

**Implementation of the Family-Care Leave System:
Reanalysis of the Results of the Ministry of Health, Labour and
Welfare's
“Basic Surveys on Woman Employment Management”**

Summary

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Objective

With the rapid increase in the number of senior citizens, the issue of home nursing care is expected to become more and more important. As it is difficult to look after those senior citizens either by their families alone or by care managers, home helpers, and other social care providers alone, collaboration between families and social care providers is essential. It takes time for families to maintain close relation with care managers and home helpers. The family-care leave system is designed to allow families to secure time for this purpose and assist them in carrying out both work and nursing care. The amendment of the Law Concerning the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave, which will take effect in April 2005, will cover wider range of workers and permit the same member of a family to take leave more than once. While improvements and developments are being made, are there any other improvements that are equally important and also need to be amended? Are there other systems and measures already adopted by many business establishments that go beyond the standards set by the law? There are many issues that need to be examined.

As part of research project “Establishment of a Social System which would Harmonize Work and Life,” the author first examined, as a sub-research, the situation regarding the implementation of the family-care leave system, in order to study the issue of “making work and nursing care compatible” from the viewpoint of family-care leave. With the purpose of (1) grasping the percentage of business establishments that have

implemented a system that goes beyond the legal standards and the yearly changes in those percentages and (2) looking into the contents of such systems, the author sorted out the data of the Ministry of Health, Labour and Welfare's "Basic Surveys on Woman Employment Management" and included the results of the author's analysis and study in this report. In addition, the author examined and presented as reference data, where appropriate, the results of various surveys that have been conducted on individual workers to identify their needs for family-care leave system.

The Basic Surveys on Woman Employment Management of fiscal 1996, 1999 and 2002 were used to study the yearly changes. The survey of 1996 was taken at a time when the nursing insurance system was not legally binding and firms were only required to make an effort to introduce the system. On the other hand, the surveys of 1999 and 2002 were taken when the nursing insurance system had become legally binding. This kind of system change must be adequately taken into consideration in analysing yearly changes because its effect is not small.

Outline of Research Results

1. Contents of family-care leave systems that have been implemented

The percentage and the yearly change of business establishments that had introduced family-care leave systems with the level beyond the standards stipulated by the law was examined. Analysis was made with respect to: setting down rules for the system, the number of times that workers were allowed to obtain family-care leave, workers covered by the system, period of leave, and family members covered by the system. Shown below were obtained as a result.

Firstly, the percentage of business establishments that had laid down rules for a family-care leave system increased during the period of 1999 to 2002, regardless of the size of business establishments. However, about 30 percent of businesses with "30 to 99 employees" and more than 50 percent of businesses with "5 to 29 employees" had not drawn up such rules. There is an issue of illegality of not having clearly-stated rules for such system in their working regulation. Further efforts are needed for improving and raising awareness, including clarification of the above issue.

Secondly, with respect to the number of times workers were allowed to obtain leave, the percentage of business establishments that went beyond the legally required "one-time leave for every family member covered" was the lowest in the 2002 survey, regardless of the size of businesses. The percentage was slightly over 30 percent for businesses with "500 or more employees" and slightly more than 20 percent for

businesses with “5 to 29 employees.” Among the businesses that went beyond the legal standards, the highest percentage, regardless of the year of survey or size of business, did not have any limit on the number of times workers were allowed to obtain leave. The original forecast that “the number of business establishments that go beyond the legal requirement is increasing every year, and this trend is more marked among larger businesses” turned out to be off the mark. Incidentally, when the amendment of the Law Concerning the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave takes effect on April 1, 2005, the restriction on the number of leave will be abolished for all businesses.

Thirdly, with respect to the range of workers covered by the system, the percentage of business establishments that provided coverage for workers of limited-term employment, which is beyond the legal requirement, was about 40 percent in both the 1999 and 2002 surveys. There were differences by size of business: businesses with “500 or more employees” had a higher percentage of going beyond the legal requirement regarding workers covered by the system, compared with smaller businesses. This trend was the same for all surveys and was particularly marked in the 2002 survey when the percentage of such firms among businesses with “500 or more employees” was above 50 percent. With regard to the types of workers covered, one in two firms that provided wider coverage than the legal requirement permitted family-care leave to “fixed-term employees,” “employees with less than a year of service,” and “employees regarding whom it is clear that he or she will be terminating employment within the next three months.” The amendment of the abovementioned law will also bring about a significant change in the workers covered by the system.

Fourthly, there were differences in the period of leave by size of business and year of survey. By size of business, the percentage of firms going beyond the legal requirement of “three months” was higher among larger firms: In the 2002 survey, the percentage was 26.5 percent for businesses with “5 to 29 employees” but 69.4 percent for businesses with “500 or more employees.” By year of survey, the percentage of such firms was the highest in the 1996 survey and the lowest in the 2002 survey, regardless of company size. The difference was wider among smaller businesses: While the percentage dropped from 91.7 percent in 1996 to 69.4 percent in 2002 for businesses with “500 or more employees,” which was a relatively small decline, the percentage among businesses with “5 to 29 employees” fell sharply from 84.8 percent in 1996 to 26.5 percent in 2002. Among the businesses providing periods of leave longer than the legal requirement, an overwhelming number of firms stipulated a period of “one year” in all surveys. In the 2002 survey, the percentage of such firms was close to 60 percent

among firms with “5 to 29 employees”, and 74.9 percent among firms with “500 or more employees.”

Fifthly, an overwhelmingly large number of business establishments stayed within the legal requirement with respect to family members covered by the system (family members receiving care). On the other hand, the percentage of firms that permitted leave to workers to look after “a grandparent, brother, sister, or grandchild one is not living with or supporting,” in other words, firms that went beyond the legal requirement, was around 10 to 20 percent in both the 1999 and 2002 surveys. This trend was the same regardless of the size of business (the 1996 survey was not subject to the analysis because supporting family members were not investigated on and therefore it was not possible to categorize them). Among those businesses that went beyond the legal requirement, the majority set certain limitations on family members covered by the system, regardless of size of business or year of survey. Contrary to expectations, the percentage of businesses that did not set any limits was higher among smaller businesses. The simplified notion that “larger businesses provide better systems for workers” did not apply.

2. Measures for assisting workers who provide nursing care to their families while continuing to work

The percentage of business establishments that had implemented measures, beyond the standards stipulated by the law, to support workers who provide nursing care to family members while continuing to work, as well as the yearly changes in those percentages were analyzed and studied. As a result, the findings as shown below were obtained.

Firstly, on permitting shorter working hours and other measures to assist workers who provide nursing care to family members, more than 50 percent of business establishments adopted no measures for such purpose in all surveys. Given that the Law Concerning the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave stipulates that businesses must implement at least one of the four measures of “shorter working hours,” “flex-time system,” “adjustment of time for starting or finishing work,” and “allowance for nursing care services used by workers or similar arrangement,” the results showed that more than 50 percent of businesses were violating this stipulation. There were, however, marked differences among firms of different sizes. In the 2002 survey, the percentage of businesses that took no measures was 15.7 percent among firms with “500 or more employees,” 45.6 percent among firms with “30 to 99 employees,” and 58.9 percent

among firms with “5 to 29 employees”: the percentage was higher among smaller firms. Although it can be assumed that the difficult business environment is behind this problem, the percentage fell to 23.1 percent even among smaller firms with “5 to 29 employees” when they had laid down rules on family-care leave. Therefore, firms’ attitude towards family-care leave system is not unrelated to the problem.

Secondly, the percentage of businesses that had implemented two or more measures, beyond the legal requirement, was 13.1 percent in 1996, 16.5 percent in 1999, and 17.2 percent in 2002. The percentage is rising, albeit gradually. By size of business, the percentage of firms with “500 or more employees” that had adopted two or more measures was 33.1 percent in 1999 and 2002, which was a substantial increase from 13.1 percent in 1996. In contrast, the percentage among firms with “5 to 29 employees” was between 10 to 20 percent in all surveys; there was no change by the year of survey. This shows that large businesses are providing increased assistance to workers.

Thirdly, among the four measures of “shorter working hours,” “flex-time system,” “adjustment of time for starting or finishing work,” and “allowance for nursing care services used by workers or similar arrangement,” the highest percentage of businesses, at more than 80 percent, adopted “shorter working hours,” regardless of the year of survey or size of business. The second highest was “adjustment of time for starting or finishing work” at between 40 to 50 percent. Therefore, the percentage for “shorter working hours” is exceptionally high. In the meantime, there was a gap between the measures adopted by businesses and what workers actually wanted. While the percentage of firms that had adopted “allowance for nursing care services used by workers or similar arrangement” was less than 10 percent, the highest percentage of workers with experience of nursing care actually wished firms to “assist them in paying the costs of nursing care” (58.1 percent). On the other hand, the percentage of those who wished for “shorter working hours” was the lowest at 41.6 percent.

Fourthly, on shorter working hours and other measures mentioned above, the longest period of applying such measures by business establishments was about the same regardless of the type of measures. With respect to “shorter working hours,” which is adopted by the highest percentage of firms, the percentage of firms that allowed workers to work under shorter working hours for a period “longer than three months,” which is beyond the legal requirement, was 89.1 percent in 1996, 29.7 percent in 1999, and 23.4 percent in 2002. The difference between 1996 and other years is notable. In 1996, the family-care leave system was not legally binding and firms were only required to make an effort to introduce the system. It must be taken into consideration that, firms that did introduce the system under these circumstances had peculiar

characteristics. In the 1999 and 2002 surveys, the difference by sizes is notable. Among firms with “500 or more employees,” the percentage allowing a period of “longer than three months” was above 60 percent, which was greater than the percentage of such firms that allowed a period of “three months or less.” On the other hand, among smaller firms, the percentage for “three months or less” is greater than the percentage for “longer than three months.” In particular, among firms with less than 100 employees (“30 to 99 employees” and “5 to 29 employees”), the percentage for “three months or less” is as high as around 70 percent.

3. Working conditions during and after family-care leave

An analysis and study was made into the questions of obligatory and prohibitive provisions on working conditions during and after family-care leave and limitations on late-night and overtime work. As a result, the findings as shown below were obtained.

Firstly, with respect to provisions that obligate firms to make an effort to introduce certain measures, there were variations in the performance of the provisions. As regards the obligation on firms to make an effort to clearly indicate the working conditions of workers during and after family-care leave, a progress can be observed in the 2002 survey, as the percentage of firms that “indicate those conditions in writing” increased. However, with respect to small businesses, the percentage remained low at around 30 to 50 percent. A similar trend can be observed with the performance of a provision to introduce measures for maintaining or improving vocational ability of workers who take family-care leave. While the percentage of business establishments that had introduced some measures increased in the 2002 survey compared to the 1999 survey, the percentage of businesses with “500 or more employees” adopting such measures was low at around 30 to 50 percent. In contrast, with regard to the workplace and type of work assigned to workers who return from leave, more than 80 percent of businesses placed such workers in “their original job or jobs equivalent to their original job.” On this last point, the level of performance is high.

Secondly, with respect to provisions that prohibit firms to unfairly treat workers who take family-care leave, around 80 to 90 percent of business establishments complied with the law with respect to “treatment related to bonuses,” and around 70 to 80 percent of businesses complied with the law with respect to “treatment related to wages after returning from leave.” Firms generally abide by these legal provisions. Nonetheless, the survey result shows a strong possibility that the remaining 10 to 20 percent of firms are unfairly treating workers who take leave. Therefore, there are problems.

Thirdly, with respect to provisions on limiting late-night and overtime work, there are

significant differences by size of business establishments. On limitation on late-night work, a progress was observed in the 2002 survey as the percentage of firms that had laid down rules to limit such work by workers who request such an arrangement for nursing their families increased. However, while around 60 percent of firms with “100 to 499 employees” had such rules, the percentage among smaller firms was low at around 50 percent. On limitation on overtime work, the percentage of firms that had introduced such rules was even lower. Slightly less than 40 percent of firms with “30 to 99 employees” and slightly less than 30 percent of firms with “5 to 29 employees” had introduced such rules. The level of performance of this provision that obligate firms to make an effort to limit overtime work was very low.

By summarizing the above results of analysis, it can be concluded that although there are still some problems, the legal provisions prohibiting unfair treatment of workers who take family-care leave are generally complied with. On the other hand, with respect to provisions that obligate firms to make an effort, the level of performance is high for certain provisions such as that for the “placement of workers in their original jobs,” and some gradual improvements can be observed. Generally, however, the level of performance remains low, and there are still many problems. In particular, small business establishments need to make improvements.

4. Wages, bonuses, etc. during leave

Economic issues were examined that arise from obtaining family-care leave, such as the question of bonuses during leave and payment of wages that correspond to the time not worked as a result of shorter working hours. As a result, the following findings were obtained.

Firstly, with respect to payments from a firm, benefit society, etc. during leave, about 30 percent of firms with “500 or more employees” paid money during leave, but the percentage among smaller firms was from 10 percent to less than 20 percent. The situation was roughly the same between the 1999 and 2002 surveys.

Secondly, with respect to payment of wages that correspond to the time not worked as a result of shorter working hours, the percentage of businesses that pay such wages was between 10 percent to 20 percent in the 2002 survey, regardless of the size of business. Among those firms that paid such wages, about half paid the “full amount of wages” and another half paid a “percentage of the wages.”

Thirdly, with respect to periodic pay raise during leave, the percentage of businesses that “raised pay regardless of leave” was the highest in the 1996 survey, regardless of the size of business. In the 1999 and 2002 surveys, the percentage of firms that “raised

pay regardless of leave” was the highest among firms with “500 or more employees,” but among smaller firms, the percentage of firms that “deferred pay raise until after the leave instead of raising pay during leave” was the highest. These trends were the same in the 1999 and 2002 surveys. The percentage of firms that “defer pay raise until after the leave instead of raising pay during leave” is increasing each year, even among those with “500 or more employees.”

Fourthly, with respect to the handling of the period of leave for the calculation of retirement allowance, the percentage of firms that “do not count the period of leave as part of the length of service” was the highest, at around 50 percent, in all surveys and regardless of the size of business. This was followed by the percentage of firms that “counted the entire period of leave as part of the length of service, in principle” at around 30 to 40 percent, and by the percentage of firms that “counted a part or a percentage of the period of leave as part of the length of service” at around 10 percent.

Fifthly, with respect to social security payments during leave, in the highest percentage of cases, at around 40 percent, “the worker was required to make the payments” in all surveys and regardless of the size of business. In around 20 percent of the cases, “a firm or a benefit society made the payments on behalf of the worker until the end of the leave.” In this case, repayment by the worker after the leave was “not exempted” in around 80 percent of the cases. Incidentally, the 2002 survey did not investigate into social security payments.

Lastly, the Ministry of Labour conducted a study⁽¹⁾, in which those with the experience of providing nursing care to their families were asked “what improvements did they hope to see in the family-care leave system” and “what did they think was needed in carrying out both work and nursing care.” The results showed that on both questions, the highest percentage of the respondents selected “an increase in the amount of economic support during leave.” For instance, on the question of “what improvements did they hope to see in the family-care leave system,” the percentages of those who chose “an increase in the amount of economic support during leave” and “exemption from social security payments during leave” were exceptionally high at 67.7 percent and 67.1 percent, respectively. This shows that while there is a strong need for an increase in economic support during leave, systems and measures on economic support during leave are insufficient.

5. Positive introduction of the system in work rules, etc. and contents of the system

In this chapter, the author made an analysis to examine the hypothesis that “clearly indicating family-care leave system and working conditions during and after leave in

writing in work rules, etc. will have a positive effect on firms to introduce a system that goes beyond the requirement of the law.”

Firstly, the relation between the existence of rules on family-care leave system and measures for supporting workers who work and provide nursing care for their families (measures for shorter working hours, etc.) as well as the relation between indication and method of indicating working conditions during and after leave and the existence of rules on overtime and late-night work were examined. As a result of the analysis, it was found that among businesses that had rules on family-care leave system, there was a wider variety of measures adopted for workers who take family-care leave and a larger percentage had indicated the working conditions in writing and had rules on the limitation of overtime and late-night work. These results supported the above hypothesis. However, with regard to the longest period during which a measure for assisting workers could be applied and payment of wages that correspond to the time not worked as a result of shorter working hours, there were no differences depending on the existence of rules on family-care leave system. In this respect, the results did not support the hypothesis.

Secondly, the author analyzed the relation between indication and method of indicating working conditions, payment of money during leave, measures for maintaining or improving vocational ability, wages after returning to work, workplaces and jobs a worker is assigned to after returning from family-care, bonuses during leave, and handling of the period of leave for the calculation of retirement allowance. As a result, it was found that on “workplaces and jobs a worker is assigned to after returning from family-care” and “measures for maintaining or improving a worker’s vocational ability,” there were differences by whether or not working conditions were indicated and by the method of indicating the working conditions. However, with respect to all other items, there were no differences. Here, again, the results supported the hypothesis only for a limited number of items.

From a summary of the above results, it can be concluded that “putting down family-care leave system in writing in work rules, etc. or clearly indicating working conditions during and after leave is effective in preparing a framework for a worker’s return to one’s original job or for increasing the types of measures for supporting a worker. However, it is not effective in or at least it has little relevance with improving the contents that go into that framework, such as the systems and measures for economic assistance and the longest period that different measures are applicable.”

6. Discussion and future prospects

An analysis and study was made on the state of introduction of the family-care leave system, and proposals were made on the issues below.

The first issue is the “measures for supporting workers who work and provide nursing care for their families.” As the importance of measures for assisting workers carry out both work and nursing care is rising today, there is a need to reinforce measures, such as introduction of shorter working hours, that will make it easier for workers to look after their families while continuing to work. At present, however, such measures cannot be considered as sufficient compared with the systems and measures for “family-care leave,” which allows workers to totally suspend work, take leave, and provide nursing care for their families⁽²⁾. Decisions on what measures would be effective in assisting workers who are looking after a family in chronic conditions may be difficult, because it is difficult to know for how long care needs to be provided. It is hoped that the government would make the effort to increase measures for workers who are providing nursing care while continuing to work, which should include a detailed study into the conditions of such workers.

The second issue is the “longest period that measures apply for assisting workers who provide nursing care for their families while continuing to work.” When it becomes possible to obtain family-care leave more than once, the number of those who wish to use the family-care leave system to look after a family member not only in acute conditions but also in chronic conditions should increase. Discussion is needed on the longest period in which measures for assisting workers can be applied. At present, however, the longest period that a measure for assisting workers can be applied is defined as “three consecutive months less the period of family-care leave, if such leave was taken before, or more,” in connection with the period of family-care leave. Therefore, the issue of the “period that measures for helping workers can apply” must be considered together with the “period of family-care leave.” In some cases, the question of applicable period has been confused with extension of the “period of family-care leave” and criticized by those who ask, “Why is there any need to further extend the prescribed period of family-care leave?” To avoid such a misunderstanding, it is important that the “applicable period for assistance” is defined not as a remainder of the “period of family-care leave,” but as a period set aside for a distinct purpose and objective. It is hoped that discussions would be carried out on an appropriate applicable period for assistance according to those purpose and objective and the results of the discussions reflected on a new amendment bill.

The third issue is related to putting down the family-care leave system in writing in firms’ work rules, etc., and to indicating working conditions during and after family-care

leave. While it was confirmed that putting down the system in writing and indicating working conditions was very much effective in preparing the “framework of the system,” such as shorter working hours and other types of measures for assisting workers and rules on limitation of overtime and late-night work, the percentage of business establishments that actually had put down the system in writing or indicated working conditions was not high. The need for administrative guidance and awareness raising for such arrangements is still high. On the other hand, an important point related to the effect that putting down the system in writing or indicating working conditions will have on the use of the system has not yet been examined. These arrangements may have a significant effect on facilitating the use of the system. Examination of this point is a future task that must be undertaken.

The fourth issue is related to the economic aspect of taking family-care leave or using such measures as shorter working hours. In particular, the framework for economic assistance of workers who provide nursing care while continuing to work is weak. It is far from satisfying the users’ needs and may become an obstacle for workers to use the system. There may be room for discussion on providing benefits out of employment insurance for workers who work under the scheme for shorter working hours or increasing measures for assisting businesses that provide economic support to workers.

The fifth issue is related to percentage of workers who take family-care leave. We have so far summarized the results of analysis by discussing some of the issues, but the biggest problem is that figures on the percentage of workers who take family-care leave are not available. As a result, the effectiveness of the system cannot be measured. Even if workers are allowed to “take family-care leave more than once,” the effectiveness of such change on the use of the system cannot be expressed in actual numbers. The most one can do would be to compare the perception of users or employees on the “ease of taking family-care leave.” The measurement of the effectiveness of putting the system in writing or indicating working conditions is also difficult without actual figures on the percentage of those who actually take family-care leave. The author focused in this research on the percentage of businesses that had introduced and implemented systems and measures that went beyond the legal requirements for analysis, based on the assumption that “systems and measure that go beyond the legal requirements must be more usable for workers and, consequently, the percentage of workers who use such systems and measures will increase.” Needless to say, the approach taken by the author for this analysis is the second best approach. It is obviously the best approach to analyze the relation between the contents of the system and the percentage of those who use the system. One of the urgent tasks is to

bring ingenuity and deepen discussion on a framework that will enable us to collect information required for calculating the percentage of workers who actually use the system.

Lastly, survey and research on issues related to family-care leave have only just begun. In this research, the author made a retabulation and analysis based on the result of the Basic Surveys on Woman Employment Management, with the main purpose of preparing basic reference materials and data on the implementation of the system. Accumulation of such basic research will continue to be important. At the same time, there is a significant need for conducting large-scale survey and research on the use of the system. Such research most likely will have the highest priority. It is hoped that many organizations and researchers would join in undertaking research on this subject.

Composition of the Report

Objective of research and outline of research results

Chapter 1. Objective of research and challenges

1. Objective of research
2. Outline of research results
3. Background of research
4. Objective, purpose, and awareness of the issues in research related to the issue of family-care leave
5. Composition of this report

Chapter 2. Contents of family-care leave systems that have been implemented by business establishments

1. Yearly changes in the number of businesses that have laid down rules on family-care leave system
2. Number of times of taking family-care leave
3. Workers covered
4. Period of family-care leave
5. Family members covered
6. Summary and discussion

Chapter 3. Measures for assisting workers who provide nursing care to their families while continuing to work

1. Type of measures implemented

2. Contents of measures implemented
3. The longest period workers are allowed to use the “system for shorter working hours”
4. The longest period of family-care leave and the longest period workers are allowed to use the “system for shorter working hours”
5. Summary

Chapter 4. Working conditions during and after family-care leave

1. Working conditions during and after family-care leave (1): performance of obligatory provisions
2. Working conditions during and after family-care leave (2): compliance with prohibitive provisions on unfair treatment
3. Rules on limitation of overtime and late-night work
4. Summary

Chapter 5. Wages, bonuses, etc. during leave

1. Economic assistance during leave
2. Periodic pay raise during leave
3. Handling of the period of leave for calculation of retirement allowance
4. Social security payments during leave
5. Summary

Chapter 6. Positive introduction of the system in work rules, etc. and contents of the system

1. Existence of rules on family-care leave system and measures for assisting workers who provide nursing care to their families while continuing to work
2. Indication of working conditions during and after family-care leave and contents of working conditions
3. Summary

Chapter 7. Some discussion on the issue of family-care leave

Supplementary discussion: outline of family-care leave system

1. On family-care leave system
2. Termination and expiry of family-care leave
3. Limitation on overtime work
4. Limitation on late-night work
5. Measures that should be implemented by employers

Appended charts

Note

(1) A survey conducted by Josei Roudou Kyokai in January 2000 at the commission of the Ministry of Labour. The results of the survey are compiled in the Ministry of Labour's "Outline of the Results of the Survey on the Life and Employment of Workers Who Provide Care for Their Children or Other Members of Their Families" (August 2000).

(2) The family-care leave system stipulates that measures for assisting workers should be implemented for both (1) when a worker takes leave to look after one's family and (2) when a worker looks after one's family while continuing to work. If we take the example of the period of leave, however, the longest period that a worker is permitted to work under shortened working hours in order to provide nursing care while continuing to work is "three months less the period of family-care leave, if such leave was taken before, or more." In other words, the period of providing nursing care while continuing to work is considered as the remainder of family-care leave. The author, therefore, considers that in the family-care leave system, measures for family-care leave are primary, while measures for workers who take care of their families while continuing to work are secondary.