey. However, as mentioned above, we did reach out to a handful of employers to double-check on the survey responses they provided. In many cases additional context was provided, and we found limited inconsistencies in how voluntary plan employers define leave types. Additionally, because of the nature of these plans having to meet *or exceed* the state plan, estimates are expected to be higher on average than the state plan estimates. For example, we found that many Voluntary Plan employers offer full wage replacement to employees taking leave.

State Paid Family and Medical Leave Data

Data pertaining to the state Paid Leave program comes from administrative data maintained by the Leave and Care Division of the Employment Security Department. There are two types of data used in this report: quarterly wage reports data and benefit claims data.

All data referencing wages, employment, or employer size is compiled using wage and employment records submitted to ESD by all employers within the state on a quarterly basis, coming due one month following the end of each calendar quarter. As this report is analyzing the utilization of paid leave within FY21, all wage, employment, and employer data comes from Q3 and Q4 of 2020 and Q1 and Q2 of 2021.

All data regarding claims, lengths of leave, and benefit payments comes from leave claim applications, weekly claims, and related administrative data generated through the processing of leave benefits. For additional comparability, this report follows the methodology of the 2021 Annual Legislative Report when referencing claims, in that to be considered an approved claim starting in the year, a claim must have its first weekly claim approved within FY21, or between July 1, 2020 and June 30, 2021. To get an accurate estimate of how long employees are taking leave, the lengths of leave analyses include all weeks of leave taken on these claims starting in the fiscal year.

Data on the employer for which an employee works and files a claim under is gathered from the employee customer during the application process. The employee is shown a list of employers for which we have a record of their employment, and employees can submit additional employer information. Through fact-finding during the claim application processing, sometimes we are able to ascertain a typo in reporting or other error and correct the data linkage. In other situations, employees may provide alternate documentation of hours and wages that can be used to establish eligibility and determine benefit amounts. We continue to work with employers to help educate and support them in submitting

quarterly wage reports. While factfinding when processing claims increases the number of claims that link to employer information in the quantitative extractable administrative data, it is not always possible, and this results in the N/A employer size shown in the tables below.

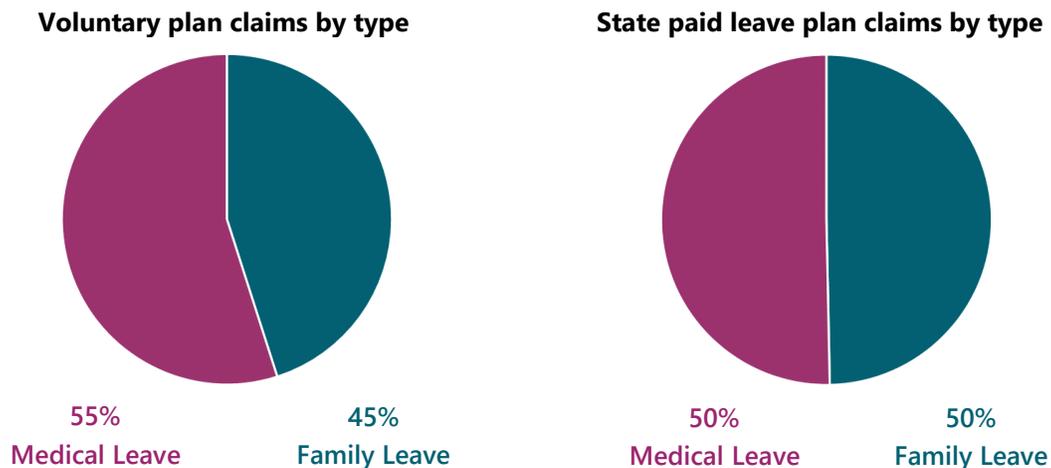
The utilization rates found in this report are calculated using the total claims, as outlined above, per 100 eligible employees. To be able to compare as directly as possible to voluntary plan eligible employees, eligible employees are defined as employees who have reached 820 hours and employees are assigned to a single employer based on where they worked the most hours in the year.

Utilization Analysis

Voluntary and State Plan Utilization

We start by looking at the number of claims by type of leave and employer size, comparing voluntary plan claims to those of the state plan.¹⁴ Depicted in the graph below is the overall share of claims by leave type, while the accompanying Table 5 shows the total claims by leave type and employer size. Here, we see the state plan sits right at a 50/50 split between family and medical leave. Voluntary plan leave types are quite comparable, only trending towards medical leave by five percentage points.

Here, as throughout the analysis below, comparisons are between Voluntary Plan (VP) survey data and State Plan (SP) administrative record data and should be considered in that context. Survey responses represent 41% of Voluntary Plan employers and 78% of known Voluntary Plan employees.



Source: WA Paid Leave Administrative Data, Voluntary Plan Survey

¹⁴ This report follows the methodology found in the 2020 legislative report to allow for comparability across reports. All state plan claims with their *first* approved weekly claims falling within the fiscal year are allocated to that year. This differs slightly from the methodology used to calculate the family-medical premium rate split, which counts state plan claims with *any* weekly claim approved within the fiscal year.

Washington Paid Family & Medical Leave

Among the 115 voluntary plan employers that responded to the survey, there were a total of 12,063 claims: 5,436 family and 6,627 medical leave claims. Of those 12,063 claims, only 0.3%, or 37 claims, come from employees working for small employers, with the remaining 99.7%, or 12,026 claims, coming from those working for large employers. The breakout of claims by employer size is notably different in the voluntary plans compared to the state plan. Small employer claims account for 18% of state plan claims with a known employer size, 18 percentage points higher than voluntary plan small employers. However, it is important to note that the distribution of employer size for voluntary plan employers is skewed toward both very small employers, 0-5 employees, and very large employers with over 1,000 employees.

Table 5: Total paid leave claims by type and employer size

	Voluntary Plan - Family Leave	Voluntary Plan - Medical Leave	Voluntary Plan - All Leave Types	State Plan - Family Leave	State Plan - Medical Leave	State Plan - All Leave Types
Known Employer Size	5,436	6,627	12,063	60,830	61,618	122,448
<i>Small Employers</i>	21	16	37	11,986	10,480	22,466
<i>Large Employers</i>	5,415	6,611	12,026	48,844	51,138	99,982
Unknown Employer Size	N/A	N/A	N/A	5,255	5,318	10,573
All Employers	5,436	6,627	12,063	66,085	66,936	133,021

Source: WA Paid Leave Administrative Data, Voluntary Plan Survey

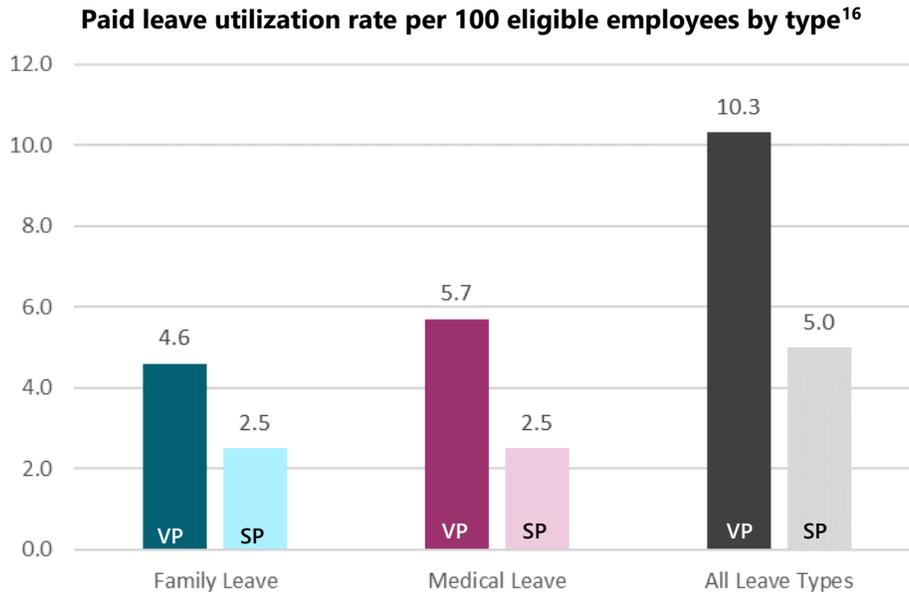
Table 6, along with the following graph, illustrates Paid Leave utilization rates per 100 eligible employees. Scaling leave by employment enables a more direct comparison between voluntary plan and state plan program usage. This scaling is especially important because the distribution of employer sizes, even within the categories of small and large, differs between voluntary plans and the state plan. The graph shows the utilization rate for paid leave under voluntary plans is higher than that of the state plan for all leave types.

Table 6: Paid leave utilization rate per 100 employees by type and employer size

	Voluntary Plan - Family	Voluntary Plan - Medical	Voluntary Plan - All Types	State Plan - Family	State Plan - Medical	State Plan - All Types
Known Employer Size	4.6	5.7	10.3	2.3	2.3	4.6
<i>Small Employers</i>	1.1	0.8	1.9	1.6	1.4	3.1
<i>Large Employers</i>	4.7	5.7	10.5	2.5	2.67	5.2
All Employers¹⁵	4.6	5.7	10.3	2.5	2.5	5.0

Source: WA Paid Leave Administrative Data, Voluntary Plan Survey

¹⁵ All employers differ than known employers by size by the inclusion of claims with unknown employer size.



Source: WA Paid Leave Administrative Data, Voluntary Plan Survey

Overall utilization rates for voluntary plan employees, at 10.3, are double that of the overall state plan utilization rate at 5.0. Voluntary plan employers see family leave claims at a rate of 4.6 per 100 eligible employees and medical claims at 5.7. This is 2.1 and 3.2 claims per 100 eligible employees higher than the state plan, respectively.

A key difference between voluntary plan and state plan utilization comes in the larger variance in rates between small and large employers. The difference in the rate of all leave types between small and large employers with voluntary plans is 8.6 claims per 100 eligible employers, while the difference between state plan employers, is only 2.1.

Again, it is important to note that we are comparing survey data to administrative data and the ways employers capture this information may differ. Voluntary Plan employers that would have been most likely to respond to the survey are those with robust paid leave programs and leave tracking systems. In addition, the smaller number of Voluntary Plan employers compared with State Plan employers mean that averages may be less stable for Voluntary Plan usage data. A few employers with very high or very low usage may bring up or down the averages more than would be possible for state plan usage rates. During factfinding, our audit team uncovered a few very high utilization rates of individual employers, in some cases exceeding 20% of employees taking leave in a year.

Voluntary vs State Plan Benefit Payments

The following graph and Table 7 depict total benefit payments for claims under voluntary and state leave plans, split by the type of leave and employer size.

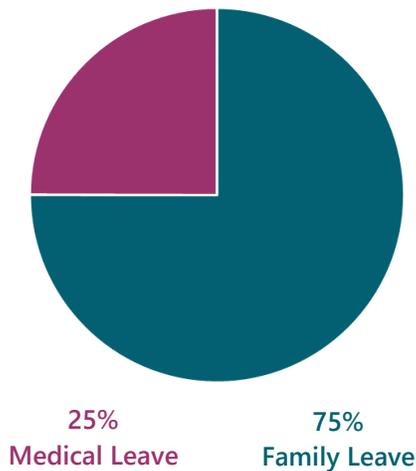
The graphs show the share of benefits payments by leave type. The standout difference between the state and voluntary plan payments is voluntary plan benefits are significantly higher for family leave compared

¹⁶ VP represent voluntary plan estimates and SP represents the state paid leave program.

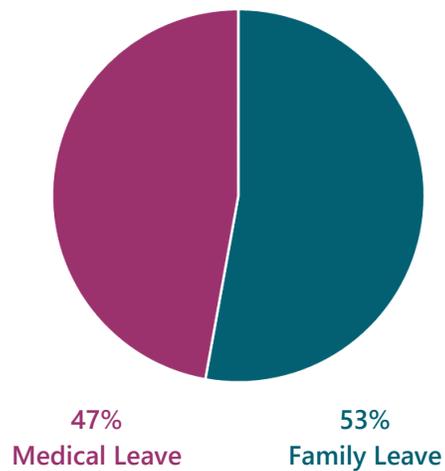
to medical, accounting for 75% of the benefit payments. In contrast, the state plan benefit payments differ by only three percentage points. While the share of benefits and claims by type are quite comparable for the state plan, the voluntary plan total claims compared to benefit payments show sizeable variance.

In doing quality checks of survey responses, our team found that at some employers with high levels of family leave, employees typically take the full amount of leave available with the birth or placement of a new child. This is evident in the following section on the average lengths of leave as well. However, there is some uncertainty inherent in Voluntary Plan survey data about the classifications of leaves taken. For example, some employers may be capturing some medical leaves as sick leave/PTO and not capturing it here. Medical leave could be more flexible under voluntary plan employers as well, and the increase in telework during the Covid-19 pandemic may also affect results. Another explanation may relate to differences in the average lengths of leave, found later in the report, but without knowing exactly how each employer enacts their leave program it is hard to determine the weight of these differences.

Voluntary plan benefit payments by type



State paid leave benefit payments by type



Source: WA Paid Leave Administrative Data, Voluntary Plan Survey

Overall, paid leave benefit payments from voluntary plan employers who responded to the survey totaled about \$115 million, with over \$86 million from family leave claims and nearly \$29 million for medical leave.

Benefit payments from claims under small employers with voluntary plans (totaling \$507,787) account for about 0.4% of all voluntary plan benefit payments, whereas about 17% of all state plan benefit payments for claims with known employer size in FY21 relate to small employers. Benefits payments from claims at large employers with voluntary plans resulted in nearly \$115 million, or about 99.6% of all benefits payments made by employers responding to the survey.

Table 7: Paid leave benefit payments by type and employer size

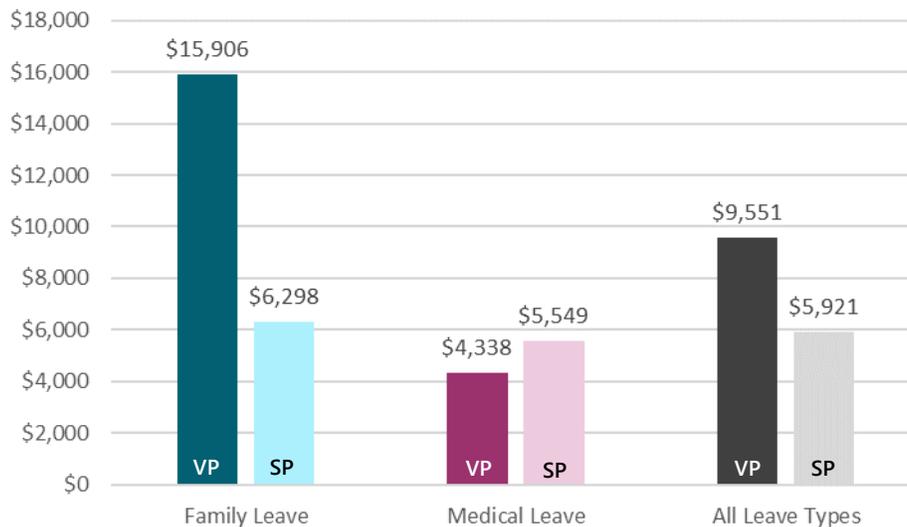
	Voluntary Plan - Family Leave	Voluntary Plan - Medical Leave	Voluntary Plan - All Leave Types	State Plan - Family Leave	State Plan - Medical Leave	State Plan - All Leave Types
Known Employer Size	\$86,467,148	\$28,749,264	\$115,216,412	\$384,001,292	\$342,188,396	\$726,189,688
<i>Small Employers</i>	\$299,794	\$207,993	\$507,787	\$70,619,586	\$55,498,232	\$126,117,818
<i>Large Employers</i>	\$86,167,354	\$28,541,271	\$114,708,625	\$313,381,706	\$286,690,164	\$600,071,870
Unknown Employer Size	N/A	N/A	N/A	\$32,210,549	\$29,244,776	\$61,455,325
All Employers	\$86,467,148	\$28,749,264	\$115,216,412	\$416,211,841	\$371,433,172	\$787,645,013

Source: WA Paid Leave Administrative Data, Voluntary Plan Survey

The following graph, and Table 8, scales benefit payments by approved claims to provide an average payment per claim. Depicted in the graph is the overall average benefit payment per claim, broken out by leave type, comparing voluntary plan to state plan payments. Voluntary plan average payment per claim is higher than the state plan overall. Family leave average benefit differs by nearly \$10,000 per claim. However, with medical leave claims, the state paid slightly more, by about \$1,200 per claim compared to voluntary plans. Both voluntary and state plan benefits per claim are higher for family leave than medical leave.

Higher benefits per Voluntary Plan claims are somewhat expected for a variety of reasons. For example, the state plan has a maximum weekly benefit cap, where it is likely at least some voluntary plan employers do not. In addition, we know some voluntary plan employers offer full wage replacement. To be approved for a voluntary plan, employers must use the state benefits as a baseline, so while they may offer higher benefits, they may not offer a lower amount. However, while these factors can help explain the voluntary plan and state plan differences for family leave, they do not provide insight into the difference for medical.

Average benefit payments per claim by type



Source: WA Paid Leave Administrative Data, Voluntary Plan Survey

Table 8: Average benefit payments per claim by type and employer size

	Voluntary Plan - Family Leave	Voluntary Plan - Medical Leave	Voluntary Plan - All Leave Types	State Plan - Family Leave	State Plan - Medical Leave	State Plan - All Leave Types
Known Employer Size	\$15,906	\$4,338	\$9,551	\$6,313	\$5,553	\$5,931
<i>Small Employers</i>	\$14,276	\$13,000	\$13,724	\$5,892	\$5,296	\$5,614
<i>Large Employers</i>	\$15,913	\$4,317	\$9,538	\$6,416	\$5,606	\$6,002
Unknown Employer Size	N/A	N/A	N/A	\$6,130	\$5,499	\$5,812
All Employers	\$15,906	\$4,338	\$9,551	\$6,298	\$5,549	\$5,921

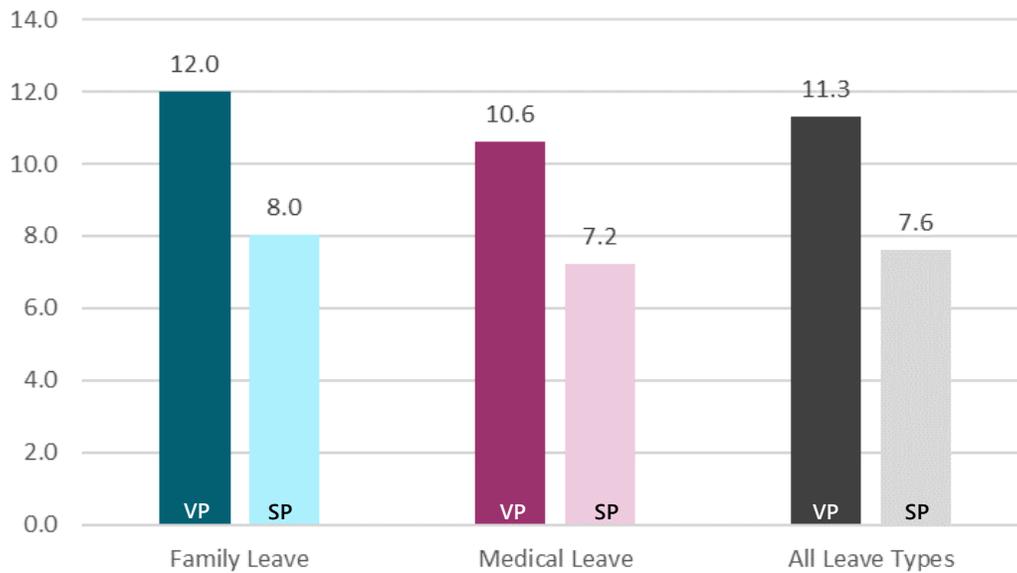
Source: WA Paid Leave Administrative Data, Voluntary Plan Survey

A notable difference between voluntary and state plan average benefits per claim lies with the variation between benefit payments from small and large employers. For voluntary plan employers, small employers have higher average medical leave benefit payments per claim than their large employer counterparts. With very few claims coming from small voluntary plan employers, there is greater variance and margins of error in the estimates. These results can be dramatically affected by one or two high benefit claims among these employers. This difference between small and large employers is not observed in the state plan, where average benefits per claim are quite similar across all employer sizes and leave types.

Voluntary and State Plan Lengths of Leave

The following graph and table show that for all leave types, voluntary plan average lengths of leave surpass those of the state plan, with the bigger difference among family leave. The overall average lengths of leave per claim under the state plan are about 3.7 weeks shorter than voluntary plans. While the overall and family leave lengths of leave largely mimic what has been observed thus far, medical leave shows a high average length of leave, despite having a lower average benefit per claim. Table 9 shows how these differences scale across employer size.

Average weeks of leave per claim by type



Source: WA Paid Leave Administrative Data, Voluntary Plan Survey

Table 9: Average weeks of leave by type and employer size

	Voluntary Plan - Family Leave	Voluntary Plan - Medical Leave	Voluntary Plan - All Leave Types	State Plan - Family Leave	State Plan - Medical Leave	State Plan - All Leave Types
Known Employer Size	12.0	10.6	11.3	8.0	7.2	7.6
<i>Small Employers</i>	9.7	8.1	9.0	8.0	7.2	7.6
<i>Large Employers</i>	12.0	10.6	11.3	8.0	7.2	7.6
Unknown Employer Size	N/A	N/A	N/A	8.6	7.6	8.1
All Employers	12.0	10.6	11.3	8.0	7.2	7.6

Source: WA Paid Leave Administrative Data, Voluntary Plan Survey

Another difference here among the state and voluntary plans is the leave length variance between small and large employers. In the state plan, there is little notable difference in lengths of leave by employer size. In contrast, the overall difference in the average lengths of leave is about 2.3 weeks longer for large voluntary plan employers compared to small voluntary plan employers. Voluntary plans also show a much greater spread between family and medical leave. Voluntary plans differ by about 1.4 weeks between family and medical leave, while the difference is less than a week for the state plan.

Considerations for Voluntary Plan Data

While we can establish survey response data for utilization of employees taking leave under voluntary plans and compare that to the state plan, many questions may remain. In addition to overall rates of utilization, questions about who is using leave and more specifics on why and how may be of interest, for

example, demographics analyses similar to those in the Paid Leave Program Annual Report. Asking employers and employer agents to submit individual leave information in an email survey that includes PII (e.g., SSN to enable linkage to wage reporting) and related information such as demographics could result in re-identification of employees taking leave. This is not tenable, so we could not include those kinds of expanded analyses about who is using leave under each program type. In addition, not all voluntary plan employers or employer agents may record demographics of employees taking leave in their records of leave-taking, which means an expectation for employers to collect and record this information would be a prerequisite. The question of whether leave usage is equitably distributed under voluntary plans would additionally likely require some source of comparison data summarizing demographics of all employees covered by voluntary plans, unless we assume the distributions are the same as for other employers in the state. Given the comparatively small number of employers with voluntary plans, this seems unlikely.

Getting firm comparable data on voluntary plan benefits used, lengths of leave, and payments may be a challenge. While the law states that voluntary plan employers must keep records of leave taken, there are not specific requirements on what kinds of information those records include. If there is interest in more detailed information on voluntary plan benefits, this would necessitate consistency in capturing leave data and a requirement for voluntary plan employers to report on benefits to the department through a standardized system and process.

An identifiable place for improvement in the data, which ESD has been actively working, is additional education and support for voluntary plan employers to fulfill reporting requirements. It is clear in our data that some voluntary plan employers are encountering confusion about what needs to be submitted to ESD. This is a known issue, and the division has been working to address this through outreach and audits. This will not only aid in improving the accuracy of the data surrounding voluntary plan employers, but also benefit those same employers in clearing up any remaining confusion about reporting since the launch of the program.

Lastly, as the program is still fairly new, analyses of voluntary plan and state plan benefits utilization could have benefited from additional time. This would have allowed for better administrative data accuracy through having the corrected data that will result from the additional outreach and audits occurring this year. It would also have allowed the Leave and Care team to explore additional methods of obtaining voluntary plan utilization data, pursue deeper collaboration with stakeholders throughout the process, and allow for additional research questions about voluntary plans and the employers operating those plans. The data collection was intentionally scoped to meet the needs of producing utilization estimates for this report, while keeping the questionnaire short to reduce respondent burden and obtain as many responses as possible. It therefore did not include other research questions potentially of interest about voluntary plans, such as employers' motivations to operate a voluntary plan, whether they plan to continue operating their plan, and more detail on leave benefits they offered employees prior to 2020 in comparison with current benefits provided. As discussed during the bill analysis process, given timeframe and other constraints, an online survey was the only feasible approach to obtaining benefits data from voluntary plan employers.

Appendices

Administrative records data notes

Wage and employment estimates for employers. As mentioned in the methods section of the voluntary plan administrative data, there are some inconsistencies in the quarterly reporting of wages and employment for voluntary plan employers. For example, a voluntary plan employer may have reported 2020 Q3 and Q4 wage and employment records but not submitted anything for Q1 and Q2 of 2021 records, while another employer may have reported Q3 for 2020 and Q1 and Q2 of 2021 but nothing for Q4 of 2020. For some employers in this situation, it is because they did not have any employment or payroll to report during the “missing” quarter and thus no report is required, while others did have employment and payroll and are truly missing reports. We cannot distinguish in the data which employers are in which situation. Due to inconsistencies such as these, a quarterly average of wages and employment was created for each voluntary plan employer based on the quarters for which we do have data. These quarterly averages were then used to create an annual estimate of wages and employment for each employer.

Other years of data. This report provides no comparison in the number of voluntary plan employers compared to the prior fiscal year. This is because the administrative data at launch did not have an embedded way to track active voluntary plans that would be renewed in the data system, so we cannot extract those through quantitative administrative data. Plans were tracked via other systems. However, this issue was resolved in late spring and Leave and Care staff verified all the records of active voluntary plan employers at that time. This gave us an accurate account of all active voluntary plans from that time forward, but it has not been possible to backdate that effort. This report thus focuses on all active voluntary plan employers as of the end of fiscal year 2021. Establishing a known list of active voluntary plan employers was a paramount prerequisite to analyzing accurate program utilization.

Voluntary Employer Survey

Along with the expansion of the definition of family member, state legislation mandates the Leave and Care Division to develop a report on “program utilization by employees covered under approved voluntary plans.” ESD is asking you to fill out the following information regarding paid leave under your employer voluntary plan. Responses will be kept confidential by scrubbing all identifying information and results will be reported in aggregate for the Legislature.

1. Please Provide the full legal name of your business *:
2. Business UBI (Unified Business Identifier) Number*:

Family Leave: Time off to care for a family member with a serious health condition, bonding with a new baby or child in the family, and spending time with a military member around the time of deployment.

Medical Leave: Time off associated with one’s own serious health condition that prevents the individual from working. *Note: This doesn’t include standard sick time off.*

On the following questions, if you don't know the exact number please estimate to the best of your ability.

3. What type of voluntary paid family and medical leave plan does your business offer?
 - a. Only Family Leave:
 - b. Only Medical Leave:
 - c. Both Family Bonding and Medical Leave:
4. *How many employees took leave under your paid family and medical leave voluntary plan in the last year?
 - a. Family Leave:
 - b. Medical Leave:
5. *On average, how many weeks of paid family and medical leave did the typical employee take?
 - a. Family Leave:
 - b. Medical Leave:
6. *How much, in total benefits, did your business pay out for paid family and medical leave? *Note: this does not include any premiums paid to the state (if applicable).*
 - a. Family Leave:
 - b. Medical Leave:
7. How much, in total premiums, did your business withhold from employees in the last year?
 - a. Family Leave:
 - b. Medical Leave:

General Questions about the employer.

8. On average, how many people have you employed in the last year*?
 - a. Under 50 employees
 - b. 50 or more employees
9. In what industry does your business primarily operate? (drop down menu)
 - a. Agriculture, forestry, fishing, and hunting
 - b. Mining
 - c. Utilities
 - d. Construction
 - e. Manufacturing
 - f. Wholesale trade
 - g. Retail trade
 - h. Transportation and warehousing
 - i. Information
 - j. Finance and insurance
 - k. Real estate and rental and leasing
 - l. Professional and technical services
 - m. Management of companies and enterprises

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- n. Administrative and waste services
 - o. Educational services
 - p. Healthcare and social assistance
 - q. Arts, entertainment, and recreation
 - r. Accommodation and food services
 - s. Other services, except public administration
 - t. Public administration
 - u. Don't know
10. In what county does your business employ the most individuals? (drop down menu)

We are always looking to improve our customers' experience with the Paid Family and Medical Leave program. Please provide contact information if you wish to share your experience navigating the voluntary plan portion of Paid Family and Medical Leave.

Advisory Committee Member Comments

Business Interests Members – Bob Battles, Christine Brewer, Julia Gorton, Tammie Hetrick

November 8, 2021

The Business members of the Paid Family and Medical Leave Advisory Committee appreciate the opportunity to provide this response. We understand that because of time and data constraints the report has some information that needs to be further developed, however, it is important to point out some positive aspects of the report. Some of the highlights of this report are:

1. This report shows a high percentage of usage of employers offering voluntary plans to provide family and/or medical leave for their employees.
2. Both small and large businesses are taking advantage of the voluntary plan option. Initial concern was raised that small employers would not take advantage of the voluntary plan option and a limited amount of leave would be offered to employees. This report confirms this is simply not the case. Employers of all sizes have embraced the opportunity to continue to provide this type of leave through their own coverage programs.
3. Like in the state plan the voluntary plans have also see significantly more family leave than expected. This has resulted in an adjustment in the calculation of the cost to the two buckets.
4. The report confirmed that the majority of voluntary plan employers offer job protection and offer health care benefits

One concern with the administration of the program is ESD's interpretation of the statute requiring confidentiality of who has a voluntary plan. This creates unnecessary confusion and should be changed. We view access to voluntary plan employers similar to that of Self-Insured Employers under the Workers Compensation System and suggest this be changed. Further, ESD has stated in the report that they are lacking access to some reporting data from claimants. We encourage ESD to reach out to its fellow agencies, like L&I, to find ways to collect that data within the current confines of the statute. We believe the data could be easily acquired and will help with improving the program.

The business members believe that a report similar to this should continue to be prepared in the future. This continued collection of data will help address potential issues in the program and help strengthen it in the future. Finally, the business members of the advisory committee have concerns that the wait times for phone calls and email response wait times must be improved. If this is because of a lack of resources than ESD should seek further resources from the legislature.

The business community continues to support this program and we look forward to working with all parties to ensure its continued success.

Employee Interests Members – Samantha Grad, Joe Kendo, Marilyn Watkins, Brenda Wiest

November 8, 2021

The Employment Security Department’s State and Voluntary Plan Program Usage report dated December 2021 raises several questions and suggests the need for changes in how ESD administers the Voluntary Plan program. RCW 50A.30.080 requires employers with approved voluntary plans to “maintain all reports, information, and records as relating to the voluntary plan and claims for six years and furnish for the commissioner upon request.” Yet only 115 out of 277 VP employers responded to the department’s survey questions, despite repeated emails and follow up phone calls.

RCW 50A.30.010 further requires VP employers to make PFML benefits available to all of their eligible employees in the state (5.c), and to provide PFML benefits in addition to state-required paid sick leave (5.b).

The higher rate of usage per 100 employees in VPs compared to state programs is encouraging, in suggesting that at least the VP employers that responded to the survey make the programs readily accessible to their employees. It is also somewhat expected, since VP employees don’t have to take the additional steps required to apply for the state program on their own.

However, the data collected for this report does not address issues of key concern to legislators in creating the PFML program, particularly around equitable access for low-wage and vulnerable workers who are least likely to have paid leave absent government requirements.¹⁷ We cannot tell from the data collected and presented for this report whether an employer’s lower-wage hourly workers have the same access to PFML benefits as salaried office workers. Nor can we verify that employers are providing state-required sick leave as an additional benefit, and giving employees choice in which leave to take.

Recommendations:

Going forward we recommend that ESD prepare a record keeping template for VP employers and require submission of the data from the template on an annual basis. The template would include at a minimum number and types of leave taken, lengths of leaves, and level of benefit payments, disaggregated by employees across wage levels and types of work. To the extent that employers have demographic information on employees, this information should also be collected.

The lack of transparency also points to the importance of making the list of approved VP employers publicly available.

Employee experience is also important to document, both in VPs and in the state plan. Future reports should also include employee surveys that document ease of use, access to other benefits, and whether or not any retaliation or interference occurred in accessing or using PFML.

¹⁷ See U.S. Bureau of Labor Statistics, National Compensation Survey: Employee Benefits in the United States, March 2021, <https://www.bls.gov/ncs/ebs/benefits/2021/home.htm>

Employment Security Department response

November 8, 2021

The Department appreciates Advisory Committee members' feedback on earlier drafts of this report and the written responses included above. We welcome the opportunity to partner with the Legislature on recommendations from stakeholders.