

EARLY LESSONS FROM D.C.'S PAID LEAVE PROGRAM

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INTRODUCTION

Nearly all workers will face a serious illness or caregiving need for themselves or a loved one at some point in their lives. Yet, despite clear evidence of the need for paid family and medical leave, only 23 percent of workers in the United States have access to it.¹ Further, lacking access to paid leave is often a result of discriminatory policies and systems. This, in turn, leads to people of color, immigrant workers, and women being over-represented in low-paying jobs that don't provide benefits.² White, non-Hispanic workers are more likely to be offered paid leave benefits by their employer than Black or Hispanic workers, with 62 percent of Black adults and 73 percent of Latino adults either ineligible for leave or unable to afford unpaid leave.³

Paid leave allows workers to care for themselves, attend to a loved one, or welcome a new family member, while knowing they have a secured source of income upon returning to the workplace. In fact, during the COVID-19 pandemic, one survey found that 37 percent of unemployed U.S. residents would return to work sooner if their employer offered paid family leave, and 58 percent of workers who cut back their hours would increase them.⁴ Many lawmakers have begun to realize paid leave's significance: currently, 11 states and the District of Columbia have passed paid leave legislation. Additionally, a national universal paid leave policy was included in the Build Back Better Act passed by the House of Representatives in 2021.

To achieve equity, paid leave must be available to all workers and effectively implemented. Lessons from states operating paid family and medical leave programs show that equity-focused implementation of paid leave programs must be grounded in the needs of those historically marginalized or most in need of the policy; continuously evaluated and refined to ensure it meets workers' needs; and shaped and improved by those most impacted by the policy.⁵ Education and outreach, as well as ease of information technology (IT) systems, are all critical to ensure a broad reach of programs.⁶

With these lessons in mind, this brief evaluates the rollout of Washington, D.C.'s paid leave program based on available data and interviews with community-based organizations. This report highlights the barriers to access and equity in D.C.'s program, particularly for those being paid low wages, as well as the D.C. government's efforts to improve the program. We highlight the need for an implementation process built on a strong equity framework, which centers the workers who are least likely to be able to access the program.

D.C. PAID FAMILY LEAVE

After decades of activism, District of Columbia policymakers passed the D.C. Universal Paid Leave Amendment Act (UPLA) in 2016. It allowed D.C. to follow in the footsteps of California, New Jersey, Rhode Island, and New York in establishing a paid family and medical leave program. The fifth paid leave program in the country, D.C. has since been followed by Washington, Massachusetts, Connecticut, Oregon, Colorado, Delaware, and Maryland—with the latter four having yet to begin distributing benefits. D.C.'s program began collecting premiums in July 2019, and workers became eligible for leave benefits in July 2020, four months into the global COVID-19 pandemic.

D.C. Paid Family Leave (PFL) is available to workers who spend more than 50 percent of their work time in the District. Due to the interconnectedness of D.C., Maryland, and Virginia, workers who live outside of D.C. are eligible if they spend the required work time in D.C.. The program covers all private workers who meet the 50 percent threshold; this includes full-time workers, part-time workers, temporary workers, seasonal workers, and self-employed workers who opt-in to the program.⁷

The legislation passed in 2016 offered eight weeks of parental leave; six weeks of family leave; and two weeks of medical leave—and has since expanded. Between 2020 and early 2022, legislators moved the family and medical leave duration up to six weeks each, and parental leave up to eight weeks. It also created two weeks of prenatal leave that can be stacked with bonding leave for a total of 10 weeks. The 2021 legislation imposed an annual requirement that D.C.'s Chief Financial Officer (CFO) assess the paid leave fund's solvency and submit a report to the Labor Committee. In the first report, which was submitted in March 2022, the CFO determined that the program's solvency was so strong that benefits could be increased across the board to 12 weeks. This allowed for both the employer tax rate to be greatly reduced—from 0.62 percent down to 0.26 percent—and for all types of leave to be almost immediately increased to 12 weeks.

Beginning October 1, 2022,⁸ D.C. will offer the following leave durations:

- *Up to 12 weeks of parental leave* to bond with a new child, which can be taken within 52 weeks of the date of birth, adoption, or foster care placement of the child;
- *Up to 12 weeks of family leave* to care for a covered family member with a serious health condition;
- *Up to 12 weeks of medical leave* to care for one's own serious health condition; and
- *Up to two weeks of prenatal leave* to receive care related to a pregnancy.⁹

D.C. PFL is administered through the D.C. Department of Employment Services (DOES), within the Office of Paid Family Leave (OPFL). The program operates through a progressive wage replacement model where the lowest-paid workers (\$46,800/year and below) are eligible to have 90 percent of their wages replaced while on leave. Those who earn more receive lower wage replacement on a sliding scale, with the replacement capped at \$1,009 per week, rising annually with the wage index.



TAKE-UP OF LEAVE IN THE PANDEMIC

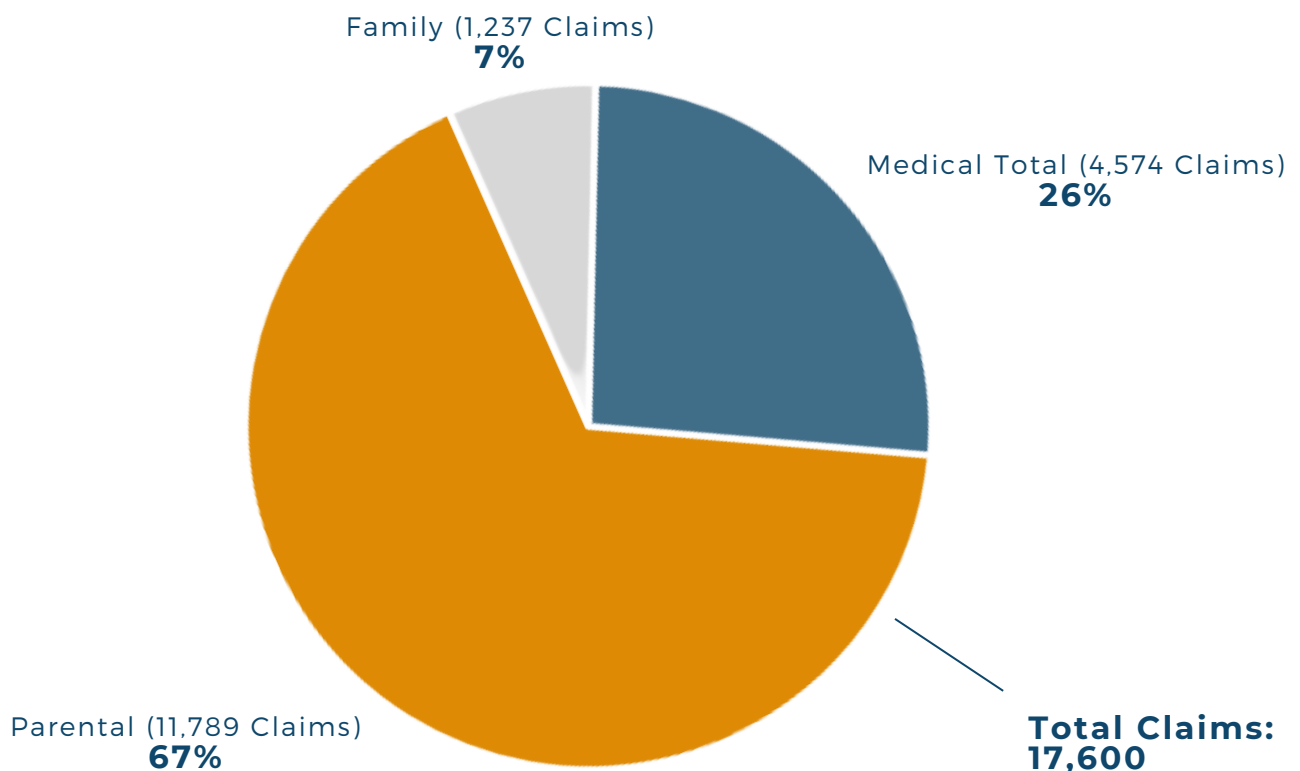
In the first six months of D.C. PFL (July 2020 to January 2021), workers filed 5,710 claims in a workforce of approximately 400,000—an application ratio of 1.4 percent.¹⁰ High unemployment caused by the pandemic may have resulted in a low number of applications. There is not another state that launched at this same time frame. However, the state of Washington began offering PFML benefits in January 2020, just months before the pandemic began. In the first six months of its program, Washington workers filed 85,000 claims out of a total workforce of close to 4 million — an application ratio of 2.13 percent.¹¹

Launching a program in the middle of the pandemic likely impacted take-up. D.C. PFL began after Congress passed the first-ever federal emergency paid leave program — Families First Coronavirus Relief Act (FFCRA) — to directly address coronavirus-related leave.¹² D.C.'s initial take-up rates were possibly lower due to widespread unemployment caused by COVID or because of the availability of FFCRA and high unemployment benefits. This is likely, as the program ratio for D.C. increased significantly in the year after the first report, to 4.5 percent, once the federally offered leave benefits ended. Although the state of Washington does not have an 18-month report, its 2021 report noted the application ratio was 4.2 percent, showing similar growth.¹³

Data from the D.C. FPL 18-month report show that the largest number of applications were for parental leave, at about two-and-a-half times the rate of medical leave (11,789 parental leave claims and 4,574 medical leave claims).¹⁴

We can compare this data to Washington, where only 40 percent of leave claims were for bonding purposes. In fact, when looking at the take-up data from the state of Washington, there is a dramatic decrease in medical leave claims beginning specifically in April 2020. Medical leave claims went down from 8,000 a month to only 3,800 in April 2020. This is in line with the date that FFCRA went into effect.¹⁵

CLAIMS BY TYPE INCEPTION TO JANUARY 2022



TAKE-UP RATES FOR PAID LEAVE IN D.C.

In D.C., take-up rates for paid leave's first 18 months were spread unevenly among the population of workers and across the wards of the city, which are highly segregated across race and income. Black residents make up the largest demographic of the District (46 percent) yet claims among Black and white workers were comparable—around 7,000 claims each.¹⁶ Non-Hispanic workers submitted nearly 8.75 times as many claims as Hispanic workers, and Asian American Pacific Islander (AAPI) workers filed only 1,336 claims. These figures are in line with D.C.'s smaller Hispanic and AAPI populations (12 percent and less than 5 percent, respectively).¹⁷

	% of Total DC Population	Total Claims	% of Total Claims	Approved Claims	Rate of Approval	Rate of Denial
Black	46%	6,756	39.7%	5,327	78.8%	12.6%
White	37%	7,218	42.4%	6,503	90.1%	4.2%
Hispanic	12%	1,710	10.0%	1,411	82.5%	9.2%
Asian	5%	1,336	7.8%	1,186	88.8%	5.1%

While D.C.'s racial demographics between Black and white residents are similar, their economic demographics are disparate. D.C.'s poverty rate is higher than the national average, and the poverty rate for Black residents is four times higher than that of white residents.¹⁸ In 2021, over 17 percent of Black residents lived in racially concentrated areas of poverty compared to 1 percent of white residents.¹⁹ D.C. has an enormous racial wealth gap, and gaps in wealth translate to gaps in access to programs.

This racial wealth gap is critical when looking at the take-up rates based on income. The largest number of applicants were in the two highest-earning income brackets: applicants making between \$50,000 and \$100,000 made up 39 percent of applicants, and those making over \$100,000 made up 31 percent of applicants. Those earning between \$10,000 and \$50,000 made up a quarter of applicants, and those earning less than \$10,000 made up only 5 percent of applicants. D.C. itself has an incredibly high income range: over 51 percent of workers in the city make more than \$100,000.²⁰ So, at first glance, the figures of applicants are in line with the D.C. population. But separating applications by not just income, but race and ward, bring a more disparate picture into view.

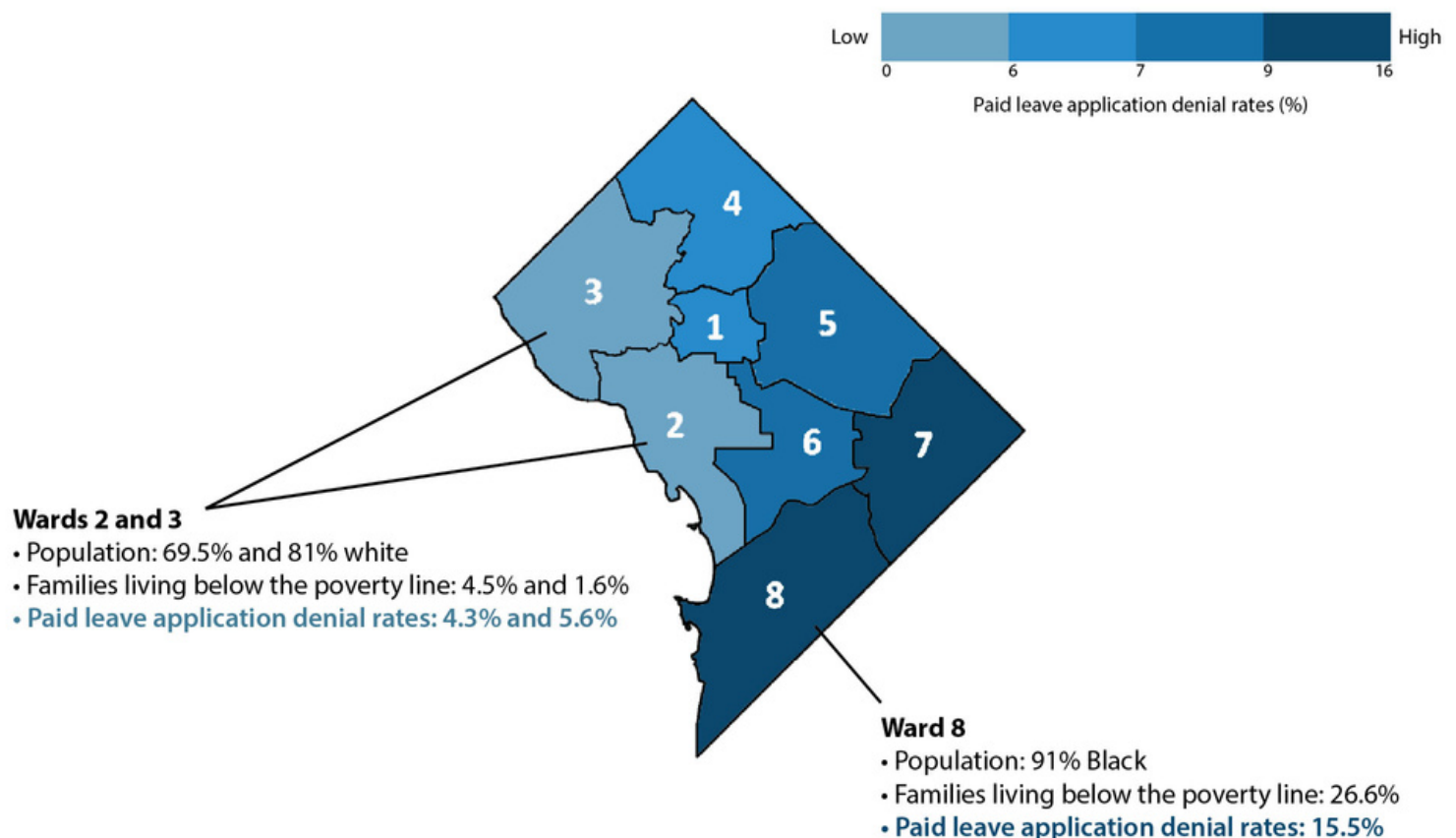


ACCESS DISPARITIES: DENIAL RATES ACROSS DEMOGRAPHICS

As D.C.'s lowest-paid workers applied for leave at the lowest rates, additional disparities emerge when we look at *where* in the city applications are submitted. D.C. is a city of stark segregation across lines of race and class. One of the most historically segregated areas is Ward 8, which includes neighborhoods cut off from most other wards by the Anacostia River. It has the highest population of Black residents in D.C. (91.48 percent); the highest percentage of families with children (37.6 percent); and one of the highest rates of families living below the poverty line (26.61 percent).²¹ Ward 8 also has the highest rate of denials for paid leave applications.

In total, there were 543 denied claims over the first 18 months of the program that were distinguishable by ward, and 1,405 total denials. The wards with the lowest rates of denials—Wards 2 and 3—had a denial rate of between 4.3 and 5.5 percent. Yet, Wards 2 and 3 had the lowest number of applicants—and the highest density of white residents.

In comparison, Ward 8 had the highest rate of denials at 16 percent. This is a decrease from the first six months of the program, when the denial rate in Ward 8 was 20 percent. This means that **white workers in Wards 2 and 3 applied for leave less frequently, yet were across-the-board more successful in their applications. Workers in the predominantly Black Ward 8 had a denial rate of almost four times the denial rate of Ward 2.**



Application denials are not a failure of D.C. residents. Rather, the high denial rates in Ward 8 mean that administrators need more resources to ensure that Ward 8 residents can confidently and successfully navigate the paid leave application process. In assessing the data and speaking to community advocates, there are two major ways that OPFL can increase equity in paid leave:

- 1. Streamlining the program to improve accessibility; and**
- 2. Increasing targeted and collaborative educational efforts.**

1. STREAMLINING PAID LEAVE: MEDICAL APPLICATIONS

Data on denial rates indicate the need to improve the medical leave application process. Ward 8 residents applied primarily for medical and family leave. In the 18-month report, the most-cited reasons for denials were medical eligibility (333); a request for additional medical documentation (160); incomplete medical certification (63); and the inability to establish a serious health condition (61).²² This information suggests that streamlining the medical documentation process would help applicants in Ward 8 more successfully apply for leave.

Community-based organizations and medical providers agree. Successful medical documentation can be tedious, confusing, and complicated. It involves not only the claimant, but a successful interaction with a medical provider to provide certification of a qualifying medical event. According to one organization that has partnered with medical centers and providers to host presentations on D.C. PFL, providers and staff continue to lack familiarity with the program and their patients' eligibility. In testimony submitted by the First Shift Justice Project, a legal aid organization for workers paid low wages in the city, advocates described feedback they've received from medical providers requesting the option to submit medical certification electronically. They report that this would significantly decrease the potential for delays in turning around necessary medical paperwork.²³

Claimants also need this ease of access. The data make it clear that simplifying the medical process and working more directly with medical providers will streamline the process on both ends.

Currently, for all forms of documentation, the paid leave application requires forms to be uploaded. For example, a medical leave claimant must print out a form; fill it out by hand; have a medical provider also certify it; and then find a way to upload it back into the portal. Many workers simply do not have access to reliable internet or printers. Households earning under \$30,000 are less likely to be connected to the internet compared to households with higher incomes.²⁴ The application process for paid leave often occurs during a time of great stress for families, which limits their capacity to problem-solve about medical documentation and other barriers to access. Simplifying these barriers and facilitating communication that places less burden on the applicant could increase accessibility and lead to a higher volume of successful applications.

2. INCREASING TARGETED AND COLLABORATIVE EDUCATION

The similar application rates between Black and white residents suggests that workers are aware the program exists. However, the Office of Paid Leave can decrease the rate of denials by focusing educational efforts on program *understanding*. It is not enough to know that a program exists; applicants must be able to navigate the program successfully and confidently. This requires funded outreach and education initiatives, in addition to a strong working relationship with community partners.

D.C.'s paid leave law requires the mayor to conduct a public education campaign using no more than 0.25 percent of the Universal Paid Leave Implementation Fund. The text also stipulates that education efforts should be conducted jointly with the Office of Human Rights.²⁵ OPFL disseminates a newsletter to a listserv of more than 70,000 stakeholders, including employer and employee audiences, and conducted biweekly webinars about the program to employers and residents.

To specifically reach health care providers, email blasts that included a Health Care Provider Toolkit were sent to over 10,000 health care providers and district residents. In 2019, prior to the program's launch, DOES hosted employer-focused information sessions; four town hall forums; "business walks;" and webinars—all of which helped employers understand the implementation timeline and payroll tax. The pandemic certainly made outreach and education a difficult task, but OPFL successfully pivoted to an online format and is even now continuing to increase targeted education efforts to Ward 8.

THE IMPORTANCE OF COMMUNITY PARTNERSHIPS

Workers often learn about workplace benefits and rights not from the government, but from trusted messengers within their community, often community-based organizations (CBOs). To date, OPFL outreach and communication has primarily focused on ensuring that employers are aware of their legal responsibilities, rather than on community engagement. Community engagement requires OPFL to develop deep, lasting relationships with CBOs, including worker-centered organizations.

D.C. paid leave legislation specified the creation of Workplace Leave Navigator Program grants for CBOs. A call for applications was sent to some 200 groups. However, in a roundtable update before the D.C. Council, DOES director Unique Morris-Hughes noted that organizations informed of the request for applications were given less than 24 hours' notice of the pre-application meeting, and several groups instrumental to the passage of paid leave—like the First Shift Justice Project—were not notified. Morris-Hughes also noted that more funding was awarded to employer-representative groups than employee-representative groups.²⁶ All of the organizations we interviewed received the request for applications. Yet, none of them, including those within the D.C. Paid Leave Coalition, were accepted into the program. Additionally, coalition members were unfamiliar with the organizations that were accepted.

Despite funds being allocated and groups being accepted into the grant program, it was stalled. In a 2021 D.C. Council Session for FY2022, funding for the program was pulled from DOES and transferred to the Office of the Attorney General for a similar, although not identical, grant program. The Workplace Leave Navigator Program funded education and outreach to the community, employers, and medical providers, as well as individualized services to PFL applicants. The new program housed within the Office of the Attorney General funds activities not exclusive to, but including, the paid leave program. These include preventing wage theft, enforcing wage and hour laws, and the enforcement of PFL and related workplace rights. More outreach to community organizations that work directly with workers paid low wages could increase take-up of D.C. paid leave. Advocates and policymakers should pay attention to the new grant program housed within the Attorney General's office.

Outreach initiatives like the Workplace Leave Navigator Program are fundamental to ensuring the success of a benefit program. It has been well-documented that, in many cases, employers fail to provide vital knowledge of government programs to their employees. Further, workers—especially those who have historically faced discrimination and disinvestment—are less likely to trust government resources. CBOs serve as "trusted messengers" that allow knowledge to flow. They can also be a useful source of information for agencies assessing implementation barriers and should be used throughout the implementation process to identify challenges and solutions.



POLICY RECOMMENDATIONS

Washington, D.C.'s paid leave program presents valuable lessons for states and localities that are also looking to implement or improve their paid leave law. The research and data gathered under D.C.'s paid leave policy illustrates the critical importance of education, outreach, and accessibility for workers to truly benefit from a law, as well as be protected and informed in the workplace. Investing in these focal areas will not only strengthen the policy, but also empower workers who need these benefits. When evaluating the efficacy of a program, states and advocates should actively:

1. Target navigation-focused education resources to those least likely to receive them. D.C.'s denial rates demonstrate that the families with the lowest incomes are often those least likely to receive proper support in navigating a program. Agencies and advocates must understand the demographics and needs of the different communities within their city and respond directly to those needs. Programs are built for people, not vice versa.

2. Work with and learn from community partners. The best way to understand the needs of a community are to learn directly from that community and their trusted partners, often worker centers and CBOs. Education and outreach are successful when they involve a sustained, long-term relationship with these trusted messengers. Creating these partnerships through generous grant funding allows for a smoother and more successful rollout of a program as well as creates a point of contact to learn how to improve a program.

3. Use technology to improve equity. Technology can be a powerful resource for improving program equity. Technological barriers can deter applicants from applying for a benefit or from successfully navigating a program. Direct beta testing by workers and CBOs can ensure that the application interface is accessible to all demographics and creates a line of communication between an agency and the public. As detailed in the discussion of D.C.'s medical leave accessibility, technology can allow agencies to streamline the application process through features like a medical portal; easier points of contact for uploading documentation; and creating more direct pathways of communication among agencies, applicants, and medical providers. Utilizing technological solutions can streamline a program's interface, process, and experience.

4. Use data to consistently reevaluate and improve your current program and those to come. Equity in a program's implementation does not end once the program rolls out, or even when the agency reviews its first year. Programs should regularly be reevaluated for ways to improve them. The recent improvements to D.C.'s paid leave program are a testament to the value of making data accessible to researchers. Keeping disaggregated data by class, race, gender, and more—and making them accessible to the public—is a critical way to ensure that a program can be improved. By learning lessons from one program, we can improve all programs to come.

CONCLUSION

Education, outreach, and accessibility are three vital pillars in policy implementation equity. For communities to thrive, public programs must be accessible, and knowledge must flow from bottom to top. This requires investment, as well as listening to and learning from those accessing the program and their trusted community partners. Both OPFL and other states looking to improve their paid leave programs, or begin drafting legislation for new programs, can learn from the successes and barriers found in D.C.'s program. Investing in these focal areas will both strengthen the program and empower workers and communities.

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