



A Comparison of Selected Paid Leave Program Provisions Included in H.R. 5376 and in House Rules Committee Print 117-18

November 5, 2021

[H.R. 5376](#) (Title XIII, Subtitle A), as introduced on September 27, 2021, proposed a new federal cash benefit for eligible individuals engaged in certain types of family and medical caregiving. A modified proposal was included in House [Rules Committee Print 117-18](#) on November 3, 2021. **Table 1** compares selected provisions in these two proposals.

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Table I. Selected Provisions Relating to a Proposed Federal Paid Leave Benefit Program in H.R. 5376 and H. Rules Committee Print 117-18

	H.R. 5376	H. Rules Committee Print 117-18
Qualifying Reasons for Leave	<p>An unpaid activity engaged in by an individual in lieu of work for the following reasons:</p> <ul style="list-style-type: none"> the birth and care of the individual’s child, within 12 months of the child’s birth; the placement of an adopted or fostered child with the individual, within 12 months of the child’s placement; to care for a qualified family member^a with a serious health condition;^b the individual’s own serious health condition if the individual is unable to perform the essential functions of his or her job; qualified military exigencies arising from the fact that a qualified family member is on covered active duty; to care for a qualified family member^a who is a covered servicemember with a serious injury or illness; and the death of a spouse, parent, or child of the individual. 	<p>An unpaid activity engaged in by an individual in lieu of work for the following reasons:</p> <ul style="list-style-type: none"> the birth and care of the individual’s child, within 12 months of the child’s birth; the placement of an adopted or fostered child with the individual, within 12 months of the child’s placement; to care for a qualified family member^a with a serious health condition; and the individual’s own serious health condition if the individual is unable to perform the essential functions of his or her job.
Eligibility Requirements ^c	<p>An individual must</p> <ul style="list-style-type: none"> file an application for benefits; have (or anticipate having) at least 4 caregiving hours in a week ending at any time during the period that begins 90 days before the date on which such application is filed or not later than 180 days after such date; and have wages or self-employment income at any time during the period that begins with the most recent calendar quarter that ends at least 4 months prior to the beginning of the individual’s benefit period, and ends with the month before the month in which such benefit period begins. 	<p>An individual must</p> <ul style="list-style-type: none"> file an application for benefits; have (or anticipate having) at least 4 caregiving hours in a week ending at any time during the period that begins 90 days before the date on which such application is filed or not later than 90 days after such date; have wages or self-employment income at any time during the period that begins with the most recent calendar quarter that ends at least 4 months prior to the beginning of the individual’s benefit period, and ends with the month before the month in which such benefit period begins, and have at least the <i>specified amount</i> of wages or self-employment income (\$2,000 in 2024, and adjusted thereafter) at any time during the most recent 8-calendar quarter period that ends at least 4 months prior to the beginning of the individual’s benefit period.
Employment Required at the Time of Benefit Application or Receipt	No.	No.

	H.R. 5376	H. Rules Committee Print 117-18
Weekly Benefit Amount Calculation	The weekly benefit amount is calculated as the product of the <i>weekly benefit rate</i> (see below) and the ratio of number of creditable caregiving hours in the week to number of hours in an individual’s regular workweek (see below).	The weekly benefit amount is calculated as the product of the <i>weekly benefit rate</i> (see below) and the ratio of number of creditable caregiving hours in the week to number of hours in an individual’s regular workweek (see below).
Weekly Benefit Rate	<p>For July 2023 through December 2024, <i>the weekly benefit rate</i> would be the sum of</p> <ul style="list-style-type: none"> • 85% x (the first \$290.00 of average weekly earnings [AWE]^e) • 75% x (the portion of AWE between \$290.01 and \$658.62) • 55% x (the portion of AWE between \$658.63 and \$1,384.62) • 25% x (the portion of AWE between \$1,384.63 and \$1,923.08) • 5% x (the portion of AWE between \$1,923.09 and \$4,807.69) <p>For qualified caregiving that occurs in weeks that end within the year 2024 (after which date a portion of the benefit formula will be adjusted), the maximum weekly benefit would be \$1,201.09. No minimum benefit.</p>	<p>For January 2024 through December 2024, <i>the weekly benefit rate</i> would be the sum of</p> <ul style="list-style-type: none"> • 90.138% x (the first \$290.00 of AWE^e) • 73.171% x (the portion of AWE between \$290.01 and \$658.62) • 53.023% x (the portion of AWE between \$658.63 and \$1,192.31) <p>For qualified caregiving that occurs in weeks that end within the year 2024 (after which date a portion of the benefit formula will be adjusted), the maximum weekly benefit would be \$814.10. A minimum benefit is not proposed explicitly in the bill. However, given the requirement that claimants have at least \$2,000 in earnings in the 8-quarter period described in “Eligibility Requirements” (above), the bill provides for an implicit minimum weekly benefit of \$34.67 in 2024.</p>
Ratio of Caregiver Hours to Regular Workweek	Hours of caregiving/ hours in regular workweek. ^d Creditable caregiving hours may not exceed the number of hours in an individual’s regular workweek (i.e., the ratio above may not exceed one).	Hours of caregiving/ hours in regular workweek. ^d Creditable caregiving hours may not exceed the number of hours in an individual’s regular workweek (i.e., the ratio above may not exceed one).
Maximum Duration of Benefits	12 workweeks of qualified caregiving in a benefit period (generally a 12-month period).	4 workweeks of qualified caregiving in a benefit period (generally a 12-month period).
Administration ^f	Treasury Department.	Social Security Administration.
Small Business Assistance Grants	Yes. Certain small businesses may apply for federal grants to help cover paid family and medical leave costs that are in excess of wages paid to employees on leave (e.g., the cost of hiring a temporary replacement for an employee on leave).	No.
Provides Job-Protected Leave	In general, no. ^g	In general, no. ^g

Financing	Open-ended mandatory spending for benefits and certain associated program costs. Capped mandatory spending for education and outreach activities in each of FY2022-2026, and for research activities in each of FY2023-2027.	Open-ended mandatory spending for benefits and certain associated program costs. Capped mandatory spending for program administration costs, starting in FY2022. Appropriated funds for FY2022 for necessary administrative expenses of the Social Security Administration, and additional emergency funds for program administration starting in FY2024 if certain conditions are met.
First Payable Date for Benefits	July 2023, the program would be permanently authorized.	January 2024, the program would be permanently authorized.

Source: CRS analysis of H.R. 5376 and H. Rules Committee Print 117-18.

- a. A qualified family member is, with respect to the claimant: a spouse (including a domestic partner) and a spouse's parent, a child and a child's spouse, a parent and a parent's spouse, a sibling and a sibling's spouse, a grandparent, a grandchild, or a spouse of a grandparent or grandchild; and any other individual who is related by blood or affinity and whose association with the individual is equivalent of a family relationship.
- b. Both bills use the [Family and Medical Leave Act \(FMLA\)](#) definition of a *serious health condition*, which is a health condition that requires inpatient care or continuing treatment by a health care provider.
- c. Both bills provide, with some differences, for exclusions or disqualifications from benefit eligibility.
- d. The ratio measures the percentage of an individual's workweek that was allocated to caregiving (e.g., 20 hours of caregiving for a 40-hour workweek has a ratio of ½ or 50%, whereas as 20 hours of caregiving for a 20-hour workweek has a ratio of 1 or 100%).
- e. An individual's AWE would be calculated as the quotient of total wages (including self-employment income) during the most recent 8-quarter calendar quarter period that ends 4 months prior to the beginning of the individual's benefit period divided by 104.
- f. Both bills provide, with some differences, that if certain conditions are met and with federal government approval, selected states and certain employers may administer the federal benefit and be reimbursed for a portion of the actual or national average costs associated with providing such paid leave benefits, up to a maximum amount.
- g. Both bills provide, with some differences, that certain employers who receive federal grants under the program must return an employee to the same job or to one that is equivalent in terms of pay, benefits, and employment terms and conditions to the one held prior to taking leave. Individuals claiming the paid leave benefit may otherwise receive job protection if they are entitled to job-protected leave (e.g., under the [FMLA](#)) and coordinate such leave with the receipt of the proposed benefit.

Author Information

Sarah A. Donovan
Specialist in Labor Policy

Barry F. Huston
Analyst in Social Policy

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