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A State and Local Opportunity to Advance Paid Leave for Workers: American Rescue Plan State and Local Funds Can Be Used for Paid Leave

On Thursday, January 6, 2022, the United States Treasury Department released its [final rule](#) on the state and local American Rescue Plan (ARP) funds. In exciting news, the final rule **confirms that creating, expanding, or financially supporting paid sick time, paid family leave, and paid medical leave are permissible uses of these funds.** The rule makes clear, as A Better Balance requested in our comment, that such expenditures are within the scope of the ARP funds.

Some potential paid leave related uses for these funds include:

- **State and Local Governments as Model Employers:** Creating or expanding paid sick time and paid family and medical leave rights for government employees
- **Vaccine Leave:** Establishing or expanding rights to paid vaccine leave for workers who are either getting a Covid-19 vaccine or recovering from its side effects or who are caring for a loved one who is getting a Covid-19 vaccine or recovering from its side effects
- **Paid Family and Medical Leave Studies and Start-Up Costs:** Conducting actuarial studies and covering start-up costs for new paid family and medical leave programs
- **Paid Sick Time Laws with Reimbursement:** Creating a paid sick time law that reimburses employers for certain costs of paid sick time, as in [Massachusetts' COVID-19 emergency sick time law](#)
- **Government Contractor Requirements around Paid Leave:** Creating requirements for contractors who deal with the city or state that their workers have paid sick time and/or paid family and medical leave and covering related costs of those new requirements in the contract
- **Paid Leave Funds:** Support existing paid family and medical leave funds, which may have experienced temporary adjustments due to the pandemic and resulting economic conditions
- **Paid Leave Outreach, Education and Enforcement:** Engaging in strong outreach, education, and enforcement of existing paid sick time and paid family and medical leave laws
- **Paid Leave Expansions:** Expanding existing paid sick time or paid family and medical leave laws, including to ensure that benefits are easily accessible by workers who are often left out of such programs

Background and Timing on the American Rescue Plan Funds:

The Treasury began disbursing the first half of ARP state and local funds in May 2021, and many states and localities have been slow to spend the money. With final guidance from the



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Treasury addressing paid leave, and with the second half of the funding expected to be disbursed in May 2022, states and localities should now feel comfortable beginning to put these funds to work for workers by providing them with paid sick time and paid family and medical leave. Under the ARP, states and localities have until December 31, 2024 to obligate their funds, and until December 31, 2026 to spend the funds.¹

What the Treasury’s Rule and Supporting Materials Say on Paid Leave:

In the supplemental material to the final rule, the Treasury specifically states, as noted above, that “under the final rule, creating, expanding, or financially supporting paid sick, medical, or family leave programs is an enumerated eligible use of funds to respond to the negative economic impacts of the pandemic.” The Treasury emphasized the fact that lack of paid leave “exacerbates financial hardships experienced as a result of the public health emergency” for those who need to care for themselves or loved ones, and has a disproportionate impact on workers of color and low-income workers—arguments A Better Balance made in a [comment](#) on the Treasury’s interim final rule and in a detailed [memo](#).

The text of the final rule itself lists “[p]aid sick, medical, or family leave programs, or assistance to expand access to health insurance” as one of several means of “[r]esponding to the negative economic impacts of the public health emergency,” all of which are specifically permitted uses of the state and local funds, provided that the spending is not grossly disproportionate to the negative economic impact of the pandemic.²

Key Takeaway:

As A Better Balance argued in our memo, paid leave was a permissible use of the state and local ARP funds under the Treasury’s interim final rule, but this final rule—effective April 1, 2022—makes that perfectly clear. State and local governments should feel confident spending these funds to create new rights or expand and support existing rights.

For More Information:

A Better Balance is working with state and local advocates and policymakers across the country to advance paid sick time, paid family and medical leave, and COVID-19 emergency sick leave. For more resources, model legislation, and fact sheets, please visit www.abetterbalance.org.

For more information about the ARP and use of these funds to advance paid leave, please email Sherry Leiwant, Co-President and Co-Founder, at sleiwant@abetterbalance.org and Meghan Racklin, Staff Attorney, at mracklin@abetterbalance.org.

¹ 35 C.F.R. § 35.5(c).

² 35 C.F.R. § 35.6(b)(3)(ii)(A)(2).