An Open Letter Regarding FMLA Reform

Esteemed Legislator:

I want to tell you a story. It’s a good one with a happy ending, but it’s one that requires immediate policy change.

Let me set the scene. I used to be a high powered, emerging leader at a large health care company, who traveled several times a month, worked on nights and weekends, and loved my job.

On August 20, 2013, I went out on a date with my husband. We didn’t make it to the concert, because I collapsed in our friend’s kitchen. I stopped breathing for 30 seconds. Luckily, a little mouth-to-mouth resuscitation and several chest compressions brought me back. I spent the next four months on the couch and visiting specialist physicians of every type trying to determine a diagnosis and then the next six months working part-time with what little energy I had regained.

My company was wonderfully supportive through this time. Don’t get me wrong, they provided excellent medical leave. I was able to eat, pay my medical bills, and keep my household running. I am grateful, very grateful, for their support and for the policies they were complying with.

While I was out on medical leave, though, I got pregnant. I can joke now about being horizontal and getting pregnant. But it wasn’t funny at the time. I was barely sustaining my own life. How was I going to support and grow another life too? Another grateful experience, because I did. And I have a nine-month-old, healthy son to show for it.

I fell through the cracks. My pregnancy was normal – not a disability – but I had the debilitating illness of my own.

You probably understand how medical leave and maternity leave work. To qualify for FMLA, an employee must have worked for the same employer for at least 12 months and clocked at least 1,250 hours of service during the 12 months leading up to FMLA leave. Any organization with 50 or more employees working within a 75-mile radius of the work site must comply with FMLA.

A normal pregnancy is not considered a disability under the Americans with Disabilities Act (ADA). If a woman experiences pregnancy complications that substantially limit a major life activity, she may be considered disabled under the ADA and, therefore, entitled to reasonable accommodation to perform her job.

FMLA and short term disability work well enough if you don’t get sick and pregnant in the same twelve month period like I did. I can argue too that paid maternity leave isn’t provided for everyone or isn’t long enough, but I want to argue that maternity leave should be separated from medical/disability leave. Companies must comply with federal regulation; most are doing what they’re required to by law. But it isn’t enough.

What I didn’t realize about FMLA and short-term disability is that your 12 weeks of FMLA exhausts first and then your short-term disability kicks in. You do not get to decide how your FMLA is to be allocated, like I thought. I thought I would be able to reserve my FMLA leave for my son. Suddenly, it dawned on me, my FMLA was what I was planning on using for maternity leave and it was no longer available.

I had exhausted all available leaves. So, my company and I parted ways – there was no other way forward.

I grew up with the saying, “every mother is a working mother.” And I have had two very different experiences with both of my children. I was a professional working mother with my first and now I am a stay-at-home working mother this time. In the nine months since giving birth to my son, I’ve incorporated self-care into my day by walking and writing. In July, I started my own company, where I examine with my clients the self-exploration of leadership and cultural and linguistic aspects of global business. Let’s face it. I’m doing what I love – being a more-present mom and consulting on the things I am truly passionate about (diversity and inclusion; social entrepreneurship; leadership). So this story ends well.

I also grew up knowing that women’s bodies are immensely powerful beyond measure. I know of my own body’s power – I was able to heal, grow and birth two children, and rally after experiencing long-term illness. So that story ends well, too.

Our policies must support our powerful bodies to their fullest extent, even in illness. Please change the laws so that:

* Maternity leave reclassified so it does not reside in Family Medical Leave Act.
* If one gets pregnant when they are sick, they should not be penalized.
* All moms require paid maternity leave. No current law requires companies to provide paid maternity leave – most comply with the Pregnancy Discrimination Act (PDA) and the Family and Medical Leave Act (FMLA). Yet 11% of Americans employed by private industry have access to some form of paid family leave.

Thanks for reading. I know I’m quite possibly an exception to the rule, but you’ve got to figure, I’m probably not the only one who has experienced this.

Sincerely,



Laura Newberry-Yokley