



**Testimony of Joanna Blotner
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Public Oversight Roundtable on the Implementation of Law 21-264,
The Universal Paid Leave Amendment Act
Committee on Labor & Workforce Development
Thursday, July 9, 2020**

Thank you for holding today's public oversight roundtable on the implementation of the Universal Paid Leave Amendment Act (Law 21-264) and allowing me to testify on behalf of the DC Paid Family Leave Coalition. I am so pleased to be here testifying today to celebrate the successful launch of the District's paid family and medical leave program and to congratulate the Department of Employment Services' Director and the team in the Office of Paid Family Leave on all their hard work to make these benefits a reality for the District's working families.

Last Wednesday, July 1, at approximately 2 pm a friend texted me a copy of his paid paternity leave claims approval message, just 5 hours after he completed his application. While, of course, most claims will go through the standard 10-day review process set forth in the law, this was the most delightful news to know the program was already working so fast and successfully for those in need (though I have also received a couple suggestions for improvement from other applicants too).¹ I am eager to learn more from DOES today about how this first week has gone with respect to program uptake and claims processing. I have included some questions in an addendum to my testimony that I hope will be addressed in the roundtable. My oral testimony today will focus on what comes next and how to ensure paid leave is implemented and promoted as equitably as possible: **(1)** accessible resources for applicants; **(2)** promotion and outreach plans, and; **(3)** community and interagency collaboration.

Accessible Resources

The employee handbook created by OPFL² is an important and well-designed resource for benefit applicants, but I would like to suggest a few changes that will make it more impactful. Unlike the employer handbook, the language in the employee handbook is largely in legalese and uses unnecessarily technical jargon. Simpler

¹ One issue flagged by a claimant is that the system did not have her work/wage history correct or complete because she had recently married and changed last names prompting her to need to complete additional paperwork. Another issue flagged was that the benefit system changed their payment preference from direct deposit to EBT card prompting them to need to reenter banking info and also resubmit birth certificate information. While minor inconveniences, it is still important to get the details correct.

² The DC Paid Family Leave Campaign website created a direct/short link for OPFL handbooks:
<http://www.dcpaidfamilyleave.org/handbooks> (employee handbook)

word choices, more real life examples, and practical explanations of program processes would be incredibly helpful for a 2.0 version of the handbook. Our coalition's offer stands to help review the language and provide feedback on what could make content more accessible. Additionally, the handbook needs to be available in all the languages the DC paid leave website translates to, as do other materials on the website that provide practical guidance to workers. I also encourage OPFL to create a series of more easily digestible one-page summaries of various topics from the handbook, including lists of application materials for each leave type, family definitions, special processes for intermittent leave applications and scheduling, providing notice to an employers, how to change leave schedules, and more. The DC Paid Family Leave Campaign and the First Shift Justice Project websites (www.DCPaidFamilyLeave.org and www.firstshift.org/paid-family-leave) have attempted to boil down key information for applicants in ways that will help people navigate benefit eligibility and applications. I encourage OPFL to think about using similar models to supplement the handbook.

Promotion and Outreach

The COVID-19 public health emergency has understandably turned the world upside down and shifted priorities. Our coalition's plans to engage in paid leave promotion this spring were deferred, and understandably, this appeared to have been true for some of the plans for OPFL too. But now is the time to refocus and double down on outreach efforts and engaging the public, especially with more people physically returning to their worksites and needing to know what public health types of protections they are eligible for.

Focusing on healthcare providers remains essential as they play a key role of trusted messenger for families experiencing medical hardships. OPFL should immediately shift to more and more frequent virtual learning sessions and ensure there is a regular and well-promoted schedule of webinars for healthcare providers.³ Additionally, DOES should record short “explainer” videos for health providers on how to talk to their patients about paid leave and how to complete certification forms, and then post those on the OPFL website so that doctors, nurses, midwives, doulas, doctor office receptionists, health professional association staff, etc. can watch the videos at their convenience.

While I have previously advocated for more in-person learning events, it is clear paid leave promotion must transition to social media techniques for the foreseeable future. We would like to see DOES heavily using Twitter and Instagram posts, as was done with the weeklong countdown promotion for the Marion Barry Summer Youth Program and has been done to help workers understand unemployment insurance programs. We also strongly encourage Mayor Bowser to promote both paid family leave and DC's \$15/hr minimum wage as she likely has the largest social media following in the District and could really help spread the word about these two worker rights advances. In addition, webinar schedules for workers and businesses should pick back up throughout the summer and fall and OPFL should make these sessions accessible to broader

³ Bonus benefit to switching to virtual sessions versus in-person in this time: we can better recruit providers citywide or cross jurisdictionally and educate medical professionals from multiple health campuses at once!

audiences by utilizing the Facebook and Instagram Live functions.^{4,5} Additionally it would be great to see DOES robustly using paid ads on social media to promote paid leave benefit availability, a far more affordable strategy than the bus and metro ads we previously advocated! Ads should be in English, Spanish, and Amharic, and should prioritize Wards 4, 5, 7, and 8 to advance equity and ensure that Black and brown workers most especially are aware of the program.

Further, as I have noted before, a copy of the District's detailed outreach plans should be made public so others, including the DC Paid Family Leave Coalition, can support and supplement those plans without duplication.

Community and Interagency Collaboration

We are incredibly grateful for this committee's funding allocations in the FY21 budget to support new hires at the Office of Human Rights to enforce paid leave anti-retaliation and DCFMLA job protection laws, as well as to start up a leave navigator program that partners with community organizations.⁶ Both are particularly important now, with the business, worker, and government agency confusion over the new and abruptly-implemented federal leave (and unemployment) allowances compounding the already-existing public confusion about paid family leave, pick sick leave, and unpaid job-protected leave. A grant program operated by the OPFL that helps workers understand which leaves to apply for, and how, will help to proactively manage DOES's caseload in both OPFL and the Office of Wage Hour, as well as caseloads at DC's Office of Human Rights.⁷ This grant program should also be designed to help businesses navigate the different laws and stay in compliance; however, we believe the grants should prioritize worker assistance given the power imbalance inherent when workers attempt to use leave of any kind.⁸ We intend to work with the Chairman to restore the original funding proportions for the leave navigator program before the final budget is passed.

With regard to DOES's request to change agency jurisdiction over the claims appeal process, we believe strongly that appeals should remain in the Office of Administrative Hearings and not be moved. In-house review poses an inherent conflict of interest that could disadvantage workers seeking benefits. Benefit claims for paid leave are far more analogous to unemployment insurance claims (which are currently adjudicated by OAH) than to workers comp claims and as such the appeals process should follow UI precedent.⁹

Lastly, as I have testified previously, we continue to urge DOES to work collaboratively with other District government agencies to help workers experiencing a qualifying event connect the dots across the various

⁴ The DC Jobs With Justice, et al paid leave + \$15 minimum wage 'know your rights' webinar session on July 1 that Director Morris-Hughes and OPFL staff participated in had roughly 65 participants on Zoom - including participants learning in Spanish and Amharic - but nearly 600 views via Facebook Live.

⁵ Online learning sessions need to be available in multiple languages as well as available with closed captioning or with ASL interpretation.

⁶ There are a number of community organizations in DC that are already well-positioned to partner with DOES on a 'leave navigators' type of program and hit the ground running at the start of the new fiscal year; DOES should not delay preparations to launch this grant-based community partnership and should issue RFPs over the summer.

⁷ Washington State has a similar program embedded in their paid leave program, though it is structured as an ombudsperson and is a government position. Given government hiring freezes, a grant program that deepens relationships with both worker and business communities seems a better solution for this idea.

⁸ Additionally, there are upward of 500,000 workers in need of assistance compared to roughly 75,000 business operations in the District demonstrating greater need for paid leave navigators who can support workers.

⁹ Both PFL and UI benefit claims are reviewed and paid out by DOES directly, rather than by private insurance carriers as is the case with worker compensation insurance.

programs that exist to support them. More details in the footnotes and in my previous testimonies.¹⁰ We implore DOES to work collaboratively with OAH, OHR, and all relevant District agencies to ensure we are making the administration and promotion of paid leave benefits a key tool for public health, and as worker-friendly and accessible as possible.

And, in the spirit of advocating for worker-friendly laws and programs, I would be remiss to ignore the job loss many workers are facing right now. Tragically, this pandemic demonstrates precisely the need for robust universal insurance programs that protect public health and economic security. This pandemic also demonstrates why the Universal Paid Leave Act relies on work history and wages in the system rather than a specific attachment to work requirement in order to confirm eligibility. When someone experiences job loss (or retaliation) and is simultaneously expecting a child - as Ms. Hernandez, a DC resident and worker who lost her job due to COVID-19, wrote to me about this past Sunday - their lack of current employment should not preclude them from accessing benefits to help preserve their financial stability, as long as they have a wage history in the paid leave system.¹¹ The current relaxation of unemployment insurance eligibility parameters is a godsend for many families right now but in normal times eligibility for UI would be limited for someone caring for a new baby or an ill spouse if they are not “willing and able to” take a new job. A paid leave program that responds compassionately - and with equity and accessibility in mind - would remove the current employment requirement from the regulations.

We look forward to learning more from this roundtable about last week’s launch, the administration of benefits to date, and forthcoming promotion plans from OPFL. As always, our coalition is ready and willing to support DOES in any way. Thank you again for allowing me to testify and I would be happy to answer any questions.

¹⁰ Interagency coordination examples: when someone applies for intermittent medical leave, the paid leave benefits program should notify them of the Department of Health programs that help individuals manage chronic conditions and share a comprehensive list of worker rights laws related to workplace accommodations for medical conditions and disabilities. Additionally, there are myriad DC government programs for new parents, but few know they exist. This is where OPFL and Thrive by Five could partner to disseminate a package of resources to new parents applying for leave.

¹¹ Same protections should apply to those who have lost a job but experience a qualifying family or medical leave event, or are let go because of their need to use paid leave benefits.

ADDENDUM

Question topics we encourage the Council to explore during the oversight roundtable:

- 1) How many people have applied for benefits, how do the types of leave break out, are there other demographic details that can be shared about claimants that can help inform outreach gaps?
- 2) How do claims so far compare with DOES's original projections? Does OPFL feel it has capacity to meet the 10-day turnaround window successfully moving forward?
- 3) How many claims have been approved, what are the commonly emerging reasons for denials, what is the current approval turnaround time?
- 4) Are there any insights that can be shared about healthcare provider experiences navigating the program and completing/submitting certification forms?
- 5) What challenges with program navigation/access trends have been emerging from calls received by the OPFL call center? How are those being resolved? Are there resources or legislative changes that need to be created to address these challenges?
- 6) How does the staffing at OPFL break out across different program areas such as benefit administrators, tax-side staffing, public outreach, call center, etc.?
- 7) How has the third-party contracted agency worked out so far for call center overflow? How long will this service be available to help manage the paid leave program roll out?
- 8) What, if any, user testing was done for the IT system rolled out? What lessons were learned from that process? What challenges emerged and how were they dealt with? What, if any, commonly emerging challenges is the agency seeing with the benefit portal and how are they being resolved? Can DOES walk the public through the application process during today's roundtable and/or create a tutorial video that can live on the program website?
- 9) Is the benefit portal accessible on mobile devices? Are there browser restrictions on the portal similar to the DC Networks site for UI? Are there other quirks with the portal users should be aware of?
- 10) Have people been requesting paper application forms? How are they being accommodated? What are the plans moving forward for access to paper forms with social distancing protocols still in place?
- 11) What are the agency's detailed plans for public outreach and promotion? How is their communications contract with Link Strategic Partners supporting this work - and what has been done so far with Link and what is upcoming? How are community partnerships being cultivated and developed to advance public awareness? How can the DC Paid Family Leave Coalition be proactively supportive?
- 12) Are there any updates on the business/tax side of the program the public and/or employers should know about? Any updates pertinent to self-employed workers?
- 13) **Request:** Can the parental leave roadmap be updated to note potential eligibility for DC FMLA and the Protecting Pregnant Workers Fairness Act, especially with regard to notice timelines?