Workers not Paid for Sick Leave after Implementation of the New York City Paid Sick Leave Law

Gerod Sharper Hall · Sarah Walters · Christopher Wimer · Amber Levanon Seligson · Matthew Maury · Jane Waldfogel · L. Hannah Gould · Sungwoo Lim

Published online: 26 December 2017
© The New York Academy of Medicine 2017

Abstract This study examined factors associated with being paid for sick leave after implementation of the New York City (NYC) paid sick leave law. A random sample of NYC residents was surveyed by telephone multiple times over a 2-year period. Participants ($n = 1195$) reported socio-demographics, awareness of the law, income, work hours per week, and payment for sick time off work. In the year after implementation of the law, part-time workers were significantly more likely to attend work while sick than full-time workers (relative risk = 1.25, 95% CI = 1.1, 1.4). Seventy percent of workers who missed work due to illness ($n = 249$) were paid for sick leave. Part-time workers, respondents not aware of the benefit (30% of workers), and workers without a college degree were the least likely to be paid for sick days. More than one third (37%) of persons not paid for sick leave worked in retail, food service, or health care. Although 70% of respondents were paid for sick leave after implementation of the law, part-time workers and workers with low education were least likely to access the benefit and more likely to work while sick. The disparity in paid sick leave may have public health consequences as many persons not paid

for sick leave had occupations that carry a high risk of disease transmission to others.

Keywords Paid sick leave · Part-time work

Introduction

Paid sick leave allows workers to take care of their health needs and the health needs of family members without losing pay or fear of losing their job. Paid sick leave promotes recovery from illness [1, 2], employee retention [3], preventive health care [4–6], and better care for ill children, spouses, and parents of employees [7, 8]. Paid sick leave has also been shown to reduce the spread of gastrointestinal and influenza-like illness in the work place and health care settings [9, 10].

Part-time and low-income workers nationwide are less likely to have access to paid sick leave. In private industry, 81% of full-time workers and 35% of part-time workers had access to paid sick leave [11]. Moreover, while 89% of workers in the top wage quartile had paid sick leave, this was true of only 43% in the bottom quartile [11]. Disparities in paid sick leave access are concerning as low-income workers are more likely to be in poor health or have a child in poor health [8, 12]. The fact that low-wage workers are more likely to have entry-level positions, positions with fewer education requirements, positions held for a short time, and employment in the service sector may impact their access to paid sick leave [7, 13, 14]. There are also gender disparities in access to paid sick leave. Women are less

G. S. Hall · S. Walters · A. Levanon Seligson · L. H. Gould · S. Lim (✉)
New York City Department of Health and Mental Hygiene, Long Island City, NY, USA
e-mail: slim1@health.nyc.gov

C. Wimer · M. Maury · J. Waldfogel
School of Social Work, Columbia University, New York, NY, USA

likely than men to have paid sick leave, in part because they are more likely to work part-time and in low-paid sectors [15]. Such disparities are particularly concerning given that women are more likely to have responsibility for children and other family members and that the lack of paid sick leave may have a negative effect on their economic security and job retention [16]. There is also evidence that Latino workers are less likely than their white non-Latino counterparts to have paid sick leave, even after controlling for part-time status, occupation, and industry [15].

To provide paid sick leave benefits to more workers, including part-time workers, President Obama signed an executive order (EO 13706) requiring that businesses with federal contracts issued after January 1, 2017, allow workers 7 days of earned sick leave. The rule signed by President Obama is similar to paid sick leave mandates passed at the city, state, and county levels [17]. One year after the passage of paid sick leave ordinances, 91% of businesses in San Francisco offered leave (up from 73%) and 76% of Seattle businesses offered leave (up from 67%) [18, 19]. Researchers have warned that “high rates of leave offering mask within-employer inequalities whereby some employees at an establishment may have access to leave but others do not” [20]. Indeed, in San Francisco, businesses that employed a high proportion (75th percentile among all San Francisco firms) of part-time or Latino workers were less likely to offer paid sick leave than other businesses [18]. In Seattle, only 61% of businesses were compliant with the law and covered part-time workers as mandated [19].

In 2011, a survey of New York City (NYC) residents found that half of workers did not have paid sick leave [21]. Low-income workers (200% federal poverty level or less), Latinos, and those employed by smaller firms (49 workers or less) were least likely to have access to paid sick leave [21]. To address such disparities, the NYC Earned Sick Time Act mandated that as of April 2014, employers with five or more workers allow a minimum of 40 paid sick hours per calendar year. Part-time and full-time employees accrue 1 hour of paid sick leave for every 30 hours worked. Workers have the right to use accrued leave 120 days after the first day of employment. While past studies have focused on paid sick leave implementations in other major cities (San Francisco, Seattle), and on impacts on employers, this is the first to focus on how the law is impacting workers in NYC [4, 22]. We use a panel survey of NYC residents to examine demographic and employment factors

associated with being paid for sick leave after the implementation of the NYC paid sick leave mandate.

Methods

Data were drawn from the New York City Longitudinal Survey of Wellbeing (NYC-LWS) conducted by the Columbia Population Research Center. Most respondents were recruited by landline and mobile phone using random digit dialing procedures ($n = 2002$). Landline phone numbers from zip codes where more than 20% of residents live in poverty based on the 2000 US Census were oversampled. An additional sample ($n = 226$) was recruited from 14 social service agencies randomly selected from a list of all agencies funded by the Robin Hood Foundation. The agency sample allowed oversampling of low-income persons who utilize social services.

Respondents who joined the panel study were surveyed at baseline in late 2012 and early 2013. Follow-up interviews were conducted in English and Spanish every 3 months over a 2-year period. Surveys were 10–20 minutes in length. Subjects were compensated \$10–20 depending on whether the survey was completed by phone or on-line. Persons recruited from social service agencies who did not have a stable telephone number were offered cell phones and paid phone service in lieu of money compensation.

We analyzed NYC-LWS data from approximately 12, 18, and 21 months after baseline. The baseline interview collected data on age, gender, race/ethnicity, and education. Enforcement of the law began in October 2014. The 12-month survey was completed by September 2014 and collected data on pre-tax cash income, employment in the past 12 months, work days missed due to their own or family member's illness in the past 12 months, and whether they were paid for any sick days. The 18-month survey was completed by December 2014 and collected data on employment type (full-time, part-time, not employed), employer leave offering, and occupation. For the statistical analysis, missing responses and unemployed persons were pooled into a single employment type category. The 21-month survey was initiated after the start of enforcement of the law (December 2014–March 2015) and provides post-law information. At 21 months, respondents reported on citizenship, awareness of the law, how they heard about the law, any employment in the past 3 months, number of days they attended work ill in the past 3 months,

number of work days missed due to their own or family member's illness in the past 3 months, and whether they were paid for any sick time. The latter is the main outcome. Of the 2228 respondents surveyed at baseline, 1204 respondents participated in the 21-month survey. Six hundred and seventy respondents were employed at the time of the post-law survey. We only present data for these individuals and a subsample of respondents who were ill and missed work due to illness ($n = 248$). Nine respondents that missed work due to illness but did not indicate whether they received paid sick leave were excluded from the study sample.

Surveys were weighted to adjust for unequal selection probability, oversampling of poor households, panel attrition, and use of social services [22, 23]. To make the sample representative of the NYC population age 18 and above, post-stratification was carried out using data from the 2011–2013 American Community Survey of NYC residents. Post-stratification variables were gender, age, education, race, number of children in the family, number of seniors in the family, number of working aged people in the family, income-to-need ratio, and interactions between demographics and the income-to-need ratio. The income-to-need ratio was calculated as total income divided by the official poverty threshold.

The demographic and employment characteristics listed above were included as covariates in a weighted Poisson regression model estimating the prevalence of being paid for sick leave among persons that missed work due to illness [24]. Awareness of the law was included as a covariate. An additional Poisson regression model adjusted for poverty, employment type, gender, age, educational attainment, and race and ethnicity was used to assess factors associated with awareness of the law. A generalized estimating equation was used to compute the variance for the prevalence ratios as it produces consistent estimates even when the covariance structure of the data has been misspecified. Covariates with a two-sided p value less than 0.05 were considered to be statistically significant. Analyses were performed using SAS 9.3 (Cary, NC).

Results

Participant Characteristics

Fifty-eight percent of respondents ($n = 670$) were employed in the 3 months before the 21-month survey.

About half of employed respondents were women (53%, Table 1). About one third of workers were white (36%), while about one in four identified as Latino (26%) or black (23%). One third of workers did not complete high school (31%). The majority of workers were US citizens or permanent residents (84%). All

Table 1 Demographic and employment characteristics of respondents to the New York City Longitudinal Survey of Wellbeing who were employed and a subsample that missed worked due to illness after implementation of the paid sick leave law

Characteristic	% or mean (SE) ^a	
	All employed ($n = 670$)	Missed work due to illness ($n = 248$)
Age ^b	42 (0.6)	42 (0.9)
Female ^b	53%	60%
Race/ethnicity ^b		
Asian, multi-racial, other	16%	13%
Black non-Latino	23%	21%
Latino	26%	28%
White non-Latino	36%	39%
Education ^b		
High school diploma or less	31%	30%
Vocational training or some college	31%	38%
College degree	38%	31%
Poverty ^c		
Below the poverty line	27%	22%
Above the poverty line	73%	78%
Employment type ^d		
Full-time	66%	68%
Part-time	17%	22%
Not employed	14%	7%
No response	4%	3%
Citizenship ^e		
US citizen	84%	86%
Green card	7%	7%
Refugee status, student visa, work permit	2%	.41%
Other	3%	5%
No response	3%	2%

^a Means and percentages are weighted. Some percentages within a given category may not sum to zero due to rounding

^b Collected at the baseline interview

^c Collected at 12 months

^d Collected at 18 months

^e Collected at 21 months

workers and the subsample of respondents who missed work due to illness shared overlapping distributions for demographic and employment characteristics.

Awareness of the Law

Seventy percent of workers had heard about the paid sick leave law. Respondents heard about the law through television (49%), newspaper (29%), their employer (28%), and radio (25%). Awareness of the law was significantly associated with earning below the poverty line compared with workers earning above the poverty line (adjusted prevalence ratio [APR] = 0.79, 95% CI 0.64 to 0.98). There were no significant differences in awareness of the law by gender.

Paid for Sick Leave before Implementation of the Law

Among the persons employed at 21 months, 84% were employed at the time of the pre-law (i.e., 12-month) survey. Women (50%) were more likely than men (39%) to miss work because of an illness (relative risk [RR] = 1.2; 95% CI 1.2 to 1.2). In households without children, the difference between female and male workers was somewhat less pronounced (45 and 36%, respectively), indicating women may take more sick leave as a result of caretaking responsibilities. Sixty-two percent of participants who missed work due to illness were paid for any sick time. Female workers (56%) were significantly less likely to be paid for sick time than male workers (71%; RR = 0.65; 95% CI 0.64, 0.65). However, in a Poisson regression model adjusted for employment type, income-to-need ratio, age, race/ethnicity, and education, there was no evidence of an association between worker gender and payment for sick leave.

Paid for Sick Leave after Implementation of the Law

After implementation of the law, 70% of persons who missed work due to their own or a family member's illness ($n = 248$) were paid for sick days. Strikingly, there was no gender difference post-law (the share being paid for sick leave was 70% for both men and women). Nearly half of respondents who missed work due to illness (44%) used sick leave to care for another person. This differed significantly by gender (33% of males and 52% of females).

The Poisson regression model found a greater likelihood of being paid for sick time among respondents who had heard about the law (APR = 1.5; 95% CI 1.1 to 1.9; Table 2), who were employed full time versus part time (APR = 2.8; 95% CI 1.6 to 4.6), and who had a college degree (APR = 1.2; 95% CI 1.0 to 1.5) versus a high school diploma or less.

More than one third of persons (37%) not paid for sick leave were employed in the service industry as food service workers, child care providers, home health aides, and retail cashiers. Those working in a clerical/sales job made up the second largest proportion of those not paid

Table 2 Prevalence ratio of being paid for sick leave for persons who missed work due to illness ($n = 248$) after implementation of the New York City paid sick leave law

Parameter	Adjusted prevalence ratio (95% CI)
Employment type	
Part-time (Ref)	1.0
Full-time	2.8 (1.6, 4.8)**
No response, not employed ^a	1.6 (0.8, 3.3)
Poverty	
Income above poverty line (Ref)	1.0
Income below poverty line	0.8 (0.5, 1.1)
Aware of the law	1.5 (1.1, 1.9)**
Age group (years)	
18–29 (Ref)	1.0
30–44	1.0 (0.7, 1.2)
45–64	0.9 (0.7, 1.1)
over 64	1.0 (0.7, 1.2)
Male	0.9 (0.8, 1.1)
Race/ethnicity	
White (Ref)	1.0
Black	0.9 (0.7, 1.2)
Asian, multi-racial, other	0.7 (0.5, 0.9)*
Latino	0.9 (0.8, 1.1)
Education	
High school diploma or less (Ref)	1.0
Some college, vocational training	1.2 (0.9, 1.5)
Completed college	1.2 (1.0, 1.5)*

Abbreviations: CI confidence interval

* $P < 0.05$; ** $P < 0.01$

^aPersons not employed at the 18-month survey but employed at the 21-month survey

for sick leave (27%). These two job categories were predominantly made up by women, making up 65% of those working clerical/sales jobs and 60% of those working service jobs. Sixty percent of those not paid for sick leave were female.

Attended Work while Sick after Implementation of the Law

One third of workers ($n = 202$, 30%) reported attending work while sick because they could not afford to lose pay during the post-law period. The majority of these persons were part-time rather than full-time workers ($RR = 1.25$, 95% CI 1.1 to 1.4). Of the 202 workers who worked while sick, 75 answered questions about reasons they did not take leave when they needed it. Of those 75, 72% indicated they did not take time off due to a fear of negative consequences (e.g., fear of job loss, loss of seniority/potential advancement, could not afford to take unpaid leave, worried about revealing personal information about themselves/recipient of care/family relationships, and/or thought they would be treated differently). Two percent indicated they were unaware of leave availability.

Discussion

Seventy percent of workers surveyed in the year after implementation of the NYC paid sick time law were paid for any days of missed work due to illness. Strikingly, there was a gender gap in access to paid sick leave before but not after implementation of the law, though the pre-law gender differences were not present when other worker characteristics were controlled for. However, some disparities in access persisted post-law. After controlling for demographic and employment characteristics, we found that full-time work, awareness of the law, and education were associated with being paid for sick leave. Thus, part-time workers were more likely than full-time workers to not be paid for sick leave and to attend work while sick. Our findings highlight that after implementation of the law, there is a lack of paid sick leave among part-time workers.

One possible explanation is that part-time workers may request less sick time if illness occurs at a time they are not scheduled to work. It is also possible that employers are disinclined to allow paid sick leave to part-time workers or part-time workers may use less leave because they

accrue sick time at a slower rate than full-time workers. Nevertheless, there is unmet need for paid sick time among part-time workers, and a substantial number of part-time workers stand to lose pay if they take sick time off. Loss of pay is a major determinant for attending work while sick [2, 25]. Thus, part-time workers are more likely to work while sick, possibly forgoing medical care for themselves and family members, delaying recovery from illness and injury, and resulting in poor long-term health outcomes and possible disease transmission to persons in the workplace and community.

The NYC Department of Consumer Affairs collaborated with businesses, elected officials, government agencies, and community and faith-based organizations to provide education about the paid sick leave law to a diverse group of workers. Seventy percent of workers were aware of the law, and these persons were more likely to be paid for sick days. This is similar to a recent finding that 62% of restaurant workers were aware of the paid sick leave law [26]. Income below the poverty line was associated with lack of knowledge of the law. More research is needed to determine if there is a causal link between awareness and being paid for sick leave or if lack of knowledge about the law, low income, and part-time work are associated with businesses that are not compliant with the law.

There are limitations to the interpretation of the study data. We assumed that employment type measured at 18 months was the same at 21 months. The NYC-LWS did not ask questions concerning employer size or employment start date. Thus, persons that did not report employment at 18 months and were not paid for sick time at 21 months ($n = 34$) may not have met their 120-day employment requirement for use of paid sick leave. To address this limitation, we placed these individuals into a separate employment category for statistical analysis. We cannot directly compare paid sick leave prevalence between the pre- and post-law surveys due to the difference in the lookback period. Utilization of paid sick leave is contingent on illness; thus, measurement of the outcome is influenced by the length and seasonal timing of the lookback period. Nonetheless, the greater prevalence of sick days in a shorter time period is consistent with the expectation that greater leave offering by employers after the implementation of the mandate would lead to greater utilization of paid sick leave by employees [27].

It should also be noted that the NYC law did not cover many self-employed workers or workers in the

“gig” economy. Because the gig economy is a growing share of the labor market and one that may be particularly vulnerable to income insecurity given the lack of paid sick leave and other benefits, this is an area that deserves more attention in future.

We found an unmet need for paid sick leave among part-time workers, many of whom worked in occupations that carry a high risk of disease transmission to others. For example, many part-time workers not paid for sick leave worked in food service; the major role of ill food workers in restaurant-associated foodborne disease outbreaks is well documented [28]. A unique challenge with respect to restaurant workers is that tipped workers often have an incentive to work while sick if the amount they earn through tips is greater than their base pay [29], which their employer would compensate them for under the paid sick leave law. This highlights the nuance that must be considered when passing paid sick leave laws in the USA, specifically with regard to how they impact tipped workers and workers in occupations that carry a high risk of disease to others. Efforts to improve the awareness and provision of sick leave to part-time workers could have a measurable public health impact. As more time elapses since the passage of the NYC Earned Sick Time Act, research should examine if there are types of businesses that are more likely to be non-compliant with the law and characteristics of part-time workers that limit their ability to take advantage of the law.

Acknowledgements We gratefully acknowledge support for this research from the Robin Hood Foundation. We also thank the Columbia Population Research Center, which is supported by the Eunice Kennedy Shriver National Institute Of Child Health & Human Development of the National Institutes of Health under Award Number P2CHD058486.

References

1. Kivimäki M, Head J, Ferrie JE, et al. Working while ill as a risk factor for serious coronary events: the Whitehall II study. *Am J Public Health*. 2005;95(1):98–102. <https://doi.org/10.2105/AJPH.2003.035873>. Accessed 08 Jan 2016
2. DeRigne L, Stoddard-Dare P, Quinn L. Workers without paid sick leave less likely to take off for illness or injury compared to those with paid sick leave. *Health Aff*. 2016;35(3):520–7. <https://doi.org/10.1377/hlthaff.2015.0965>. Accessed 19 Dec 2016
3. Earle A, Ayanian JZ. Work resumption after newly diagnosed coronary heart disease: findings of the importance of paid leave. *J Women's Health*. 2006;15(4):430–41. <https://doi.org/10.1089/jwh.2006.15.430>. Accessed 08 Jan 2016
4. Human Impact Partners and San Francisco Department of Public Health. Health Impact Assessment of Healthy Families Act of 2009. Oakland, California; 2009.
5. Miller K, Williams C, Yi Y. Paid sick days and health: cost savings from reduced emergency department visits. Washington, DC. 2011.
6. DeRigne L, Stoddard-Dare P, Collins C, Quinn L. Paid sick leave and preventive health care service use among U.S. working adults. *Prev Med*. 2017;99:58–62. <https://doi.org/10.1016/j.ypmed.2017.01.020>. Accessed 01 Apr 2016
7. Heymann SJ, Earle A, Egleston B. Parental availability for the care of sick children. *Pediatrics*. 1996;98(2):226–30.
8. Clemens-Cope L, Perry CD, Kenney GM. Access to and use of paid sick leave among low-income families with children. *Pediatrics*. 2008;122(2):e480–6. <https://doi.org/10.1542/peds.2007-3294>. Accessed 08 Jan 2016
9. Kumar S, Quinn SC, Kim KH, Daniel LH, Freimuth VS. The impact of workplace policies and other social factors on self-reported influenza-like illness incidence during the 2009 H1N1 pandemic. *Am J Public Health*. 2012;102(1):134–40. <https://doi.org/10.2105/AJPH.2011.300307>. Accessed 12 Jan 2016
10. Li J, Birkhead GS, Stogratz DS, Coles FB. Impact of institution size, staffing patterns, and infection control practices on communicable disease outbreaks in New York State nursing homes. *Am J Epidemiol*. 1996;143(10):1042–9. <https://doi.org/10.1093/oxfordjournals.aje.a008668>. Accessed 28 Mar 2016
11. National Compensation Survey, Employee benefits in the United States, March 2017. September 2017. Bulletin 2787
12. Currie J, Lin W. Chipping away at health: more on the relationship between income and child health. *Health Aff*. 2007;26(2):331–44. <https://doi.org/10.1377/hlthaff.26.2.331>. Accessed 19 Dec 2016
13. Nelson IJ. Work and benefits: the multiple problems of service sector employment. *Soc Probl*. 1994;41(2):240–56. <https://doi.org/10.2307/3096932>. Accessed 23 Mar 2016
14. Browne I, Hewitt C, Tigges L, Green G. Why does job segregation lead to wage inequality among African Americans? Person, place, sector, skills? *Soc Sci Res*. 2001;30(3):473–94. <https://doi.org/10.1006/ssre.2001.0708>. Accessed 23 Mar 2016
15. Bartel A., Kim S, Rossin-Slater M, Ruhm C, Waldfogel J. Racial/ethnic differences in access to paid and unpaid family and medical leave: evidence from the American Time Use Survey. Columbia University mimeo
16. Austen S, Ong R. The effects of ill health and informal care roles on the employment retention of mid-life women: does the workplace matter? *J Ind Relat*. 2013;55(5):663–80. <https://doi.org/10.1177/0022185613494648>. Accessed 05 Oct 2017
17. A Better Balance. Paid sick time legislative successes. Available at: <http://www.abetterbalance.org/resources/paid-sick-time-legislative-successes/>. Accessed March 23, 2017.
18. Colla CH, Dow WH, Dube A, Lovell V. Early effects of San Francisco paid sick leave policy. *Am J Public Health*. 2014;104(12):2453–60. <https://doi.org/10.2105/AJPH.2013.301575>.
19. Romich JL, Bignell W, Brazg T, et al. Implementation and early outcomes of the city of Seattle paid sick and safe time ordinance. Seattle, WA: University of Washington; 2014.

20. Romich JL. Paid leave mandates may fail to reach part-time workers. *Am J Public Health*. 2015;105(5):e1. <https://doi.org/10.2105/AJPH.2015.302550>. Accessed 22 Dec 2015
21. Rankin N. Still sick in the city: what the lack of paid leave means for working New Yorkers. The Unheard Third 2011. Community Service Society of New York; 2012. Available at <http://www.cssny.org/publications/entry/still-sick-in-the-cityJanuary2012>. Accessed 8 Jan 2016.
22. Gelman A, Little TC. Improving probability weighting for household size. *Public Opin Q*. 1998;62(3):398–404. <https://doi.org/10.1086/297852>. Accessed 28 Mar 2016
23. Wimer C, Garfinkel I, Gelblum M, et al. Poverty tracker — monitoring poverty and well-being in NYC, Report 1. New York: Columbia Population Research Center and Robin Hood; 2014. Available at http://povertytracker.robinhood.org/download/RobinHood_PovertyTracker_Spring14.pdf. Accessed 20 Nov 2017.
24. Zou G. A modified Poisson regression approach to prospective studies with binary data. *Am J Epidemiol*. 2004;159(7):702–6. <https://doi.org/10.1093/aje/kwh090>. Accessed 19 Dec 2016
25. Susser P, Ziebarth NR. Profiling the U.S. sick leave landscape: presenteeism among females. *Health Serv Res*. 2016; 1–13.
26. Tsui EK, Duffy M, Baron S. Awareness of paid sick leave among New York City restaurant workers. *Journal of Urban Health*. 2017;94(2):312–4. <https://doi.org/10.1007/s11524-016-0126-x>. Accessed 05 Sep 2017
27. Waldfogel J. The impact of the family and medical leave act. *Journal of Policy Analysis and Management*. 1999;18(2):281–302. [https://doi.org/10.1002/\(SICI\)1520-6688\(199921\)18:2<281::AID-PAM5>3.0.CO;2-J](https://doi.org/10.1002/(SICI)1520-6688(199921)18:2<281::AID-PAM5>3.0.CO;2-J). Accessed 28 Mar 2016
28. Angelo KM, Nisler AL, Hall AJ, Brown LG. Epidemiology of restaurant-associated foodborne disease outbreaks, United States, 1998–2013. *Epidemiol Infect*. 2017;145(3):523–34. <https://doi.org/10.1017/S0950268816002314>. Accessed 05 Sep 2017
29. Appelbaum E, Milkman R. No big deal: the impact of New York City's paid sick days law on employers. New York, NY: Center for Economic and Policy Research; 2016.