Paid Family & Medical Leave
Policy Analysis and Recommendations for Indiana
December 2016

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INTRODUCTION

Paid Family & Medical Leave

Policies that provide paid time off to care for family members or recover from a serious medical event offer a host of benefits to workers; their newborn, newly adopted, or fostered children; and the ill spouses, aging parents, or military family members for whom they care.i But can paid family and medical leave be good for businesses, too?

Compelling new evidence suggests that it can, and now is an ideal time for Indiana to craft paid family and medical leave legislation that will enable employees to access these benefits without overburdening their employers.

This publication will:
• outline the case for paid family and medical leave, including the potential benefits of expanded access to paid leave for Hoosier families, businesses and the economy
• describe what is currently available in Indiana and in other states
• make recommendations for state policy.

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NEARLY EVERY EMPLOYEE will, at some time, need to take time off work to attend to a personal illness or injury or to care for a loved one. When there are no policies in place to help workers and employers meet these needs, both suffer. Stress, absenteeism, poor performance, burnout, exhaustion, decreased organizational commitment, and turnover are all well-documented consequences of work-life conflict. If Indiana intends to retain, retrain, and recruit the best and brightest, it must attend to these needs.

Illnesses and injuries are an unfortunate fact of life. In fact, the Council for Disability Awareness suggests that one in four of today’s 20-year-olds will experience a disabling event – such as a back injury, cancer, or heart disease – before they retire. Job loss and financial harm compound the physical and emotional strain of these medical events for many Hoosiers because there are no provisions to protect employment status or wages if the event does not occur at work.

While some employers (less than 40 percent) offer short- and/or long-term disability coverage to their employees, the lowest-paid occupational groups are the least likely to have this benefit; 75 percent of service workers lack this type of insurance through their employers. In Indiana, 24 percent of workers over age 18 are in low-wage jobs. When illness or injury strikes, they either attempt to continue working or lose their income.

Furthermore, each year, Indiana welcomes about 85,000 babies to the world, yet only 14 percent of workers nationwide and 6 percent of workers in the lowest wage quartile in jobs that offer paid family leave. As a result, only a very small percentage of these newborns will enjoy the care and attention of parents or guardians who have paid family leave will reap a host of benefits, including:

- better bonding with parents
- decreased infant mortality
- increased breastfeeding (along with its accompanying health benefits)
- completion of the full batteries of vaccinations
- decreased child abuse
- increased odds of being placed in high-quality, stable childcare.

Research suggests that these lucky few will reap a host of benefits, including:

- better bonding with parents
- decreased infant mortality

WORTH NOTING

75 percent of service workers in low-paying jobs lack short- and/or long-term disability insurance through their employers.
For far more babies, however, the strain their caregivers experience trying to fit in nighttime feedings and doctor visits will be exacerbated by the pressure to return to work as quickly as possible in order to cope with the costs of raising a child.

Family policies are important for reducing gender inequities at home and work.

Beyond making time to care available to our most vulnerable populations, paid family and medical leave policies are also important to reducing gender inequities both at home and at work. Economic research has firmly established that there is a wage gap between men and women in the workplace. One reason for this gap is that women are more likely to take time away from the workforce to care for family members or newborns, thereby upsetting the progress of their careers. Research suggests that paid family leave increases the likelihood of women returning to work (rather than dropping out of the workforce) and may thereby reduce the wage gap. At the same time, when fathers take leave after the births of their children, they are more likely to be involved in their children’s care over the long term. Expanding access to paid family leave will only increase the number of men taking parental leave, thereby increasing gender equality.
WHILE MORE THAN 90 PERCENT of recently surveyed business leaders favor or feel neutral about offering parental leave policies, small businesses in particular often raise concerns about new leave policies, wondering if they will impose additional compensation costs, reduce productivity, or add to the paperwork and record-keeping required of them. The experiences within states that have enacted state-administered family leave policies show that there is a path forward that can provide benefits to both employees and employers. All existing state family leave insurance programs are 100-percent employee-funded, with no out-of-pocket costs to employers. Support for this type of collective insurance pool is strong; among voters surveyed in 15 states, 64 percent expressed willingness to contribute to a national paid leave fund, and many indicated willingness to pay much more than it would actually require to fund a paid leave program.

In California, employers reported that the state family and medical leave program had either a positive or neutral effect on productivity, profitability/performance, turnover and employee morale. Similarly, recent polling in New Hampshire found that more than two-thirds of voters were willing to contribute up to $5 per week into a leave insurance fund, while an analysis of Massachusetts’ proposed family and medical leave plan – one of the more generous seen to date – suggests it would cost an average of $3 per employee per week, or a 0.325 percent payroll premium. Because the insurance fund pays the employee who is not working, an employer can use the funds that would have otherwise been used to pay an employee’s salary to hire a temporary replacement or pay overtime to other workers. For those businesses that already offer temporary disability insurance and/or paid family leave, the implementation of a state-administered plan could result in savings or enable employers to “top off” or extend benefits.

Among states that have enacted family leave insurance programs, the response from businesses has been WORTH NOTING
64 percent of voters surveyed in 15 states expressed willingness to contribute to a national leave fund.
positive. In California, which began offering family leave insurance in 2004, employers reported that the state program had either a positive or neutral effect on productivity (89 percent), profitability/ performance (91 percent), turnover (96 percent), and employee morale (99 percent). Many California businesses that previously bore the entire cost of providing paid time off now benefit from a program that is fully funded by employee contributions.

In fact, firms with fewer than 50 employees reported more positive outcomes than those with 100+ employees. Overall, 87 percent of employers reported no cost increases and 9 percent reported a cost savings via reduced turnover. This may underestimate savings accrued by coordinating employer-provided benefits with the state program.

Similarly, one year after implementation of family leave in Rhode Island, a majority of small business owners reported that they favored the program. This may be due to the fact that it helps to erase the competitive talent recruitment and retention disadvantage small businesses face in hiring as compared to large businesses that can offer more substantial benefits packages.

Larger companies, including some with a presence in Indiana, have recognized the benefits of paid leave and have extended it to their employees. Research in the United States and from abroad shows that workers who take paid leave are more likely to return to their same employers than those who take unpaid leave. This can reduce turnover costs and preserve companies’ and states’ investments in their workers.

A review of 27 case studies found that turnover costs typically amount to one-fifth of an employee’s annual salary. For more specialized jobs, the costs can be even higher. It makes sense, then, that companies are now offering benefits that keep trained workers from turning over. Eli Lilly was named one of Working Mothers Magazine’s Best Companies, thanks in part to its generous leave policies. Hilton Worldwide recently

<table>
<thead>
<tr>
<th>Potential Employer and Economic Benefits of a State-Administered Leave Program</th>
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<tbody>
<tr>
<td>• Companies that already offer paid leave or temporary disability insurance could see a cost savings.</td>
</tr>
<tr>
<td>• Employers will better retain employees, particularly women, and see concurrent reductions in cost of hiring and training.</td>
</tr>
<tr>
<td>• Employers can use the funds that might normally have gone to an absent employee’s salary to hire temporary replacements or offer overtime.</td>
</tr>
<tr>
<td>• Fewer individuals will need public assistance through programs like SNAP and TANF.</td>
</tr>
<tr>
<td>• Employees and their families will see reduced health care costs related to reduced infant mortality, increased breastfeeding, increased well-child visits, increased treatment compliance, and reduced hospital readmissions.</td>
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**WORTH NOTING**

Eli Lilly was named one of Working Mothers Magazine’s Best Companies, thanks in part to its generous leave policies.
extended leave to salaried and hourly employees as part of its strategy to “recruit and retain the best talent.” Marcia Morales-Jaffe, senior vice president at Paypal, noted that their policy aligned with the company’s desire to support employees “as they raise their families, care for their aging parents, or volunteer in their communities.” By 2018, Nestle will join the ranks extending maternity leave policy as part of its stated commitment to exclusive breastfeeding during the first six months of life.

Unfortunately, these examples are still rare. The 2016 Bureau of Labor Statistics National Compensation Survey of Employers found that a scant 6 percent of workers in the lowest wage quartile had access to paid family leave, while only 22 percent of workers in the highest quartile have it.

**Benefits reach beyond businesses.**

Beyond direct benefits to companies, the state economy as a whole can benefit from expanded leave policies. It is well-established that family leave increases labor-force participation and employee retention and can create cost savings in other public programs. Among workers who took unpaid FMLA leave or who received partial pay during leave, 15 percent relied on public assistance to make ends meet, and 37 percent used savings designated for retirement, education, or another purpose.

Using a nationally representative sample, researchers at Rutgers University found that compared with women who returned to work following unpaid leave for the birth of a child, women who took paid family leave had a 39-percent lower likelihood of receiving welfare and a 40-percent lower likelihood of receiving food stamps one year following their return to work. Similarly, men who returned to work after paid family leave reported a significantly lower likelihood of receiving welfare or food stamps. This does not account for the potential savings that may accrue from increased breastfeeding and well-child medical care, earlier detection of developmental needs, enrollment in high-quality child care, and paternal involvement—all of which have been augmented by paid family and medical leave policies.
What are Indiana’s Current Leave Policies?

The State of Indiana asserts that “employees should have reasonable opportunities for time away from work without loss of pay to handle illness, injury, legal quarantine and attending visits with health care providers for themselves, immediate family members and members of their household who are dependent upon them for care during illness or injury.” Accordingly, both full- and part-time state employees can accrue paid sick time, and the state maintains short-term and long-term disability benefit programs for full-time employees with at least six months of employment. The short-term disability benefits are paid at 60 percent of an employee’s salary and are payable for up to five months. Long-term disability is available for up to four years from the date an employee became eligible and is paid at 40 to 50 percent of base salary.

Family Medical Leave Act is not enough.

However, there are no statewide paid family or medical leave provisions for Hoosiers working in the private sector. Eligible Hoosiers who work for a covered employer (public agencies, public schools or private employers with 50 or more employees) can take unpaid leave under the federal Family Medical Leave Act (FMLA). FMLA allows employees to take 12 weeks of unpaid leave to care for themselves, sick family members, newborn children, or newly adopted or fostered children, without worrying that they will lose their jobs. They may also take up to 26 weeks for a qualifying exigency arising from deployment or a need to care for a service member.

To be eligible for FMLA, an employee must have worked for the employer for 12 months and must have completed at least 1,250 hours of service for the employer. Due to the policy’s eligibility requirements, FMLA only covers about 60 percent of workers nationally and less than 20 percent of all new mothers.

A 2012 survey of employees and work sites found that 13 percent of all employees took leave using FMLA in the past year. The majority (55 percent) took leave for their own health reasons, while 21 percent took leave for pregnancy or a new child and 18 percent for caring for a family member. The duration of leaves is typically short, with 42 percent lasting 10 days or fewer and 17 percent lasting more than 60 days.

The survey also found that 5 percent of employees needed leave but were unable to take it in the past year. Of those employees, 46 percent reported the reason for not taking leave was due to being unable to afford unpaid leave.

The Heller School for Social Policy and Management estimates that in Indiana, only 38 percent of the workforce is both covered by FMLA and able to afford
What are other states doing?

EXTENDING AND EXPANDING UNPAID LEAVE POLICIES. Many states have extended or expanded the unpaid leave offered under FMLA. As of 2016, 11 states and the District of Columbia had FMLA laws that covered more family relationships, such as grandparent-grandchild or parent-in-law, and two provided leave for more purposes than FMLA, such as bereavement. Eight states and the District of Columbia have “small necessities” laws on the books that offer leave for parent-teacher conferences or other valued, small-scale activities.

OFFERING PAID SICK LEAVE. While sick leave is not a substitute for paid family and medical leave, many states and localities have recognized the significant gap in its availability and this gap’s effects on employees’ income stability and public health. In Indiana, estimates suggest that more than one million workers cannot earn a single paid sick day, and just 3.5 days of illness equate to a monthly grocery budget for the average family.

EXPANDING STATE UNEMPLOYMENT INSURANCE PROGRAMS TO COVER JOB LOSS DUE TO ILLNESS OR DISABILITY IN THE FAMILY. In 2009, the American Recovery and Reinvestment Act offered incentives in the form of federal unemployment insurance funds to states that defined “good cause” for leaving employment to include compelling family reasons. Now, 21 states and the District of Columbia have state unemployment insurance programs that include job loss due to illness or disability in the family. Indiana is not yet one of these states.

OFFERING TEMPORARY DISABILITY INSURANCE. Five states and Puerto Rico provide partial wage replacement for individuals who are unable to work due to non-work-related injuries and illnesses, including pregnancy and post-childbirth recovery. As such, these laws cover new mothers, but they do not meet the needs of non-birth parents or individuals providing care to a sick child, spouse, or parent.

Some states provide this coverage through employee payroll deductions, while others offer more flexible solutions. New York and Hawaii, for example, allow employers to purchase temporary disability insurance (TDI) through a private provider or to self-insure. Employers can decide whether to absorb the cost of the TDI or to deduct a percentage of their employees’ pay.

OFFERING FAMILY LEAVE INSURANCE. As of summer 2016, five states had passed legislation related to family leave insurance. Table 1 summarizes features of the current laws.
TABLE 1: STATE PAID FAMILY LEAVE INSURANCE LAWS

<table>
<thead>
<tr>
<th>States</th>
<th>California</th>
<th>New Jersey</th>
<th>Rhode Island</th>
<th>Washington</th>
<th>New York</th>
</tr>
</thead>
<tbody>
<tr>
<td>Enacted</td>
<td>2002; effective 2004</td>
<td>2008; effective 2009</td>
<td>2013; effective 2014</td>
<td>2007; not yet implemented(iii)</td>
<td>2016; effective 2018</td>
</tr>
<tr>
<td>Reasons for Leave</td>
<td>1. Birth, adoption, or foster care for a new child 2. Care for family member with serious health condition 3. Care for own disability, including pregnancy</td>
<td>1. Birth or adoption of a new child 2. Care for family member with serious health condition 3. Care for own disability, including pregnancy</td>
<td>1. Birth, adoption, or foster care for a new child 2. Care for family member with serious health condition 3. Care for own disability, including pregnancy</td>
<td>1. Birth, adoption, or foster care for a new child 2. Care for family member with serious health condition 3. Care for own disability 4. Qualifying exigency arising from partner/child or parent active duty</td>
<td></td>
</tr>
<tr>
<td>Maximum Length of Paid Leave</td>
<td>6 weeks for family care 52 weeks for own disability</td>
<td>6 weeks for family care 26 weeks for own disability</td>
<td>4 weeks for family care 30 weeks for own disability</td>
<td>5 weeks for birth or adoption</td>
<td>8 weeks for family care (increasing to 12 weeks by 2021) 26 weeks for own disability</td>
</tr>
<tr>
<td>Employee Eligibility Requirements</td>
<td>Must have been paid $300 gross</td>
<td>Must have had 20 calendar weeks’ employment, paid $165/week or more, or $8,300 during base period</td>
<td>Must have been paid at least $10,800 in the base period</td>
<td>Must establish a “qualifying year” for at least 680 hours</td>
<td>Must be currently employed by a covered employer and have been employed 26 consecutive weeks (or 175 days for part-time employees) For disability, employed with a covered employer four or more consecutive weeks or 25 days for part-time</td>
</tr>
<tr>
<td>Funding Mechanism</td>
<td>Employee only at 0.9% annual wages</td>
<td>TDI is financed jointly. Employees contribute 0.25% of taxable wage base. Employers vary from 0.10% to 0.75%. Family care is funded by employee at 0.09% of taxable wage base ($32,000); maximum deduction is $28.80.</td>
<td>Employee contributes 1.2% of up to $64,000 in wages.</td>
<td>Not yet determined</td>
<td>TDI is funded through employee and employer payroll contributions. Employees contribute 0.5% of wages, up to $6.60 per week. Employers fund the balance. Family care is employee only and to be determined.</td>
</tr>
<tr>
<td>Size of Employer</td>
<td>Almost all private sector; some public. Self-employed can opt in.</td>
<td>Almost all employers are covered for family care; all private and some public for TDI.</td>
<td>Almost all private, some public.</td>
<td>Almost all employers are covered. Self-employed can opt in.</td>
<td>Most private-sector employers. Others (self-employed, public employers, public employees) can opt in.</td>
</tr>
<tr>
<td>Wage-Replacement Level</td>
<td>55% of weekly salary, up to max $1,120/week. This will increase to tiered replacement in 2018.</td>
<td>66% of weekly salary, up to max of $615/week.</td>
<td>Approximately 60% of weekly salary, up to a maximum of $817/week.</td>
<td>$250/week for full-time (35 hours or more).</td>
<td>TDI will remain at 50% with a cap of $170. Family leave 50% up to a cap, increasing to 67% by 2021. However, employees earning less than $20/week earn $100%.</td>
</tr>
</tbody>
</table>
Recommendations

We assert that time to care for self and family should be available to all and not a perk dependent on position and pay scale. Therefore, state involvement in the provision of access to a paid family and medical leave insurance program will be necessary to provide access for all Hoosier workers.

There are a number of different ways to configure paid family and medical leave to ensure broad accessibility: Indiana could facilitate a temporary disability insurance marketplace and establish a family leave insurance pool with mandatory minimum requirements, or it could maintain a single, centralized program. It could require employers to purchase insurance, or it could enroll all Hoosiers through a required payroll contribution.

While there are many decisions to make about how best to structure a plan for Indiana, paid family and medical leave legislation that seeks to maximize low-income, working families’ ability to take leave will:

**BUILD ON EXISTING SYSTEMS.** Most of the existing state family leave insurance programs were extensions of existing temporary disability insurance programs, but some states are building family and medical leave in tandem. Indiana should conduct an implementation study to determine the best fit for a program, the costs of implementation, and how the program would work with other existing benefits and laws.

**SET ELIGIBILITY CRITERIA THAT PERMIT ACCESS FOR LOW-INCOME HOOSIERS.** All plans set a threshold for eligibility; these are based on the length of time an individual must have paid into a leave insurance program, the number of hours an individual has worked, or the amount of earnings an individual has had within a base period. Setting these numbers too high will mean that those who need the program most are not eligible to receive benefits.

**OFFER SUFFICIENT WAGE REPLACEMENT.** When benefits are set at a percentage of average income, low-wage earners cannot take full advantage of leave as their budgets are already constrained. We suggest a tiered, sliding-scale system of wage replacement based on an individual’s average weekly income. For example, an individual might earn 100 percent of the first $200 per week in average earnings, 90 percent of the amount between $200 and $350, 80 percent of the amount between $350 and 600, and 70 percent of the amount over $600. Benefits could and should be capped to keep costs down. (California will move to a tiered plan in 2018.)

**INCLUDE ALL BUSINESS AND EMPLOYEE TYPES.** Some state policies include only businesses of a certain size or prohibit certain employees (e.g. part-time employees or those new to the field) from drawing
on the benefits into which they pay. Instead, Indiana should create a benefit system that is inclusive and portable. (All current state programs are portable.) For low-income workers who may shift jobs more often, this is an especially important feature. Indiana should also create mechanisms for self-employed workers, independent contractors, and gig workers to buy into the program.

**DEFINE FAMILIES BROADLY.** FMLA names only children, parents, and spouses as the family members eligible for care, but many family caregivers report caring for family members outside this definition, including parents-in-law, grandparents, siblings, domestic partners, or other relatives. Creating a broad and inclusive definition of “family members” will enable the policy to reflect the reality that individuals are sometimes called upon to care for those outside their nuclear families. Indiana should also ensure that adoptive parents and foster parents have access to family leave.

**INCLUDE JOB PROTECTION.** Studies out of both California and New Jersey find that individuals, particularly low-income fathers, pass up the opportunity to take leave because they fear their jobs are not protected, and low-wage workers report that fear of retaliation prevents them from taking leave. Research on 18 countries’ paid leave programs suggests that policies with job protection are more likely to reduce infant mortality, possibly because lack of protection changes the pool of individuals who take leave. While some individuals receive protection under FMLA or state-specific legislation, these laws did not cover all eligible leave-takers and/or the link was not made explicit. Writing the law with language that specifies its connection to FMLA job protections or, better yet, that offers job protection to all eligible participants, would be an important strategy to encourage participation. Rhode Island currently offers job protection for four weeks and New York will offer 12 weeks of job protection at full phase-in.

**Paid Family & Medical Leave: Summary of Recommendations for the State of Indiana**

We assert that time to care for self and family should be available to all and not a perk dependent on position and pay scale. Therefore, state involvement in the provision of access to a paid family and medical leave insurance program will be necessary to provide access for all Hoosier workers.

While there are many decisions to make about how best to structure a plan for Indiana, **paid family and medical leave legislation that seeks to maximize low-income, working families’ ability to take leave will:**

- Build on existing systems
- Set eligibility criteria that permit access for low-income Hoosiers
- Offer a sufficient wage replacement
- Include all business and employee types
- Define families broadly
- Include job protection
- Provide sufficient time for common needs and flexible use
- Carefully map out an implementation strategy
- Require data collection and evaluation.
PROVIDE SUFFICIENT TIME FOR COMMON NEEDS AND FLEXIBLE USE. When the American Family Survey asked a representative sample of U.S. adults how long parental leave should be, average responses clustered around four months. There are many compelling arguments for provision of at least 12 weeks, including associated reductions in maternal depression and increased completion of medical checkups and vaccinations. It also allows an infant to remain with a parent until the recommended age (12 weeks) for infants enrolling in child care. On the personal medical leave side, most plans include provisions for longer leaves – 26 or 52 weeks – recognizing that leaves will generally be more limited than this but that some illnesses and injuries may require more significant recovery periods. Including provisions for flexible or intermittent (e.g., one day per week for several weeks) leave-taking would be particularly helpful for individuals providing elder care or undergoing certain medical treatments (e.g. cancer care), as the ability to take intermittent leave may improve fulfillment of treatment plans and thereby reduce complications resulting in hospital readmissions.

CAREFULLY MAP OUT AN IMPLEMENTATION STRATEGY. States that have implemented paid family and medical leave programs have struggled to get the word out about the programs. For example, Columbia University’s study of New Jersey’s family insurance program found that five years after the program was implemented, many low-income families did not know it existed. Funds for a public education program for employers, employees, and relevant service providers (e.g., medical staff, hospice workers) should be part of any proposed legislation.

REQUIRE DATA COLLECTION AND EVALUATION. Mechanisms that facilitate continuous improvement are an important part of any public policy. Thinking through data collection and evaluation on the front end of program development will assist administrators in making meaningful improvements down the road. It will also be important in preventing fraud.

Time matters to Hoosier workers and their families. By enabling workers to spend quality time with their families at birth, death, and the other important moments in between, Hoosier businesses and the state economy will reap the benefits of a more engaged and stable work force. This is a win-win for Indiana.

ABOUT THE INDIANA INSTITUTE FOR WORKING FAMILIES
The Indiana Institute for Working Families - a program of the Indiana Community Action Association (IN-CAA) - conducts research and promotes public policies to help Hoosier families achieve and maintain economic self-sufficiency. The Institute is the only statewide program in Indiana that combines research and policy analysis on federal and state legislation, public policies, and programs impacting low-income working families. The Institute achieves its work through advocacy and education, and through national, statewide, and community partnerships. The Institute was founded in 2004. To learn more about the Institute, please visit: www.incap.org/iiwf.html.

ABOUT THE INDIANA COMMUNITY ACTION ASSOCIATION (IN-CAA)
The Indiana Community Action Association, Inc. (IN-CAA) is a statewide not-for-profit membership corporation, incorporated in the State of Indiana in 1970. IN-CAA’s members are comprised of Indiana’s 22 Community Action Agencies (CAAs), which serve all of Indiana’s 92 counties. IN-CAA envisions a state with limited or no poverty, where its residents have decent, safe, and sanitary living conditions, and where resources are available to help low-income individuals attain self-sufficiency. IN-CAA serves as an advocate and facilitator of policy, planning and programs to create solutions and share responsibility as leaders in the War on Poverty. IN-CAA’s mission is to help the state’s CAAs address the conditions of poverty through: training and technical assistance; developing models for service delivery; and providing resources to help increase network capacity. For more, visit www.incap.org.
Endnotes

i For a summary of existing research, see Barbara Gault, Heidi Hartmann, Ariane Hegewisch, Jessica Milli, & Lindsey Reichlin, “Paid parental leave in the United States: What the data tell us about access, usage, and economic and health benefits,” Institute for Women’s Policy Research (January 2014): accessed September 1, 2016, http://tinyurl.com/gv68kn3; see also individual studies listed below


Implementation was delayed indefinitely in 2013


Tanaka, “Parental leave and child health.” F7-F28.


