



March 31, 2017

Laura Evangelista
Department of Financial Services
One State Street
New York, NY 10004-1511

Submitted via email to Laura.Evangelista@dfs.ny.gov

Re: *Comments on Proposed Family Leave Benefits Coverage Regulations*

Dear Ms. Evangelista:

Dēmos writes to submit comments on the proposed regulations regarding family leave benefits coverage. We thank you for the opportunity to comment on these proposed regulations.

Dēmos is a public policy organization working for an America where we all have an equal say in our democracy and an equal chance in our economy. Paid family leave is critical to ensuring an equal chance in our economy for all working New Yorkers. We know how important a strong paid family leave program will be in our state because Dēmos' research finds that 6.4 million working New Yorkers do not currently receive any paid family leave through their employers.

Community rating (11 NYCRR §§ 363.1-363.4)

We strongly support the Department's decision, as set out in the proposed regulations, to require all family leave benefits coverage issued under the law be community rated. Consistent with the goals of the paid family leave statute, community rating will ensure fair treatment for all employees and prevent discrimination on the basis of age, sex, or any other demographic feature. Furthermore, because use or expected use of benefits cannot be taken into account in setting premiums, community rating will remove any possible incentive for employers to discourage or interfere with workers' use of paid family leave benefits out of fear of rising costs.



Similarly, we are extremely glad to see the Department's commitment to setting community rates in a manner that differentiates among workers based on their income. Because, by law, workers are responsible for the full costs of paid family leave coverage, it is critically important that these rates do not impose an undue financial burden on workers, especially those with limited incomes. Paid family leave benefits are set as a proportion of workers' incomes, meaning that a worker who earns less will receive less money in benefits than a worker who earns more. Therefore, it is both logical and fair that insurers ought to charge less to cover workers whose benefits cost less.

Maximum employee contribution (11 NYCRR § 363.7)

Under the paid family leave law, one of the most important responsibilities entrusted to the Department is setting the maximum employee contribution to pay for benefits. The current proposed regulation provides no guidance into how this crucial decision will be made beyond the general parameters in the statute. We urge the Department to offer additional clarification.

Furthermore, the Department should specify how the strong principles set forth in the proposed community ratings regulations will affect the amounts withheld from worker paychecks. This should include stating that employers may only withhold from an employee's paycheck the actual cost of acquiring of coverage for that employee, if such costs are lower than the maximum contribution set by the Department.

We appreciate the opportunity to submit these comments, and we hope you will give them consideration in your efforts to ensure that the New York paid family leave law is implemented effectively and clearly.

Sincerely,

Amy Traub
Associate Director, Policy and Research
Demos