

History and Forthcoming Challenges of Family Care Leave Related Systems in Japan

Naomi Suzuki[†]

Abstract: This study concluded the summarization of the changes applied in the legal revisions leading up to the current family care leave related systems and the contents of the latest revisions. In the current Child Care and Family Care Leave Act, the regulations on matters relating to family care are: family care leave system, short-term family care leave system, limitation on overtime work, limitations on late-night work, etc. In the latest 2016 revisions, through the widespread establishment and revision of systems relating to family care support, this was improved, and it has become a system that is more on the side of workers. However, there were some challenges; the short period for the family care leave and accessing measures such as the system for reduced working hours, difficulty of labor management negotiations, the smallness financial support for working caregivers.

Keywords: Working Caregivers, Work Life Balance, Child Care and Family Care Leave Act

1. Introduction

The Japanese government began around 2010 making genuine efforts toward measures related to the harmonizing of work and nursing care. It did so because after the baby boomer generation passes 75 years of age in 2025, it is anticipated that the number of people needing nursing care will rise, and along with that rise, the children of baby boomers are more likely to become the main family caregivers. Having been preceded by steps to help balance between work and child care, this can be considered the time when measures for working caregivers began to be formulated. In 2014 the Ministry of Health, Labour, and Welfare (MHLW) created the “Tomonin” mark as a symbol to promote the formulation of “workplace environments that enable balance between work and nursing care.” This mark was created to boost interest in and awareness of efforts to create workplace environments that enable balance between work and nursing care and to increase social momentum for efforts to prevent people from leaving their jobs to provide family care. Understanding on this issue in the workplace is poor, and the current situation is one in which many people are forced to leave their jobs to care for family members.

The Child Care Leave Act was established in 1991 and will mark 25 years in 2017. In

[†] Editor, *Senshu Social Well-being Review*, Researcher, Center for Social Well-being Studies and Department of Economics, School of Economics, Senshu University. naomi@isc.senshu-u.ac.jp
[date of submission: August 4, 2016] [date of acceptance: August 18, 2016]

2016, after being in effect for nearly a quarter of a century, it underwent substantial revision, among which the revisions relating to family care leave in particular are remarkable. This relates to the fact that the Abe administration named “zero people leaving their jobs to care for family members” as one of the “three new arrows” of Abenomics. In this context, as part of the revised Child Care and Family Care Leave Act (CCFCL Act) and the revised Employment Insurance Act, etc. that passed and became law in the Upper House plenary session on March 29, 2016, the Family Care Leave related systems (hereinafter the “FCLR systems”) were revamped.

The support for harmonizing work and family care is represented by the FCLR systems prescribed in the CCFCL Act (family care leave system, limitation on overtime work, limitation on late-night work, consideration for transfer, prohibition of disadvantageous treatment, etc.). According to the 2012 Employment Status Survey, among workers providing care, 3.2% were taking family care leave, 2.3% were taking short-term family care leave, and 2.3% were using the reduced working hour system, all low levels. In preparation for the problems of 2025, it is necessary to start now to improve the FCLR systems set forth in the CCFCL Act and make them into systems that are easy to use. In light of these circumstances, this paper aims to trace the steps of the establishment and revision of the CCFCL Act, analyze the challenges of the FCLR systems, and examine the support measures for working caregivers, which will need to be expanded in the future.

2. Situation faced currently by people leaving their jobs to care for family members

2.1. Characteristics of caregivers

According to the MHLW’s 2013 Comprehensive Survey of Living Conditions, primary caregivers consist largely of family members living with the person needing nursing care, who account for 61.6%, followed by businesses at 14.8% and family members living apart at 9.6%. Compared to the 2001 survey done immediately after the nursing care insurance system was introduced, care by family members living in the same household fell 9.5 points from 71.1%, care by businesses increased 5.5 points from 9.3%, and care by family members living apart increased 2.1 points from 7.5%. Comparing the 2001 survey with the 2013 survey, among family members living together, the numbers for “spouse,” “child,” and “mother and father” increased slightly, but the percentage of “children’s spouse” decreased 11.3%, which is what led to the decrease in family members living together. Decades ago, nursing care was considered to be a burden borne by daughters-in-law, but that situation has changed in recent years. However, nursing care by businesses has not increased to the same extent that nursing care by family members living in the same household has decreased. So since the introduction of nursing care insurance, family care has not necessarily given way to nursing care insurance services. The nursing care insurance system was introduced in the hopes of promoting the socialization of nursing care, but the fact has still not changed that family members, whether living together or apart, are the primary caregivers.

If we look at the sex of the caregivers, 68.7% were female and 31.3% were male. While female caregivers are still the mainstream, compared to the 2001 survey males increased by 7.7

points. If we break it down by age, the composition of caregivers is as follows: under age 40: 2.0% male, 2.0% female; age 40-49: 7.6% male, 8.1% female; age 50-59: 21.4% male, 21.4% female; age 60-69: 27.7% male, 32.5% female; age 70-79: 22.6% male, 25.8% female; age 80 and up: 18.7% male, 10.2% female. Both males and females in their 50s and 60s account for roughly 50% (Table 1).

At present, the pension age has been gradually raised to 65. And consideration is being given to raising the age even higher. As a result, steps are underway now to promote employment among older people, such as raising the retirement age. But if someone has to leave their job against their will to provide nursing care, they also end up interrupting that source of income, and their financial foundation weakens. In addition, if there is still time between the termination of unemployment insurance benefits and the age that they start to receive a pension, it's possible that their income during that period will be nil or extremely low, and they may experience financial hardship. Moreover, this is also the age that many employees attain management positions, and if those people leave their jobs, it could deal a blow to the companies, etc. as well.

Meanwhile, there is also a certain percent of caregivers under age 40. If someone is forced to leave their job at this relatively young age, not only is their source of income interrupted, but they also suffer a disadvantage in terms of career development. As a result, it is necessary to arrange an environment that reduces the family caregiver burden so that people can continue working and not have to leave their jobs against their will even if they have to provide nursing care.

Table 1. Number and Composition of People Leaving or Changing Jobs for Reasons of Family Care or Child Care, Broken Down by Age

unit: persons, %

	Employed males		Unemployed males		Employed females		Unemployed females	
	No. of people (persons)	Percentage (%)						
Total no.	27,600		70,300		95,600		293,400	
15-19 yrs old	-	-	100	0.1	200	0.2	-	-
20-24	100	0.4	500	0.7	800	0.8	1,900	0.6
25-29	1,500	5.4	800	1.1	3,500	3.7	2,800	1
30-34	2,100	7.6	800	1.1	5,600	5.9	4,900	1.7
35-39	2,600	9.4	1,700	2.4	8,200	8.6	10,300	3.5
40-44	1,700	6.2	1,700	2.4	9,900	10.4	15,600	5.3
45-49	3,600	13	2,100	3	12,900	13.5	21,000	7.2
50-54	2,300	8.3	5,800	8.3	16,400	17.2	42,000	14.3
55-59	6,100	22.1	10,700	15.2	21,400	22.4	59,900	20.4
60-64	4,700	17	22,300	31.7	12,400	13	73,200	24.9
65-69	1,800	6.5	13,700	19.5	3,900	4.1	33,000	11.2
70-74	800	2.9	5,700	8.1	300	0.3	16,500	5.6
75-79	200	0.7	2,700	3.8	0	0	8,800	3
80-84	-	-	1,400	2	-	-	2,600	0.9
85 and over	-	-	400	0.6	-	-	900	0.3

Data source: MIC Statistics Bureau, 2010 Employment Status Survey

2.2. Conditions of people leaving their jobs to care for family members

So how many people are there who have actually left or changed jobs for reasons of nursing care? According to the 2012 Employment Status Survey, from October 2007 to Sept. 2012 there were 486,900 employed people (including self-employed people, etc.) who left or changed their previous jobs in order to provide nursing care for a family member. Of these, males constituted 97,900 (20.1%) and females constituted 389,000 (79.9%). If we look at their employment status after leaving or changing jobs, many remained unemployed after leaving their jobs: Among males, 27,600 (28.3%) were employed while 70,300 (71.7%) were unemployed; for females, 95,600 (24.6%) were employed while 293,400 (75.4%) were unemployed. Moreover, if we break it down by age and look at people's employment situation after leaving or changing jobs, for both men and women, employed people age 45-64 and unemployed people age 50-64 are the high-volume zone. At the same time, among employed people, we see that the percentage of those under age 39 is not insignificant, at 22.8% for men and 18.9% for women. Thus, among those in their 20s and 30s, who are in the process of developing their careers, roughly one in five left or changed their jobs for reasons of nursing care, indicating that leaving jobs to care for family members is not a problem limited to middle-age people.

Also, among people leaving their jobs to care for family members, let's look at how many of those who became unemployed after leaving their job want to work. Of those who are unemployed, 46.1% want to work. Broken down by sex, males constitute 45.8% and females 46.1%, roughly the same. Broken down by age, except for men age 25-29, that number exceeds 80% for men age 15-54; for women, the numbers are also high, at 80% for those age 20-34 and 70% for those age 35-49 (Table 2). The data indicate that from the younger demographic to those in middle age, there are a lot of people who are not working after leaving their jobs but who want to work. However, if we look at the percentage of job-searchers among the unemployed, outside of the 70.6% of men age 35-39 who are searching for jobs, that share is less than 60% for both men and women in every age group. Compared to the percentage of those wanting to work, for both men and women in all age categories, the percentage of those actually job-searching is substantially lower. Based on this, even though many people want to work again while providing nursing care, in reality there are limitations even to carrying out job-searching activities, leading to a situation in which many end up not even searching for jobs.

2.3. Characteristics of people leaving their jobs to care for family members (in employment)

What kind of circumstances do the people who leave their jobs for purposes of nursing care find themselves in? Based on a survey conducted by Mitsubishi UFJ Research and Consulting in 2013, let's break down that picture separately for men and women. The Abe administration's policy of "zero people leaving their jobs to care for family members" stems from a desire to prevent the children of baby boomers from leaving their jobs *en masse* in 2025. Many of them will be reaching management positions around that time, and a large exodus from the workforce is perceived as disadvantageous for companies as well. In light of that, let's look at the positions

Table 2. Desire to Find Work and Status of Job-Searching Activities among Currently Unemployed People who Left Their Previous Job for Reasons of Family Care or Child Care

		unit: persons, %										
Male/Female	Total no.	15-19 yrs old	20-24 yrs old	25-29 yrs old	30-34 yrs old	35-39 yrs old	40-44 yrs old	45-49 yrs old	50-54 yrs old	55-59 yrs old	60-64 yrs old	65 and over
Total												
Unemployed persons (I)	363,700	100	2,300	3,500	5,600	12,000	17,400	23,100	47,700	70,700	95,500	85,700
Unemployed & wanting to work (II)	167,600	100	2,300	2,800	4,800	9,200	13,100	17,500	28,200	32,400	31,600	25,400
Unemployed & job-searching (III)	68,400	-	1,000	1,700	1,700	6,500	7,000	10,000	12,900	12,800	9,000	6,000
(II) / (I) (%)	46.1	100	100	80	85.7	76.7	75.3	75.8	59.1	45.8	33.1	29.6
(III) / (I) (%)	18.8	-	43.5	48.6	30.4	54.2	40.2	43.3	27	18.1	9.4	7

Male	Total no.	15-19 yrs old	20-24 yrs old	25-29 yrs old	30-34 yrs old	35-39 yrs old	40-44 yrs old	45-49 yrs old	50-54 yrs old	55-59 yrs old	60-64 yrs old	65 and over
Unemployed persons (I)	70,300	100	500	800	800	1,700	1,700	2,100	5,800	10,700	22,300	23,900
Unemployed & wanting to work (II)	32,200	100	500	500	800	1,500	1,700	1,700	4,800	5,700	7,800	7,200
Unemployed & job-searching (III)	13,000	-	-	200	300	1,200	800	1,200	2,700	2,300	2,500	1,800
(II) / (I) (%)	45.8	100	100	62.5	100	88.2	100	81	82.8	53.3	35	30.1
(III) / (I) (%)	18.5	-	-	25	37.5	70.6	47.1	57.1	46.6	21.5	11.2	7.5

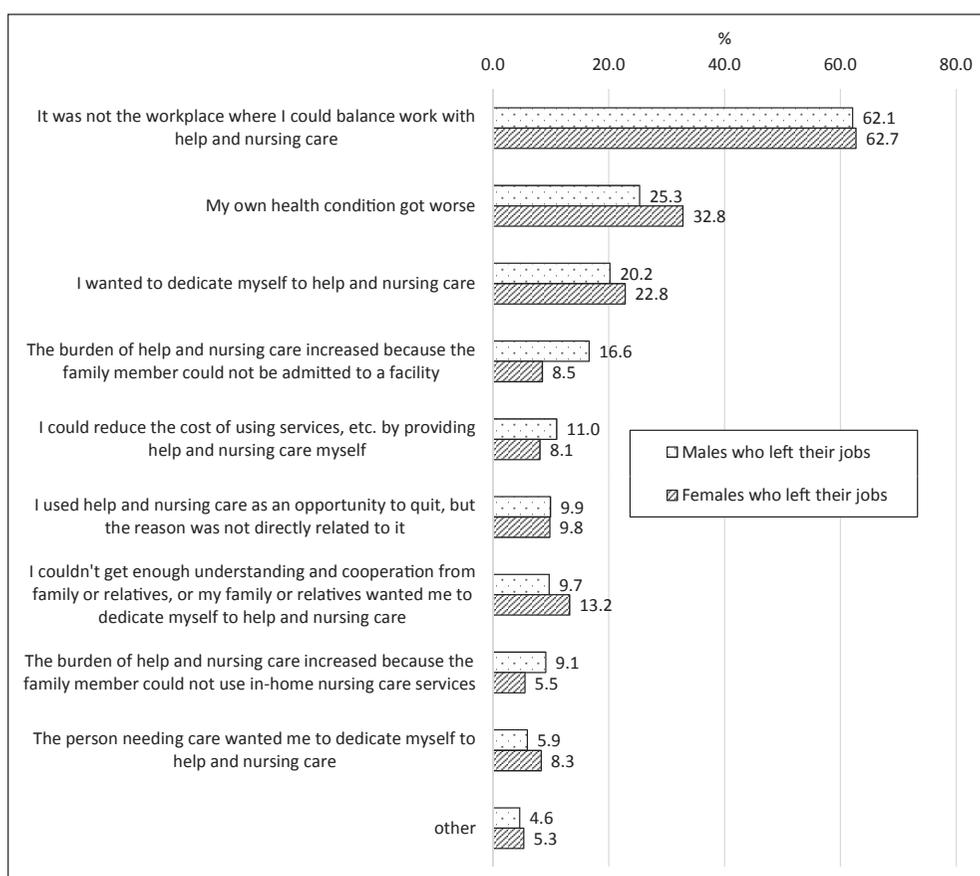
Female	Total no.	15-19 yrs old	20-24 yrs old	25-29 yrs old	30-34 yrs old	35-39 yrs old	40-44 yrs old	45-49 yrs old	50-54 yrs old	55-59 yrs old	60-64 yrs old	65 and over
Unemployed persons (I)	293,400	-	1,900	2,800	4,900	10,300	15,600	21,000	42,000	59,900	73,200	61,800
Unemployed & wanting to work (II)	135,400	-	1,900	2,300	4,000	7,700	11,500	15,800	23,400	26,700	23,800	18,400
Unemployed & job-searching (III)	55,400	-	1,000	1,400	1,400	5,200	6,200	8,800	10,200	10,500	6,500	4,200
(II) / (I) (%)	46.1	-	100	82.1	81.6	74.8	73.7	75.2	55.7	44.6	32.5	29.8
(III) / (I) (%)	18.9	-	52.6	50	28.6	50.5	39.7	41.9	24.3	17.5	8.9	6.8

Notes: In the Employment Status Survey, unemployed persons wanting to work are categorized into “job-searching” and “not job-searching” depending on whether or not they are actually searching and preparing for work. “Searching and preparing for work” refers to cases where the person is looking at and applying to Internet job-placement sites or job listings or job-placement information in newspaper ads; is applying to places like public employment security offices or private job placement agencies; is asking people directly to search for jobs for them or waiting for the results thereof; has registered with a worker dispatching agency and is waiting for work to come in; or is preparing to procure the funds, materials, or equipment to start work. (From the “Explanation of terms” in the Employment Status Survey)

Source: MIC Statistics Bureau, 2010 Employment Status Survey

in the workplace of people leaving their jobs to care for family members¹. Rank-and-file employees (with no titles) were the largest group, at 47.9%, followed by the chief, assistant manager, or section head class at 23.2%, and those in the manager class and above totaled 23.6%, indicating that one in four people were in management positions (Mitsubishi UFJ Research and Consulting 2013a, p. 9). In this survey, workers were asked the same questions, and 53.3% of them were rank-and-file employees, 20.1% were chiefs, etc., and 23.8% were department heads or above, indicating that the percentage in management positions who left their jobs to care for family members was about the same as for other people.

Why do workers choose to leave their jobs to care for family members? “It was not the workplace where I could balance work with help and nursing care” was the reason given by



Source: Mitsubishi UFJ Research and Consulting (2013a), p.73

Fig. 1 Reasons for Leaving One’s Job for the Purpose of Providing Nursing Care

¹ "People leaving their jobs to care for family members" in this case is what Mitsubishi UFJ Research and Consulting (2013a) calls "people who quit their jobs for the purpose of providing assistance or nursing care."

62.1% of males and 62.7% of females who left their jobs, representing high percentages. It ranked far higher than the next highest answer, "My own health condition got worse" (25.3% of males who left their jobs and 32.8% of females who left their jobs) (Fig. 1) (Ibid, p. 73). So the workplace environment serves as a major determining factor for leaving one's job. However, this does not mean that they all wanted to continue working. People who "wanted to continue" working when they quit their job for the purpose of providing help or nursing care accounted for 56.0% of males and 55.7% of females who left their jobs (Ibid, p.74).

If we look at the changes that took place after people left their jobs to care for family members, 63.5% of males and 66.6% of females say the emotional burden increased, 54.1% of males and 59.5% of females say the physical burden increased, and 76.6% of males and 73.1%² of females say the financial burden increased. For both men and women, the emotional and financial burden was higher than the physical burden (Ibid, p. 75). Therefore, rather than their lifestyles taking a turn for the better because they left their jobs, what happened is that several different burdens actually grew.

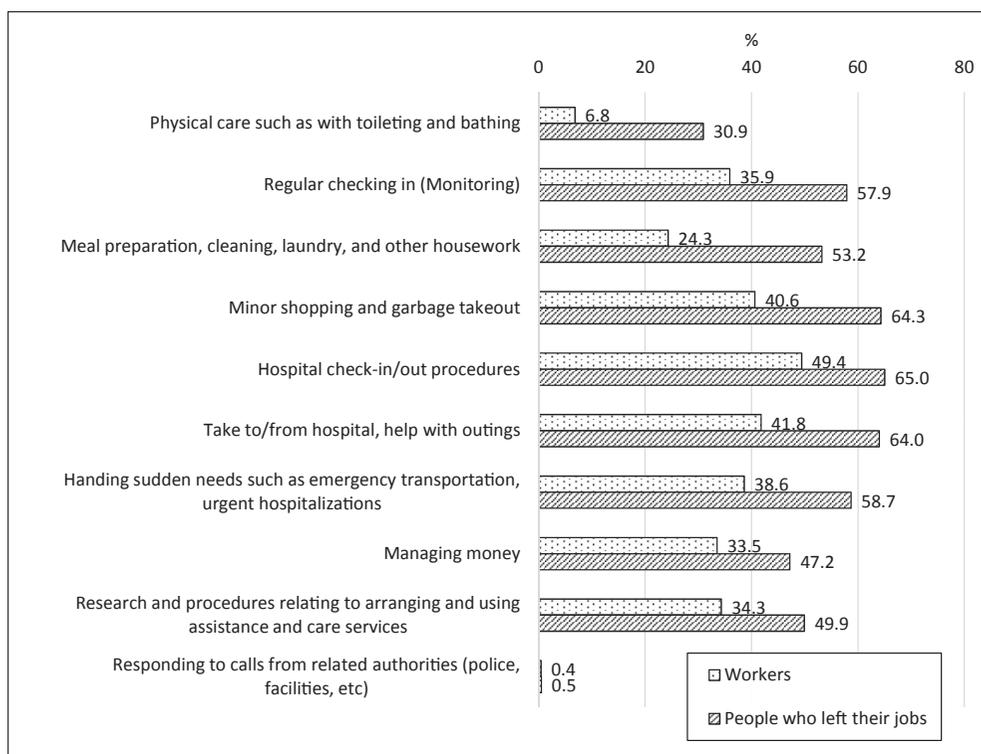
As for the reemployment status of people who left their jobs, full-time employees account for 49.8%, non-regular employees for 17.7%, and people not working for 24.5% (Mitsubishi UFJ Research and Consulting 2013b, p. 29). When we asked those working again about how long it took them to get reemployed, 38.5% of men and 52.2% of women said 1 year or longer, followed for men by 3-6 months, at 15.8%, and for women by 6 months to under a year, at 14.6% (Mitsubishi UFJ Research and Consulting 2013a, p. 76). Getting reemployed after leaving a job to care for family members requires a relatively long period of time, a trend that is particularly strong in women. Meanwhile, when we asked those who were not working again the reason (multiple answers accepted), 38.2% of men and 32.3% of women said "Because I couldn't find a workplace where I could harmonize work with help and nursing care"; 39.3% of men and 31.0% of women said "Because there is no workplace with the type of work I'd like to do." These two reasons ranked the highest, followed by "I am searching for a job now" by 34.8% of men and 20.6% of women (Ibid, p. 78). For those who were not working again, even though they want to work, they face a situation in which finding a job is hard to do.

2.4. Characteristics of people leaving their jobs to care for family members (nursing care conditions)

Finally, let's check on the nursing care conditions of people leaving their jobs to care for family members. Looking first at the frequency of care, for people who left their jobs, the percentage answering "nearly every day" was 53.5% for men and 58.9% for women, and "2-4 times a week" was 21.7% for men and 19.3% for women. Meanwhile, for workers, the percentage who answered "nearly every day" was 35.4% for men and 35.5% for women, and "2-4 times a week" was 23.6% for men and 21.5% for women (Ibid, p. 37). There were clearly more people answering "nearly every day" among those who had left their jobs. The contents of the nursing care were divided into 10 items, and if we compare people who left their jobs to workers, those

² The total value for "The burden increased a lot" and "The burden increased."

who left their jobs come in higher on every item (Ibid, pp. 34-35, Fig. 2). The degree of care required and the extent of dementia in the mothers and fathers being cared for by those who left their jobs was not observed to be more severe than those being cared for by workers (Ibid., pp. 24-26). As a result, it can be assumed that those who left their jobs were caring for their mothers and fathers themselves for factors other than the conditions that required nursing care. This is thought-provoking data when it comes to considering the enhancement of the FCLR systems. We can see that both groups show high values on the item of direct nursing care. The FCLR systems to be discussed later do not envisage direct care but are rather leaves for the purpose of contracting and arranging nursing care services etc. But the reality is that people are carrying out direct nursing care, and that leads to people leaving their jobs to care for family members. Moreover, if the reason is not that the conditions requiring nursing care are serious, we also need to prepare an environment where people can continue working while carrying out direct nursing care. This does not mean providing all nursing care. It means creating an environment where, while also utilizing a nursing care service, people can continue providing nursing care themselves without quitting their jobs.



Source: Mitsubishi UFJ Research and Consulting (2013a), pp.34-35

Fig. 2 Contents of Nursing Care Carried Out, Broken Down by Workers and People Who Left Their Jobs

3. The path to family care leave system legislation

3.1. The path to family care leave system legislation

Japan set out to enhance its nursing care services from around 1990, when the population aged as birthrates rapidly declined. It was also about this time that officials recognized that families are in a state in which they must handle a substantial range of nursing and other care (MOL Women's Bureau 1994, p. 1), and discussions began on creating the FCLR systems as a necessary measure to balance the needs for continued employment and family care by workers with a care recipient (Ibid, p. 1). Lack of welfare service development became a policy issue, with advances such as the Gold Plan³ being passed and community welfare services being expanded. Even with all this, nursing facilities and services were still insufficient. At the time, there were fears that introducing support for family caregivers, particularly for those balancing work with caregiving, could lead to cutbacks in terms of nursing care service expansion. The reality was that many people, mostly women, had their concerns about nursing care and were fettered by nursing care in continuing their employment. As nursing care developed into a social problem, the government started to act on creating the FCLR systems.

One precursor to creating the system was the ratification of the ILO Workers with Family Responsibilities Convention (ILO Convention C156). This convention, adopted by the ILO General Assembly in 1981, was ratified by Japan in June of 1995, coming into effect the following year. Its full official name is the "Convention concerning Equal Opportunities and Equal Treatment for Men and Women Workers: Workers with Family Responsibilities." C156 clearly specifies that informal care, meaning the child care and nursing care traditionally considered the woman's responsibility, is the shared responsibility of both men and women. Thus, it obligates governments and businesses to work to provide terms for a work-life balance for male and female workers. While the Employment (Women with Family Responsibilities) Recommendation of 1956 (ILO R123) addressed women alone, C156 applied to workers of either gender. Japan promoted national legislation leading up to the ratification of C156, including the Childcare Leave Law, established in 1991 and later rolled into the family care leave system in 1995. Now we will look at the kind of institutional design that took place before the system was adopted.

3.2. Discussions of the Review Council for Guidelines on Corporate Welfare System for Nursing Care

While the FCLR systems was initially promoted at the private level (with negotiations between worker and employer), the MOL also started providing backing around 1990 so that more companies would introduce the systems. In July 1991, the Review Council for Guidelines on Corporate Welfare System for Nursing Care (Chair: Masanobu Takanashi; hereinafter the "Review Council") was established with the expressed objective of "making it so that workers compelled to nursing care of their own family members can continue their professional life while performing said nursing care in order to prevent cessation of that professional life (i.e.:

³ The 10-year Promotion Strategy for Health and Welfare of the Elderly, established by the MOL in 1989.

help them continue their employment).” The Review Council 1) arranged details on the minimum system that should be ensured and items to be given in the standard system guidelines and 2) regulated matters considered desirable for considering promotion of welfare for workers regarding general nursing care in individual companies (MOL Women’s Bureau 2013: 74).

Their discussions were summarized as the Review Council Report in May of 1992. In the report, family care was defined as “direct care such as medical and recuperative care or personal care in the home, personal care and rehabilitation assistance in the hospital, and hospital assistance, and also including hospital admission and discharge procedures, attendant provision, hospital admission escort and emotional support, and arranging acceptance systems for home care, including help finding a caregiver after discharge.” Note that this definition includes elements of both direct care and arranging systems for home care services (Ibid, p. 74).

(1) Guidelines for the Family Care Leave Related System

In terms of company welfare systems, the Review Council Report gives the family care leave system and measures such as reduced working hours. The family care leave system was positioned as the system necessary to prevent workers from having to quit work against their will which allowed workers to take emergency leave for a fixed period when family requires help, such as a fixed period from onset of illness to the time symptoms stabilize. Thus, this system is not envisioned as being constant care, but rather is taken as being for persons who will continue working while taking emergency leave for a fixed period. To take leave, the employer must first to enter the leave system for the fixed continuous period. An intermittent leave system is appropriate to apply in accordance with company circumstances or individual case specifics. Workers are covered in this system for caring for a spouse, parents, children, or spouse’s parents. As siblings and other relatives are generally excluded, care in such cases was treated as being covered under “individual circumstances.” While the system is meant to be available to workers of any gender, it was thought unavoidable to restrict the scope of workers to exclude temporary workers, those with no intention of continued employment, those over the age of 65, and similar groups.

For leave periods, it was concluded that 3 months would be reasonable based on reports by the National Center for Geriatrics and Gerontology. The reports showed that 40% of those cared for were long-term hospital patients of advanced age and are assumed to need constant care, be bedridden, or need care for cerebrovascular disease, the leading cause of dementia. Three months was chosen as that is about the time it takes for symptoms to stabilize, during which time the caregiving burden on the family is greatest, and there is a great deal of care which cannot be given by non-family members. Also, the degree of urgency is highest for family care in the first 3 months, and workers cannot cope with just the standard annual paid leave or a leave of absence. (Ibid, pp. 77-78).

However, according to surveys conducted by the Review Council, of those companies with a set maximum allowance of days for family care leave, more than half provided a year or more for one instance, with the most companies (44.9%) offering a maximum leave period of 1

year and another 9.0% of companies offering more than 1 year. Therefore, the Council concluded that the maximum period should be set at 1 year. However, the line was drawn at 3 months in consideration of small- to medium-sized companies at which the system had not yet sufficiently been developed. Further, they expected workers to resolve leave period extensions by negotiating with their employer given their recommendation that systems be instated for longer periods of leave through talks with the worker, according to their circumstances (Ibid, p. 78). Given that continuous leave was the expectation, the number of leaves permitted is set to once per care recipient. Regarding work conditions, a reasonable handling for wages during the leave period, raises after leave, bonuses, whether to include the leave period in calculations for severance pay, position after leave and other conditions should be fully discussed between worker and employer, and workers are to be well informed of this in their rules of employment and through other means (Ibid, p. 78).

(2) Guidelines for Reduced Working Hours and Other Measures

In the Review Council Report, reduced working hours and other measures are touted as matters which should be strongly promoted for inclusion along with family care leave to answer the varied needs of workers and encourage their continued employment (Ibid, p. 79). In addition, they found it suitable to set the conditions for such measures as ensuring at least the minimum period, which was set at 3 months, the same as with the family care leave system. However, the report does state that if workers are expected to frequently use such measures past when the care recipient's condition becomes relatively stabilized, some may feel that ensuring measures for a period longer than care leave is preferred, and that this system should be used in accordance with individual company and worker-employer circumstances (Ibid, p. 79). As opposed to the family care leave system, which is for emergency preparations for a base footing for nursing care, reduced work hours and like measures are expected to be used in periods where symptoms have relatively stabilized. As such, it is interesting that they would indicate that such measures can be used for longer periods than family care.

(3) Promulgating the Family Care Leave System in government plans

In 1992, the same year the Review Council announced its report, the Japanese Government promulgated the family care leave system and formulated three plans stipulating its institution. The first, formulated in June 1, 1992, was the 7th Basic Employment Plan (FY1992-1996),⁴ the second was the 2nd Basic Policy on Welfare Measures for Female Workers (FY1992-1996), and the third was an economic plan called the 5-year plan for Quality Life Country⁵ (decision on June 30, 1992). Under the heading "Build an Environment Where Women Can Demonstrate their Abilities" in Chapter 4 "Respecting Individuals" Section 3 "Build an Environment for

⁴ See 7th Basic Employment Plan (Japanese) (<http://www.ipss.go.jp/publication/j/shiryoku/no.13/data/shiryoku/roudou/521.pdf>).

⁵ See 5-year Plan for a Quality Life Country: Co-existing with the Global Community (Japanese) (<http://www.ipss.go.jp/publication/j/shiryoku/no.13/data/shiryoku/souron/10.pdf>).

Universal Community Involvement,” the Plan includes working to promulgate the family care leave system and considering how to do so effectively, including legislation as necessary. This statement is in an economic plan. This illustrates that, in addition to finding its way into labor-related plans, the family care leave system was also considered as a means to bring about economic growth at the time.

3.3. Formulating Guidelines for the Family Care Leave related Systems

Given the Review Council Report, Guidelines for the Family Care Leave related systems. (FCLRS Guidelines) were formulated in July of 1992. With family care defined following the Review Council Report definition, the guidelines aimed to show companies how best to implement company welfare systems in order to help workers engaged in family care to balance their employment and family care (Ibid).

The FCLRS Guidelines provide for both the family care leave system and measures including reduced work hours. The system recognizes a certain period of leave for family care at the request of a worker with family requiring care and is treated as necessary to prevent involuntary retirement due to family care. Qualifying workers can be male or female, but it was considered unavoidable to set some limitations to require continued employment for a certain period and exclude day workers and other temporary workers, those with no intention of continued employment, those over the age of 65, and similar groups. Care recipients were set as being minimally required to include the worker’s spouse, parents, children, and spouse’s parents, with a system allowing the worker to take leave when such care recipient is impaired in their daily life due to physical or mental impairment. The leave period is set to at least 3 months, ensuring one leave for each care recipient. Work conditions are to be determined upon sufficient discussion between the worker and employer, and measures are to be taken to inform workers by stating in their rules of employment or otherwise. Also, individuals must not be put at a disadvantage by departing from this intent, such as by forcing the worker to use the family care leave system (Ibid, p. 69).

Reduced work hours and other measures are treated as an option for the worker for inclusion along with family care leave to answer the varied needs of workers and encourage their continued employment (Ibid, pp. 69-70). The optional measures offered are: 1) reduction of prescribed working hours, 2) a flextime system, and 3) earlier or later working schedules. To qualify for such measures, the worker requirements, care recipient restrictions and number of times used are at minimum to ensure the same levels as the family care leave system. Also, given that they are positioned as options alongside the family care leave system, the period for optional measures must be greater than 3 months. This last item goes beyond that given in the Review Council Report. Lastly, as with the family care leave system, wages and other work conditions are to be determined upon sufficient discussion between the worker and employer, with measures to be taken to inform workers by stating in their rules of employment or otherwise, and the worker is not to be put at a disadvantage.

With the enactment of the FCLRS Guidelines, the Ministry of Labour (MOL) held the

Conference for Employers to Promulgate the Family Care Leave Related Systems, a conference to educate company human resources personnel, and the Research Meeting for Introducing the Family Care Leave Related Systems, which focused on providing specific details to HR staff at companies considering introducing a system. The Ministry also offered administrative guidance on how to inform workers of the guidelines and promote introduction of the systems (Industry and Labor Study 1994, p. 7). The outcomes are partially seen in the 1993 Basic Survey on Management of Female Employment (MOL). More than half of companies of 500 employees or more have the FCLR systems, and close to 80% have set the leave period as 1 year. However, only 14.2% of companies with fewer than 100 employees have systems in place, showing that implementation is lagging in smaller companies.

The wave of companies introducing the FCLR systems coincided with a surge in personnel systems for civil servants. In August of 1993, the National Personnel Authority recommended working hours after implementing a full 5-day workweek, also proposing the FCLR systems for civil servants, calling it appropriate to introduce leave for family care in the public service. No further detailed analysis will be given here due to space constraints (see Omura 2011a), but 1993 was a year of proactive introduction for the FCLR systems in both private and public sectors, and the issue was actively discussed.

3.4. The concepts of the FCLR systems held by political parties and labor unions.

Efforts of political parties to legislate the FCLR systems became active and the Socialist Party, Komeito and the Democratic Socialist Party announced their concepts on the system around the same time (Omori 2012:83-88).

(1) Socialist Party's law proposal

“The Outline of the Draft Bill on Leave for Family Care Etc. (as tentatively named) “ announced by the Socialist Party on July 12, 1992 stated that the purpose of the draft bill was to reduce the burden of and promote continuous employment of employees with family responsibilities by ensuring that they were entitled to family care leave and thus to contribute to the welfare of employees. Therein, the term “nursing care” was defined to be “caring for a person who needs medical care for an injury or illness or who needs daily care because he/she suffers difficulty in his/her daily activities due to physical or mental impairment or senility. The draft bill contained provisions on family care leave (Section 3), period etc. of family care leave (Section 4), contracts that would be in violation of law (Section 5), prohibition of unfair treatment and ensuring reinstatement to the former position (Section 6), treatment of periods of family care leave (Section 7), supervision etc. (Section 8), income compensation during family care leave (Section 9), and other provisions (such as penalties, effective date, transitional measures, and establishment of related laws) (Section 10). What characterized the Socialist Party's proposed bill was that it included provisions such as that the period of family care leave shall be 1 year; in calculating the amount of wage increase and retirement allowance, an employee who took family care leave shall be deemed to have worked on a continual basis for a period equivalent to half of the period

of family care leave; and for income compensation during family care leave, an employee shall be paid a family care leave allowance in an amount equal to 60% of his/her former wage. The Socialist Party's proposal was focused on the family care system and did not touch on other systems.

(2) Komeito's law proposal

According to Komeito's "The Outline of the Draft Bill on Leave for Family Care and Child Care" dated July 3, 1992, the draft bill was aimed to establish a system related to family care/child care leave and reduced working hours in which when a family member of an employee needs care due to senility, illness or impairment, the employee can take care of the family member while continuing to work, and thereby to secure continuous employment for employees and to contribute to their welfare. The draft bill further provided for the definitions of the family care leave system and the reduced working hour system, applicable business places, application for family care leave, duties of employers, details of family care leave, income compensation, counting of years of service, prohibition of dismissal and unfair treatment, returning to work, improvement of conditions for family care leave, amendment to the employment insurance program, and other provisions. The distinctive point of the draft bill was that it contained provisions drawn up from employees' point of view such as that the period of family care leave and the period of reduced working hours shall be both limited to 1 year per the same family member in need of care; an employee who took family care leave shall be paid from the 4th day of the leave an amount equal to 60 hundredths of his/her normal wage, and an employee who works under the reduced working hour system for family care shall be paid from the 4th day of commencing such work an amount equal to 60 hundredths of his/her normal wage less the amount paid for such work, pursuant to the Employment Insurance Act; half of the periods of family care leave and of the periods of working under the reduced working hour system for family care shall be counted toward years of service. The draft bill further proposed, as additional conditions for the family care system, that the heads of the government and local governments shall improve care facilities in order to reduce the burden of employees and their family members to take care of family members who need care, and shall take measures to support home-based care including the provision of information relating to home care services, hospitals and family care facilities, and training and consulting on care technologies and other care-related issues.

(3) Democratic Socialist Party's law proposal

According to the Democratic Socialist Party's "Draft Bill for Family Care Leave and Reduction of Working Hours for Care Givers (as tentatively named)" dated July 12, 1992, the proposed bill was aimed to improve the supportive environment for family caregivers by promptly promoting the implementation of the FCLR systems while pointing out the importance of the system to complement the nursing care insurance system. The draft bill included provisions concerning the FCLR systems that covered issues such as applicable employees, the scope of individuals in need of care, the definition of individuals in need of care, the duration of family care leave, the

reduced working hours, and allowances for family care leave. Regarding the duration of family care leave, the draft provided that the duration “shall be such period of time as is necessary for the care but shall not exceed 1 year” and that during any period in which family care leave is not taken the working hours shall be permitted to be reduced if necessary for the purpose of caring and, depending on the degree of necessary care, the reduced working hours shall be continued beyond 1 year and up to 3 years. The proposal also mentioned the necessity of creating a nursing care insurance system and developing a system to support a variety of volunteers. With regard to the creation of a nursing care insurance system, the draft provided that “any individual taking care at home of an elderly person aged 65 or more who are bedridden or suffering from dementia⁶ shall be paid a ‘nursing care compensation benefit’ of 50,000 yen payable monthly.” In fact, later, when the nursing care insurance system was introduced, vigorous discussions were held concerning the payment of a nursing care benefit (nursing allowance) to the family caregivers, and so it may be said this proposed provision played a pioneering role in the creation of the nursing care benefit program. In reality, upon commencement of the nursing care insurance system, the payment of a nursing allowance (*kaigo teate*) was criticized for the reason that it could lead to fixation of caregivers and, as a result, it was decided that municipalities should pay, instead of a nursing allowance, a “reward for family care (*kazokukaigo iroukin*)”, but only to limited, qualified individuals.

(4) Labor union assertions on the Family Care Leave Related Systems

Looking at labor union actions, the FCLR systems and labor agreements were taken up as the important issues in the Japanese Trade Union Confederation’s (JTUC) 1992 Spring Offensive. At the time, 861 unions, including those who had already done so voluntarily, had decided to institute family care leave systems (Omori 2012: 1). Further, they had drafted an outline bill request for legislation on a family care leave system and reduced working hour system, and in February of 1992, prepared an early joint bill and requested four opposition parties (Japan Socialist Party, Komeito, Democratic Socialist Party, and Socialist Democratic Federation) and Councillors coalition to submit to the Diet (Omori 2012: 2). Then in April of 1992, in response to the Review Council Report, the JTUC started acting to include the worker’s perspective to the FCLR systems creation, listing its issues with the FCLR systems on six points: 1) Form of the family care leave system, 2) Care recipients (family members), 3) Leave periods and number of times, 4) Work conditions, 5) Measures including reduced working hours, and 6) Role of the government (Omori 2012: 59-60). For 3), they voiced how difficult it will be to determine one set period for all the different illnesses. Further, they stated that the set period should be a minimum of 1 year to increase the worker’s range of options, citing figures of 69.0% for leave periods of “1 year” and “more than 1 year” combined in the JTUC “Interim Report of the Study

⁶ Previously, dementia was called “chihoushou” in Japanese - a term implying stupidity or foolishness - but in 2004 it was decided by the Terminology Review Committee of the MHLW that the term “chihoushou” should be replaced with the term “ninchishou” which literally means a recognition disorder. Today, “ninchishou” has taken root and is generally used as a term to refer to dementia.

of the Family Care Leave System and Reduced Working Hour System” in contrast to the MOL survey results of 53.9%. Also, for 5), they highlighted the wording “an effective system from the standpoint of the caregiving situation and income” and recommended combining the family care leave system and reduced working hour system, reiterating that the period should be 1 year, just as with family care leave (Omori 2012: 59-60).

At the time, the FCLR systems bills of the three opposition parties included a limit of 1 year for leave periods for care of all care recipients, and the Japan Socialist Party and Komeito bills included paying 60% of wages to ensure income while on leave. This placed the bills more on the worker’s side than the legislated content. Also, the Komeito proposal went beyond employment-related assistance for caregivers to advocate the need for wider caregiver support, pointing out in 1992 areas that have finally been recognized as necessary in the comprehensive community care system shaped in the current nursing care insurance program. JTUC’s opinion was also that leave periods should be 1 year. The opposition party bills and labor union assertions suggest that 1 year in the family care leave system was widely recognized in designing a worker-friendly system.

4. Steps in revising the Family Care Leave Related Systems in the CCFCL Act

It took about 3 years after the child care leave system was institutionalized by the Child Care Leave Law of 1991 for the FCLR systems to become law. Its contents adhered to the FCLRS Guidelines. Along with the establishment of the new systems the name of the law was changed from “Act on Child Care Leave, etc.” (Child Care Leave Law) to “Act on the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care” (October 1, 1995 - March 31, 1999), and it obligated business owners to make efforts to set up as soon as possible systems based on the act for family care leave and for reduced working hours for the purpose of providing family care. After that, the law’s name was changed again, becoming “Law Concerning the Welfare of Workers Who Take Care of Children or Other Family Members Including Child Care and Family Care Leave” (hereafter referred to as the CCFCL Act, effective from April 1, 1999). Starting April 1, 1999, family care leave and other systems became an obligation for all business owners. After being institutionalized in 1995, revisions to the systems were made in 1997, 2001, 2004, 2009, and 2016 (Table 3).

With regard to the 2016 revisions, the Labor Policy Council’s Equal Employment Subcommittee indicated the relationships between the various systems in “The positioning of the support systems for harmonizing work and family care.” They said, “The family care leave system is presently positioned as an emergency response measure for the time it takes a family to decide on a long-term policy for care. It is appropriate to basically maintain this and position it as something for coping in situations in which someone takes a leave from work for a specific period of time in order to develop a care framework.” Of the family care short-term leave system, they said, “It is currently positioned as something to cope with nursing care insurance paperwork and to accompany family members who are in a condition requiring nursing care on

Table 3. Steps in the Establishment and Revision of Family Care Support Systems as Prescribed in the CCFCL Act

Year of revision	1995	1997	2001	2004	2009	2016	
Year took effect	1999	1999	2002	2005	2010 *1	2017	
<Ref.> Child care leave (Art. 5-10)	○		○	○	○	○	
Family care leave (Art. 11-16)	◎ *3 Made obligatory		○	○		○	
<Ref.> Sick/Injured child care leave (Art. 16.2-16.4)	-		◎ Obligated to make effort	○ Made obligatory	○	○	
Short-term family care leave (Art. 16.5-16.7)	-		-	-	◎ *1 Made obligatory	○	
Limitation on extra work hours (Art. 16.8-16.9)	-		-	-	△ *4	◎ *5	
Policy menu *2	Limitation on overtime work (Art. 17-18.2)	-	◎		○		
	Limitation on late-night work (Art. 19-20.2)	-	◎		○		
	Measures to reduce prescribed working hours, etc. (Art. 23)	◎			○	○	
	Other measures besides the "Measures to reduce prescribed working hours, etc." that the business owner must take (Art.21,22, 24-29)	◎		○		○	
	Support measures for subject workers (Art. 30-52)	◎					
	Provisions on ensuring viability (Art. 52.2-52.6)	-	-	-	-	◎ *6	

Legend: ◎ System established, ○ System revised, △ Established only as a support system relating to child care, - Not institutionalized

Note:

*1 For small- to medium-sized companies employing 100 workers or less on a regular basis, the child care-related articles and the obligation to offer short-term family care leave took effect on July 1, 2012.

*2 The article numbers listed for each system are the ones appearing in the 2009 revised act.

*3 From October 1, 1995 to March 31, 1999 this was an obligation to make an effort.

*4 In the support system relating to child care, it was made obligatory specifically with regard to workers raising a child under the age of 3 (excluding day workers).

*5 In the 2016 revised act, this was added not only as a support system relating to child care but also as a support system relating to family care.

*6 The date it took effect varies depending on the article. A support system for conflict resolution, a system for publicizing the names of companies who don't comply with the recommendations, and the administrative penalty for cases where companies don't report when asked to report, for example, took effect on September 30, 2009, and a reconciliation system was established on April 1, 2010.

Source: Compiled by the author based on MHLW law revision materials issued thus far and past laws.

hospital visits, etc. It is appropriate to maintain this and to position it as something to cope temporarily with tending to everyday nursing care needs.” In addition, they said, “It is appropriate to position the measures to reduce prescribed working hours, etc. (so-called selective measure obligations) and other systems of flexible work styles for the purpose of harmonizing work with nursing care as something for regularly tending to everyday nursing care needs.”

This section will organize things by systems in an effort to understand the process by which the FCLR systems have expanded since they were established with the 1995 revision. Please note that in this paper, unless otherwise specified, the names of articles in the CCFCL Act are those appearing in the 2009 revised act.

4.1. Overview of the Family Care Leave Related Systems

(1) Definition of family care leave

Family care leave is leave that a worker takes from work for the purpose of taking care of a subject family member in a condition requiring nursing care (Art. 2.2). A condition requiring nursing care means a condition requiring care (constant care) for a period of two weeks or more due to injury, sickness, or physical or mental disability. To determine whether a condition requires constant care, standards have been established in the categories of activities of daily living (ADL) and problematic behaviors (See ministerial ordinance (Enforcement regulations))⁷. The standards for ADL are, with regard to the five categories of walking, toileting, eating, bathing, and dressing/undressing, that full assistance applies to at least one category and partial assistance applies to two or more categories, and determination has been made that this condition will continue (Table 4). The standards for problematic behaviors are that “severe” or “moderate” applies to any one or more of seven categories: aggressive behavior, self-injury, handling fire, wandering, agitation, unhygienic behavior, and incontinence, and that determination can be made that this condition will continue (Table 5).

Although these standards differ from the determinations for requiring nursing care under the nursing care insurance system and are proprietary standards used for accessing the FCLR systems, they basically correspond to levels 2-3 of requiring nursing care under nursing care insurance. These were established with reference to the standards for entering a special nursing home for the elderly, since it had been pointed out in the past that the case of at-home nursing care was difficult to understand. Based on this point, a study group⁸ concerning “Standards for determining if a condition requires constant nursing care” under the family care leave system indicated an intent to relax the standards for these requirements. In July 2016 new standards in accordance with this plan were revealed, and they are expected to take effect in 2017.

⁷ See administrative notification (Dec. 28, 2009, Employment Security Bureau 1228 no. 4, Equal Employment, Children and Families Bureau 1228 no. 2).

⁸ See “Standards for determining if a condition requires constant nursing care” under the family care leave system (http://www.mhlw.go.jp/file/05-Shingikai-11901000-Koyoukintoujidoukateikyoku-Soumuka/0000126239_df). Please note that this material was distributed at the time of the first meeting, held on June 17, 2016.

Table 4. Standards for Determining if a Condition Requires Constant Nursing Care: Activities of Daily Living

Action \ Level	1 Can do on their own	2 Partial assistance	3 Full assistance
A. Walking	•Can walk on their own, though they use a cane and it may take time	•Can walk if attendant lends a hand or shoulder	•Cannot walk
B. Toileting	•Can do in restroom by themselves both day and night •Can use restroom by themselves in day, bedpan	•With assistance, can do it in a simple bedpan or basin •Uses diapers at night	•Uses diapers constantly
C. Eating	•Can eat by themselves if using a spoon, etc.	•Can eat with partial assistance and if using a spoon, etc.	•Can only eat if fed lying down
D. Bathing	•Can take bath and wash by themselves	•Can get in bath by themselves but need assistance only when washing •Need assistance to get in and out of bathtub	•Cannot do by themselves, so must be fully assisted •Uses a special bathtub •Requires bed baths
E. Dressing/undressing	•Can dress/undress by themselves	•Can dress/undress if lent a hand	•Cannot do by themselves, so must be fully assisted

Source: MHLW Prefectural Labor Bureau Equal Employment Office, “Outline of the CCFCL Act”

Table 5. Standards for Determining if a Condition Requires Constant Nursing Care: Problematic Behaviors

Action \ Level	Severe	Moderate	Mild
A. Aggressive behavior	Exercises violence against people	Engages in rowdy behavior	Speaks and acts aggressively
B. Self-injury	Attempts suicide	Hurts their own body	Rips and tears up their own clothing
C. Handling fire	Constantly plays with fire	Often handles fire carelessly	Sometimes handles fire carelessly
D. Wandering	Walks around aimlessly outdoors	Walks around aimlessly indoors	Sometimes paces in their room
E. Agitation	Is always agitated	Often gets agitated and raises a fuss	Sometimes gets agitated and raises a fuss
F. Unhygienic behavior	Plays with human waste	Urinate and defecates in random places	Soils their clothing, etc.
G. Incontinence	Is constantly incontinent	Is sometimes incontinent	If guided, goes to toilet by themselves

Source: MHLW Prefectural Labor Bureau Equal Employment Office, “Outline of the CCFCL Act”

The new standards put out by the study group permit use of the family care leave system if any of the following applies: level 2 or above according to the determinations for requiring nursing care under nursing care insurance; of the 12 categories such as walking, meals, and dressing/undressing listed in the determination standards presented earlier, full assistance is

required in at least one category or partial assistance is required in multiple categories. In addition, the standards permit people to access family care leave in part even at level 1 of requiring nursing care (when partial assistance is required for meals, toileting, going out, etc.). Consequently, for family members with dementia, which requires assistance even when the condition requiring constant nursing care is mild, workers can easily access family care leave.

(2) Subject workers

When the system was first established (in 1995), it applied to workers, excluding those employed day-to-day and on a temporary basis, who were caring for a family member in a condition requiring nursing care. In addition, the labor-management agreement stipulated that 1)workers employed for a period of under a year, 2)workers whose employment relationship would clearly end within 93 days (the regulation in 1995 stated within 3 months), and 3)workers working 2 days or less per week could be exempted (Law, Art. 12.2; Ordinance for Enforcement, Art. 23).

This provision was revised in 2004 to expand which workers were subject. Temporary workers gained access to family care leave, and those to whom any of the following applies were added as subjects of the family care leave systems (Art. 11, proviso of paragraph 1): 1)the period of continual employment by the same employer is 1 year or more, 2)they are expected to be continually employed after the day on which 93 days elapse from the scheduled start date of family leave (93 elapsed days) (unless it is clear that their employment contract period will expire and not be renewed during the subsequent year after the 93 elapsed days). As a result, except for those employed on a day-to-day basis, all workers became subject.

Furthermore, in the 2016 revision, the conditions for temporary workers to access family care leave were relaxed. Of the three conditions that were the standards in the 2004 revision, no. 1 remained the same, no. 2 was abolished, and the requirement for no. 3 was changed to it being unclear whether the contract would be renewed by the date that 6 months had passed after the period of 93 elapsed days.

(3) Scope of subject family members

The family members recognized as being subject are spouses (including common-law unions), parents, children, and spouse's parents, as well as, by ministerial ordinance, grandparents, brothers, sisters, and grandchildren who live in the same household and are being provided for. At present, this scope is also under consideration for reform, and it is expected that new requirements will be applied beginning in January 2017. Under the new requirements, when caring for a grandparent, brother or sister, or grandchild, the requirements of their living in the same household and being provided for will be disregarded. This is because, with the decline in households with three generations living together and the transformations in family structure, it was deemed necessary to also recognize family care leave for grandparents, etc. who live apart and are not being provided for. The Japan Institute for Labour Policy and Training (JILPT, 2016) estimates that due to the above-mentioned relaxing of requirements for subject family members, about another 12% of working caregivers will gain access to family care leave.

(4) Period and number of times

When the system was first established, the period of time that workers could access was until the date that 3 months had elapsed, counting from the day after the scheduled start date of the nursing care (in cases where the measures to reduce working hours, etc. to be mentioned later were applied, the time was 3 months in total). The number of times leave can be granted is once per subject family member.

After that, in the 2004 revision the limitation on the number of times leave can be accessed was relaxed, and family care leave became possible once for each time that a subject family member reaches a condition requiring nursing care, for up to 93 days over a career (in cases where the measures to reduce working hours, etc. were applied, the period is 93 days in total), for the period the worker proposes (Art. 11.2). Family care leave can only be taken for a second time when the family member who has recovered from the condition requiring nursing care again reaches a condition requiring nursing care, with the same being true for the third time. Even if family care leave is taken multiple times, the maximum number of days of leave that can be taken for each subject family member was set at 93 days over a career.

Under this rule, leave would not be granted multiple times for the same condition requiring nursing care. This point was changed in the 2016 revision. It became possible to obtain leave for a total of 93 days over up to 3 separate periods. Also, the care period was no longer to be counted as a total of the family care leave system and the measures to reduce prescribed working hours, etc., and it became possible to obtain up to 93 days in family care leave alone. The reason for granting segmented access was that in the results of the Survey on Combining Work and Care carried out by the JILPT, the percentage of workers leaving or changing their jobs was lower in cases when they could take segmented family care leaves than in cases where they were able to extend their family care leave, resulting in a higher rate of continual employment.⁹ Nevertheless, a single leave period should be 2 weeks or more, in order to avoid making the company's employment management cumbersome.

(5) Procedures and other considerations

To apply for family care leave, a subject family member must be in a condition requiring nursing care, and it is necessary to state clearly the intended start date and end date of the leave and to present these in advance in writing to the business owner. Upon receiving the application, the business owner must report to the worker promptly 1)the fact that the request for family care leave was received, 2)the intended start date and end date of the family care leave, and 3)if rejecting the family care leave, that fact and the reason thereof.

The business owner cannot, in principle, reject an application from a worker for family care leave (Art. 12.2), and they must not dismiss or otherwise treat a worker disadvantageously

⁹ See material 3 (Nov. 2, 2015), Labor Policy Council Employment Security Subcommittee Employment Insurance Group Meeting (106th meeting). (http://www.mhlw.go.jp/file/05-Shingikai-12602000-Seisaku-toukatsukan-Sanjikanshitsu_Roudouseisakutantou/0000103635.pdf)

by reason of the application for family care leave (Art. 16)¹⁰. When established in 1995, only the “prohibition of dismissal of the worker” was regulated, but in the 2001 revision, in addition to the restriction on dismissal during leave, a “prohibition of otherwise disadvantageous treatment” was specified.

4.2. Measures business owners must take (Chapter 9, Art. 21-29)

Since the FCLR systems were first established, the CCFCL Act stipulated that business owners must make efforts to take measures to disseminate provisions relating to family care leave (Art. 21), necessary measures relating to employment management (Art. 22), and special reemployment measures (Art. 27). In addition, it also obligates business owners to implement measures to reduce prescribed working hours, etc. to allow workers caring for subject family members in a condition requiring nursing care to provide that care (Art. 23). As for measures to reduce prescribed working hours, etc., the MHLW sets four measures, of which business owners must implement at least one. The four measures are: 1) a reduced working hour system, 2) a flextime system, 3) a system of advancement or postponement of the hours for starting/finishing work, without changing the prescribed working hours in a day (a so-called staggered commuting system), and 4) a system of subsidizing family care service costs or an equivalent system. The specific contents of these systems are presented in notices (March 18, 2002, Employment Security Bureau no. 0318009, Children and Families Bureau no. 0318003). Workers can, for each subject family member, use any measure for a period of at least 93 consecutive days (if they have taken family care leave for a period, they can take a total of 93 days when combined with that leave, which used to be 3 months at the time of the 1995 revision). The subject family members are the same as those for the family care leave system. The regulation for this period was amended at the time of the 2004 revision to “93 consecutive days for each condition requiring nursing care for each subject family member.” And the period the measures can be used was set at 93 days total combined with family care leave.

In the measures to reduce working hours, etc. in regard to workers taking care of a child less than 3 years of age, five measures including, in addition to the four¹¹ listed above, 5) measures to not require them to work more than the prescribed working hours (exemption from overtime work) are specified by the MHLW, and workers were only required to implement at least one of them. However, the measures for family care do not include “measures to not require them to work more than the prescribed working hours” (MHLW Equal Employment, Children, and Families Bureau, Work and Family Harmonization Division, 2004, p.197). Also, in the 2009 revisions, among these measures relating to child care, 1) reduced working hours system and 5) exemption from overtime became obligatory measures (institutionalized) for

¹⁰ The specific contents of the disadvantageous treatment that is prohibited are set forth in the MHLW's guidelines (Dec. 28, 2009, MHLW report no. 509).

¹¹ In the case of child care-related measures, 4) a system for subsidizing the costs of family care service or an equivalent system refers to a system of setting up and operating a child care facility or the equivalent.

business owners with regard to workers taking care of a child less than 3 years of age.¹²

In contrast, with relation to family care, the four measures are obligations for business owners to make an effort, but in the 2016 revision, workers became able to use the granted time period twice or more during the 3 years from when they start to use it, separately from family care leave. This is a big change. Also, the “exemption from overtime work for the purpose of providing nursing care,” which for a long time was not recognized as a family care system, was newly established with the 2016 revision.

In addition, at the time of the 2001 revision, consideration for assignment of workers (Art. 26) and trying to appoint a promoter for providing a work-life balance (Art. 29) were added as measures that business owners must take. In the 2009 revision, a provision was added restricting business owners from dismissing or otherwise treating disadvantageously a worker who applies for the measures to reduce prescribed working hours, etc. (Art. 23.2). Moreover, in the 2016 revision, consideration to prevent harassment was added in the form of a new Article 25¹³, as a “measure of employment management relating to problems caused by words and actions in the workplace relating to child care leave.” Until then, while there was a regulation prohibiting disadvantageous treatment for reasons such as pregnancy, childbirth, child care leave, or family care leave, in addition to that, measures to prevent behavior by a supervisor or coworkers that is harmful to the workplace environment for reasons such as pregnancy and childbirth, child care leave, family care leave, etc. were made obligatory. Specifically, this is prescribed in the “Guidelines relating to measures that business owners should take to ensure a work-life balance for workers who are carrying out or will carry out child-raising or nursing care for family members,” and it sets forth 1)planning of policy by the business owner and publicity and education regarding the plan, 2)development of the necessary framework for appropriately handling consultations (including complaints), 3)prompt, appropriate response following harassment in the workplace relating to child care leave, etc., 4)measures to eliminate causes and factors contributing to harassment relating to child care leave, etc., and 5)measures to be taken along with the measures in 1-4.

4.3. Limitation on late-night work (Art. 19-20.2)

Along with the Equal Employment Opportunity Law revised in June 1997, the regulation against late-night work for women in the Labor Standards Act was eliminated. This introduced the possibility of time frames arising where, due to both parents engaging in late-night work, there is no one to care for their child(ren), or there is no one to care for family members requiring nursing care. Out of consideration for this, a new limitation on late-night work was established in the CCFCL Act to enable workers to engage in child care and family care while working.

¹² With regard to systems other than the 1) reduced working hour system and 5) exemption from extra work hours, namely 2) flextime system, 3) a system of advancement or postponement of the hours for starting/finishing work, and 4) a system of setting up and operating a child care facility or the equivalent, these continued to be obligations for business owners to make an effort with regard to workers taking care of a child less than 3 years of age.

¹³ Article 25 of the CCFCL Act was a missing number in the 2009 revision.

(MOL Women's Bureau 1998, p. 70). If there is a request from a certain worker providing family care, except for cases where it would impede the normal operation of business, they cannot be made to work in a late-night time frame (10 p.m.-5 a.m.). However, non-subject workers are 1)workers who have worked continually for the same business owner for less than a year, 2)workers who have a family member living in the same household who can normally care for the subject family member late at night, 3)workers whose prescribed number of work days per week is 2 days or less, 4)workers whose prescribed work hours are all late at night (MHLW Prefectural Labor Bureau Equal Employment Office, 2015, p. 60).

The period for which the limitation on late-night work can be requested is between 1 month and 6 months per time, and the start date and end date must be specified and the request made by 1 month before the start date. The period for which this measure can be obtained is not restricted to a certain period and is set to last until 1)when the worker stops caring for the subject family member or 2)when the worker receiving the limitation on late-night work begins family care leave. There is also no limit on the number of times a request can be made. The range of subject family members is the same as those for the family care leave system. In the 2009 revision, a prohibition was added (Art. 20.2) against the dismissal or otherwise disadvantageous treatment of a worker who requests a limitation on late-night work.

4.4. Short-term family care leave system (Art. 16.5, 16.6)

A short-term family care leave system was established in the 2009 revision and made obligatory for business owners. This is a break workers can obtain upon request for the purpose of providing nursing caring for or taking care of a subject family member in a condition requiring nursing care. "Providing nursing care for or taking care of a subject family member" means things like accompanying them on hospital visits and doing the necessary paperwork for them to receive nursing care services. This leave can be taken one day at a time with a limit of 5 days per year if there is one subject family member and 10 days per year if there are two or more. As a rule, there is no pay during short-term family care leave. Subject workers are workers except day workers and some temporary workers¹⁴, and the range of subject family members and the definition of the conditions requiring nursing care are the same as in the family care leave system. In this system, if a worker requests it, the business owner cannot reject their access to it. This system was enforced gradually according to companies' size. For companies exceeding 100 people, it took effect June 30, 2010, but if at that point there were 100 or less regularly-employed employees, the date the regulation applied was July 1, 2012.

When the system was established, the guidelines advised business owners to approve access to the short-term family care leave system on an hourly or half-day basis, for example, to enable its flexible use¹⁵. This part was incorporated into the law in the 2016 revision. It became

¹⁴ "Some temporary employees" refers to 1) workers whose period of continual employment by the business owner is less than 6 months and 2) workers whose prescribed number of work days per week is 2 days or less.

¹⁵ See "On the enhancement of measures to support work and family life balance" by the Labor Policy Council's Equal Employment Subcommittee (2016) (http://www.mhlw.go.jp/file/05-Shingikai-12602000-Seisakutoukatsukan-Sanjikanshitsu_Roudouseisakutantou/0000121827.pdf) and "Support systems for

possible to take short-term family care leave on a half-day basis or on the basis of half of one's prescribed work hours for a day. This was a revision for coping with everyday nursing care needs. With this, it became possible to take off on a less than full day basis just like with the Sick/Injured Child Care Leave, which is similar in terms of being a break for the family. However, workers with 4 hours or less of prescribed working hours per day were exempted, and for them it can only be accessed on a full-day basis. Also, workers for whom, in the context of the nature of their work duties and their actual situation and arrangement, accessing leave on a half-day basis would be difficult can be exempted by means of a labor-management agreement. Moreover, in the labor agreement, a "half day" can also be defined as something other than half one's prescribed work hours, such as 3 hours in the morning or 5 hours in the afternoon.

4.5. Regulations on ensuring viability (Art. 52.2-52.6, Art. 56.2, Art. 68)

In order to ensure the viability of the systems, at the time of the 2009 revision, aid for conflict resolution, mechanisms for reconciliation, a publicizing system, and administrative penalties were established. Until then, conflicts pertaining to pregnancy and childbirth were subject to the reconciliation system, and with this, conflicts pertaining to accessing family care leave also became subject to this system. Also, even if someone violated the CCFCL Act, there were no punitive measures for companies. The first step in the revised system is to explore the path of autonomous resolution of the complaint between the worker and the company (Art. 52.2). If that fails, they are then able to treat it as a complaint or conflict regarding disadvantageous treatment due to taking family care leave, etc.¹⁶ and utilize the aid for conflict resolution from the director of the Prefectural Labor Bureau (Art. 52.4) and the adjustment system via a reconciliation committee (Art. 52.5, 52.6). In the former, upon request by the parties involved, the director of the Prefectural Labor Bureau provides advice, guidance, or recommendations. In the latter, if there is an application for adjustment by the worker or the business or both, reconciliation is carried out by a third party, Work-Life Balance Support Conciliation Conference, composed of academics and other experts. This system applies *mutatis mutandis* Article 52.6 of the Equal Employment Opportunity Law. Added to this were a system for publicizing the names of companies who don't comply with the recommendations (Art. 56.2) and the imposition of an administrative penalty of 200,000 yen or less for companies submitting false reports when asked to report (Art. 68).

harmonizing work and family care (on the CCFCL Act)" by the study group (2016) concerning "Standards for determining if a condition requires constant nursing care" under the family care leave system (<http://www.mhlw.go.jp/file/05-Shingikai-11901000-Koyoukintoujidoukateikyoku-Soumuka/0000126238.pdf>).

¹⁶ Taking family care leave, etc. refers to "child care leave, family care leave, short-term leave to take care of a child, short-term family care leave, limitation on extra work hours, limitation on overtime work, limitation on late-night work, measures to reduce prescribed working hours, etc., disadvantageous treatment by reasons of child care leave, etc., consideration for assignment of workers, disadvantageous treatment by reason of the fact that they requested conflict resolution aid or reconciliation" (MHLW Prefectural Labor Bureau Equal Employment Office, 2015, p. 85).

4.6. Exemption from overtime work for the purpose of family care (Revised in 2016 and newly established)

In the 2016 revision, a new system was included. That is the exemption from overtime work for the purpose of family care. This was introduced earlier as a child care system, but for a long time it was not set up as a family care system. It was established through the deliberation of the Labor Policy Council's Equal Employment Subcommittee "as something to meet everyday family care needs" (Labor Policy Council's Equal Employment Subcommittee 2016). As for the period it can be used, since it is a system that helps people meet family care needs while working full time, it lets people request it until family care ends. Subject workers are all workers except day workers and those exempted by labor-management agreements. However, the business owner may reject the request if it impedes normal business operations. This takes effect January 1, 2017.

This concludes the summarization of the changes applied in the legal revisions leading up to the current systems and the contents of the latest revisions. In the current law, the regulations on matters relating to family care are: family care leave system, short-term family care leave system, limitation on overtime work, limitations on late-night work, measures the business owner must take, prohibition on disadvantageous treatment, aid for conflict resolution, etc. (called the family care leave and other systems). However, compared to the child care systems prescribed in the same law, aspects in which the systems lacked substance could occasionally be seen. In the latest 2016 revisions, through the widespread establishment and revision of systems relating to family care support, this was improved, and it has become a system that is more on the side of workers. Since the policy challenges of countermeasures for the declining birth rate and support for harmonizing work and child care came first, the establishment and revision of child care leave systems stood out. But the recent revisions can be said to have taken place at a time when policies relating to support for harmonizing work and family care had begun to take priority. Nevertheless, an extension of the time that family care leave could be accessed, which had been debated since the time the 1992 guidelines were created, was not achieved.

5. Financial support for working caregivers

5.1. Family care leave benefits

For the business owner, there is no obligation to pay wages during family care leave, but if the person is insured under the Employment Insurance Act, as a measure for securing income during family care leave, if they meet certain requirements, family care leave benefits will be provided (Employment Insurance Act Art. 61.6)¹⁷. Family care leave benefits are a type of employment continuation benefits under employment insurance¹⁸. The funding comes from insurance

¹⁷ When accessing the short-term family care leave system established at the time of the 2009 revision, as a rule, there is no pay.

¹⁸ The employment continuation benefits prescribed in the Employment Insurance Act include, in addition to family care leave benefits, child care leave benefits and old-age employment continuation benefits.

premiums paid half by the employer and half by the worker and from government tax revenues covering 1/8 of the cost.

The percentage of family care leave benefits was 25% of pre-leave wages in April 1999 when the family care leave system were established, but since the 2000 revision it has been raised to 40%. The requirement for its provision is that when a person insured under employment insurance takes family care leave, during the 2 years prior to the day they started that leave, there were a total of 12 months or more in which the number of days forming the basis of their wage payment was 11 days or more. The number of people receiving benefits in FY 2014 was 9,600, so while it has increased year by year from 6,082 people in FY 2005, the number of users is still quite small (MHLW, Annual Report on Nursing Care Insurance Programs). Also, due to the increase in the number of people receiving benefits, the total amount of benefits is increasing. However, while the average monthly benefit amount received in FY 2005 was 98,739 yen, it decreased by FY 2014 to 93,918 yen, a level largely unchanged from FY 2009.

In the legal revision of 2016, “In light of the fact that, for example, a rapid response is called for to prevent people from leaving their jobs due to caring for family members; securing income during family care leave is anticipated to have a positive effect on employment continuity; and for child care leave benefits, which are also a form of employment continuation benefits, the benefit percentage was then gradually raised until, after the 2014 revision, it was set at 67% for the first 6 months after starting leave¹⁹,” it was decided to raise family care leave benefits to 67% of pre-leave wages. The date this takes effect is August 1, 2016. Child care leave benefits were institutionalized in April 1995 ahead of family care leave benefits. The initial benefit percentage was 25% (child care leave basic benefit of 20% and benefit for returning to work of 5%). But in the Employment Insurance Act revision of 2000 it was expanded to 40% (child care leave basic benefit of 30% and benefit for returning to work of 10%) and in the 2007 revision to 50% (child care leave basic benefit of 30% and benefit for returning to work of 20%, as a provisional measure until FY 2009). In the 2009 revision, the benefit percentage remained at 50%, but the cutoff for the provisional measure was extended to “for the time being,” and the full amount began to be provided during the leave period. Then in the 2014 revision, for up to 6 months after the start of child care leave it was raised to 67% (However, after 6 months, that is reduced to 50% of what one’s wages were prior to starting leave). Based on this system revision, it is laudable that when the family care leave system was first introduced the benefit amount was supplied by employment insurance, but the benefit percentage did not change for 10 years after that. While support for balancing work and child rearing was made into a priority issue, it must be said that support for harmonizing work and family care lagged a step behind.

Family care leave benefits are not taxed, so income tax and the special reconstruction income tax are not deducted from them. However, since residence tax is determined for the applicable fiscal year based on the previous year’s income, it is still necessary to pay it during

¹⁹ Excerpted from the material 5 (Nov. 25, 2015), Labor Policy Council Employment Security Subcommittee Employment Insurance Group Meeting (108th meeting). (http://www.mhlw.go.jp/file/05-Shingikai-12602000-Seisakutoukatsukan-Sanjikanshitsu_Roudouseisakutantou/0000105241.pdf).

family care leave. Still, since this benefit is not taxed, it is not included in the income used to determine the next fiscal year's residence tax.

5.2. Exemption from health insurance and employees' pension insurance premiums

If workers insured under health insurance and employees' pension insurance access the child care leave system based on the CCFCL Act for the purpose of raising children under the age of 3, during that period, both the insured person and the business owner are exempted from paying health insurance premiums and employees' pension insurance premiums (Health Insurance Act Art. 159 and Art. 159.3, Employees' Pension Insurance Act Art. 81.2, Art. 81.2.2)²⁰. Even during the period when they are exempted from paying insurance premiums, they can use their health insurance card and receive insurance benefits. However, if they access the family care leave systems, this sort of exemption from health insurance and employees' pension insurance premiums does not exist.

6. Challenges facing the Family Care Leave Related Systems

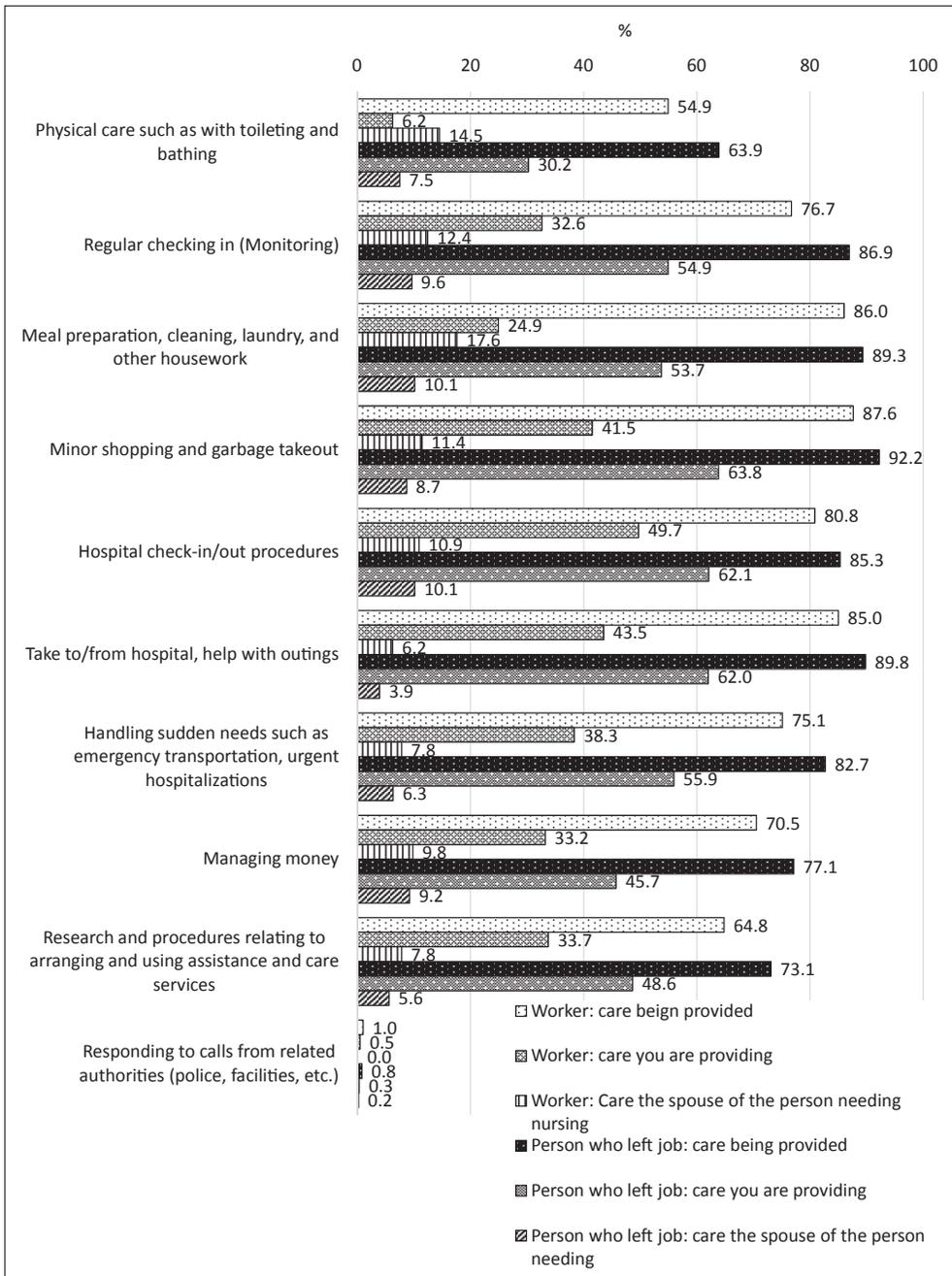
The 2016 revisions can be said to have vastly improved the FCLR systems. But the time period for the FCLR systems and tax and social insurance premiums during family care leave are points on which there was still room for review. At the conclusion of this paper, we will add a bit of discussion regarding these points.

6.1. The family care leave period and the period for accessing measures such as the system for reduced working hours

As the pending aging problem approaches, there are cases where it is necessary for family caregivers not only to handle the procedures for entering a care facility but also to directly provide care. The MHLW announced survey results showing that in 2014 there were 523,584 elderly people unable to be admitted into a special nursing home for the elderly, 87,000 of whom (16.5%) were applicants who lived at home and had a high ranking of 4 or 5 in terms of their need for nursing care (compiled March 2014)²¹. This indicates that people cannot necessarily be admitted to a facility right away, so some workers are probably serving as caregivers for their parents directly, even when the need for nursing care is high. According to Mitsubishi UFJ Research & Consulting (2013), compared to workers who continue working, a larger proportion of people leaving their jobs to care for family members are themselves providing care, including physical care such as with toileting and bathing (Fig. 3). To reduce the burden on family caregivers, the enhancement of care services is of course essential. While it is also necessary to

²⁰ See MHLW Prefectural Labor Bureau (2015), "We will financially support people who take child care leave and family care leave," p. 6, (<http://www.mhlw.go.jp/topics/2009/07/dl/tp0701-1y.pdf>). As for employment insurance premiums, for the child care leave system as well, there is no exemption system for insurance premiums. However, employment insurance premiums are calculated by multiplying the wage amount by the employment insurance premium rate, so if wages are zero during child care leave, just like income tax the employment insurance premium will also be zero.

²¹ See http://www.mhlw.go.jp/file/05-Shingikai-12301000-Roukenkyoku-Soumuka/0000115390_1.pdf.



Source: Mitsubishi UFJ Research and Consulting [2013], pp. 123-124.

Figure 3. Types of Care Being Provided and Division of Responsibilities within the Family, Broken Down by Workers and Those who Left their Jobs

avoid a situation where people are on standby for an intensive care home for the elderly but cannot use the services, there are also cases in which the caregiver or the person needing nursing care prefers for the care to be provided by a family member, and they should be supported, too, in a way that allows them to continue care. Considering the fact that not all households entrust nursing care in its entirety to nursing care services, the family care leave systems should probably be redesigned to make them easier to use.

A revision recently passed permitting the segmented use of family care leave, and it can be viewed as a favorable thing from the users' perspective that even though the upper limit is 93 days, it can be taken in up to three different segments. However, for caregivers with no end in sight, the upper limit of 93 days is not necessarily a sufficiently long period. The average life expectancy for Japanese in 2014, announced by MHLW in July 2015, was 86.83 for women and 80.50 for men, the highest on record. Meanwhile, the healthy life expectancy in 2013 was 74.21 for women and 71.19 for men. That means there is a gap of about 12 years for women and about 9 years for men. While this does not mean that nursing care will be required during that entire period, a nursing care period of 10 years or so could be possible. In fact, according to the Nationwide Survey on Life Insurance by the Japan Institute of Life Insurance (JILI, FY 2015), the average nursing care period was 4 years and 11 months, with 29.9% of people having a nursing care period of 4 years or more and 15.9% of 10 years or more. The family care leave system allows one leave for each condition of the person needing nursing care, and the leave that can be taken is a leave for a continuous, period of time bundled together. Therefore, after the person recovers, but their condition requiring nursing care worsens again, while the worker can take family care leave again, in that event they can only take family care leave for the number of days left after subtracting the first family care leave period from the upper limit of 93 days (MHLW Prefectural Labor Bureau, Equal Employment Office 2015, p. 30).

The reason the family care leave period was set at 93 days is that, in the debate on introducing the family care leave systems, as stated by the then-Ministry of Labor (MOL) in revealing the grounds thereof, they used cerebrovascular disease as the typical case of an elderly person requiring nursing care. In the cerebrovascular disease model, it normally takes about 3 months from the onset of symptoms until the condition of the person requiring nursing care stabilizes (MOL Women's Bureau, 1994a; MOL Women's Bureau, 1994b). Under the revised CCFCL Act that took effect in April 2005, the family care leave period was changed from "one time up to 3 months per subject family member" to "once per instance of reaching a condition requiring nursing care, for a total of up to 93 days." And while in the 2016 revision, it became possible to take the leave segmented into 3 times, the 93-day limit remains. It is presumably because of this that the cerebrovascular disease model is the standard used for nursing care. However, if we look at the main reasons that nursing care becomes necessary, while cerebrovascular disease (stroke) is indeed the highest, at 18.5%, there is not necessarily such a great gap between it and dementia, at 15.8%, and debilitation due to old age, at 13.4% (MHLW, 2013 Comprehensive Survey of Living Conditions). Actually, even in the 2016 legal revision, consideration for caregivers who have a family member with dementia was one of the reasons

for relaxing the standards for determining if a condition requires constant care. Therefore, it is imperative to add some of the diverse reasons for reaching a condition requiring nursing care and to take another look at extending the family care leave period.

6.2. Difficulty of labor-management negotiations

The CCFCL Act approves family care leave and the related systems as a right of both male and female workers. On the other hand, Omura (2011b, p. 10) says it has been pointed out “since the beginning that measures are not in place to facilitate the exercise of those rights.” These were left to “voluntary negotiations and discussions between labor and management, out of consideration for the burden to the business owner’s side in terms of business management.” According to the 2015 Survey on Labor Union Membership by the Employment, Wage and Labour Welfare Statistics Division of the Statistics and Information Department in the MHLW Minister’s Secretariat, the labor union membership rate for private companies in Japan²² was 16.3%. When looked at by company size, for companies with 1,000 employees or more, it was 45.7%; for those with 100-999 it was 12.2%; and for those with 99 and fewer, it was 0.9%. The membership rate for those under 1,000 people is especially low, making it difficult to improve labor conditions through labor-management negotiations at each individual company.

In the Diet deliberations on the formulation and revision of the CCFCL Act, at first private companies were expected to arrange even better working conditions through labor-management negotiations (Omura 2011a, 2011b). But the union membership rate, which has tended downward since peaking at 55.8% in 1949, dropped as far as 17.4% in 2015, including public officials. In a situation where only around one in six workers is part of a labor union, the conditions are such that the government must regulate this in the law and arrange better working conditions. The 2016 revision of the CCFCL Act came about because, in an effort to reach the Abe administration’s goal of “zero people leaving their jobs to care for family members,” a big shift took place to achieve balance between work and family care. The contents prescribed in the law need to be recognized as nothing but minimum standards, and it is necessary to create a surge of working environment improvements throughout society as a whole in which each individual company develops contents that go above and beyond the law. Otherwise, there will likely be no decrease in the number of people who, without a forum for negotiating with management, give up on achieving balance between work and family care and quit their jobs out of self-defense in order to protect their lifestyle and that of their families. If the number of people quitting their jobs increases, there will likely be those whose income decreases and who experience financial hardship. At a time when labor shortages are a concern, in part for the purpose of taking steps to pre-empt this kind of negative cycle, further enhancement of policies to support balance between work and family care is required, as well as the establishment of an environment in which

²² The labor union membership rate shows the proportion of labor union members among a company’s employees. This is calculated by dividing the number of labor union members obtained in the Survey on Labor Union Membership by the number of employees (raw figures from June) in the Labor Force Survey conducted by the Statistics Bureau of MOI.

healthy labor-management negotiations can take place.

6.3. Enrichment of both the family care leave related systems and nursing care services

The family care leave related systems, since they were first made into law, were not envisioned in the first place as something making all nursing care periods into leaves in order for workers to engage directly in care such as full assistance and training for independent living (MOL Women’s Bureau 1994b). That said, in the rules that many companies had been introducing at the time, as well as the bill proposed by the three opposition parties (the SPJ, Komeito, and the DSP) and the assertions of the JTUC, the leave period was for 1 year (Omori 2012, pp. 59-60, pp. 83-88). Despite that, in the subsequent process of becoming law, the initial part of the family care period -- when urgency is high and when, without nursing care by the worker, the person requiring nursing care would have extreme difficulty in going about life -- was top of mind when the leave period and the number of times it could be taken were established. After all, this system was “set up not on the basis of the worker taking off work to provide nursing care, but as a minimum period under the law to enable them to continue working in some form and somehow get through nursing care, just for the period during which workers had to provide care themselves until the long-term nursing care system was ready”²³. As a result, the family care leave systems, on the flip side of the coin, called for the enhancement of social services

Table 6. Efforts Aimed at Supporting Balance between Work and Family Care, and Proportion of Efforts Being Undertaken

Unit: %

		Efforts being undertaken (M.A.)					
Businesses making efforts	Preparing the prescribed systems	Enriching efforts on systems other than the prescribed ones	Providing information for employees facing nursing care	Providing information to all employees or all those above a certain age	Monitoring the situations and identifying needs of employees		
Total no.	57.3	48.3	10.2	13.1	8.2	13.5	
Has labor union	80.1	74.7	26	21.6	16.8	19.8	
	(100.0)	(93.2)	(32.4)	(27.0)	(21.0)	(24.7)	
Does not have labor union	52	42.2	6.5	11.1	6.2	12.1	
	(100.0)	(81.2)	(12.6)	(21.5)	(12.0)	(23.2)	
		Efforts being undertaken (M.A.) (Cont'd)					
Placement of advice desk or counselor	Financial support	Creating a workplace where it's easy to use the systems	Holding training workshops, etc. for managers	Other	Businesses not making efforts		
Total no.	9.5	2.4	15.8	4.4	3.1	42.5	
Has labor union	19.1	7.5	32.3	12.8	4.6	19.9	
	(23.9)	(9.4)	(40.3)	(16.0)	(5.8)		
Does not have labor union	7.3	1.2	12	2.4	2.8	47.8	
	(14.0)	(2.3)	(23.0)	(4.6)	(5.4)		

Source MHLW (2013) FY 2013 Basic Survey of Gender Equality in Employment Management (Survey of Businesses)

²³ No. 171 House of Representatives Committee on Health, Welfare and Labor Minutes, Vol. 18 (June 12, 2009)

relating to nursing care. This can also be understood based on the fact that it had been pointed out since the family care leave systems were first established that, in striving for balance between work and nursing care, the enhancement of nursing care service and nursing care facilities provided by experts was necessary (MOL Women's Bureau, 1994b). In this context, debate on the introduction of a nursing care insurance system intensified beginning around 1995, and in April 2000, the nursing care insurance system came into effect as a fifth form of social insurance. The fact that the timing of the legalization of the FCLR systems and the timing of the establishment of the nursing care insurance system overlapped is also clear evidence of how closely these systems are related.

With an eye toward the year 2050, in order to make nursing care insurance a sustainable system, a foundation is being built to foster the development of a regional comprehensive care system. Even while the addition of more special nursing homes for the elderly is being advocated, revisions are being made to tighten their admission requirements, and it is anticipated that the services requiring support will be entrusted to local government enterprises and the costs borne by their users will grow, expanding the costs to individuals needing support and nursing care and to their family members. Consequently, improvement of support measures for those providing family care is also required. As a countermeasure for the declining birth rate, in recent years child-raising support measures for the child-raising generation have been enhanced, and while they are still insufficient, the basis for achieving balance between work and child-raising has been improved. Although there are a plethora of problems in the child-raising field, such as the decline in quality resulting from reforms to resolve the problem of waiting lists for nursery school, improvement can also be seen in the fact that, compared to when the Child Care Leave Act was established 25 years ago, social services such as child care and the enhancement of the child care leave system have advanced (Omura 2011a, Omura 2011b, etc.). In the same way as this, in the field of elderly care as well, both the enhancement of nursing care services in general and the expansion of the family care leave systems will not only improve the lives of the individuals needing nursing care but also lead to the establishment of an environment where workers can continue working as a social presence during family care leave and carry out nursing care without an excessive burden.

7. Conclusion

In order to achieve “zero people leaving their jobs to care for family members” as advocated by the Abe administration, in 2016 the family care leave related systems were broadly revamped, and the requirements for accessing family care leave were relaxed. While the items pointed out in the previous section are concerns, it can be said that overall the revision is one that favors the perspective of working caregivers. Nevertheless, to achieve a goal as grandiose as “zero people leaving their jobs to care for family members,” in addition to the FCLR systems, it is necessary to create a society that permits balance between work and nursing care. Also, the enhancement of nursing care services that allow working caregivers to work and people needing nursing care to lead independent lives is also essential. In addition to in-home services, the government is

rushing to establish facilities such as special nursing homes for the elderly, but there are concerns about a shortage of workers. Balance between work and nursing care can only be achieved when we have the establishment of easy-to-use the FCLR systems for workers with family members needing nursing care, the strengthening of understanding and counseling support in businesses and in the same workplaces and local communities, and the enhancement of nursing care services for people needing nursing care. As for understanding in the workplace, the advancement of moves such as the strengthening of measures to prevent harassment were called for in the 2016 revision as well. The enhancement of nursing care services for people needing nursing care is advancing, along with revisions to the nursing care insurance system, and efforts on support measures for caregivers are also expanding.

Even while writing this paper, revision work is underway on the various systems, such as the ministerial ordinances for the FCLR systems, in preparation for the enforcement of the CCFCL Act in 2017. This paper's analysis includes up to the contents reviewed in the experts' study group held on June 17, 2016. Further changes are expected in the future, so it is necessary to watch those developments closely.

Acknowledgment

This paper was supported by JSPS KAKENHI Grant Numbers JP25750012, JP26502014. And the author used grant aid from MEXT Industry to Supported Private Universities Building up their Foundation of Strategic Research S1491003 for fiscal year 2014-2018 in compiling this paper. I would particularly like to thank these academic research grants.

References

- Kenkosya Seisaku Jouhou Shiryuu Center. 1992. Monthly New Policy: New policy document culmination (Gekkan Nyu Porisi: Shin Seisaku Shiryuu Syuutaisei). Vol.12. No.5. pp400-430. Tokyo. Kenkosya Labor Policy Council's Equal Employment Subcommittee. 2016. On the Enhancement of Measures to Support Work and Family Life Balance (Shigoto to Katei no Ryouritsu Shien Taisaku no Jujitu ni tuite). http://www.mhlw.go.jp/file/05-Shingikai-12602000-Seisakutoutokatsukan-Sanjikanshitsu_Roudou seisakutantou/0000121827.pdf
- Ministry of Health, Labour and Welfare(MHLW) Equal Employment Office, Children and Families Bureau Work and Family Harmonization Division. 2004. Q&A Key Point of the Child Care and Nursing Care Leave System Revised Edition (Kaiteiban Q&A Ikuji Kaigo Kyuugyou Seido no Kyuusyoo). Tokyo. Roudou Chosakai
- MHLW Children and Families Bureau, Equal Employment Office. 2012. 2012 Actual Situation of Working Women (Heisei 24 nenban Hataraku Josei no Jitujou). <http://www.mhlw.go.jp/bunya/koyoukintou/josei-jitsujou/12.html>
- MHLW Prefectural Labour Bureau. 2015. We will financially support who take child care leave and family care leave (Ikuji Kyuugyou ya Kaigo Kyuugyou wo surukata wo Keizaiteki ni Shien shimasu). <http://www.mhlw.go.jp/topics/2009/07/dl/tp0701-1y.pdf>
- MHLW Prefectural Labour Bureau, Equal Employment Office. 2015. Overview of the Child Care and

- Nursing Care Leave Law (Ikuji Kaigo Kyuugyohou no Aramashi). http://www.mhlw.go.jp/bunya/koyoukintou/pamphlet/dl/27a_001.pdf
- Ministry of Labour (MOL) Women's Bureau. 1993. Guidelines for Family Care Leave Systems (Labor Law Handbook Series31) (Kaigo Kyuugyou Seido tou nikansuru Gaidorain). . Tokyo. Roudou Kijun Chousakai.
- MOL Women's Bureau. 1994. Expert Meeting Report on the Family Care Leave Systems: For Long-term Care Insurance System (Kaigo Kyuugyou Seido Senmonka Kaigou Houkokusyo). Tokyo. Printing Bureau of the Ministry of Finance.
- MOL Women's Bureau. 1996. Commentary on Nursing Leave system and Balance Support Business (Kaigo Kyuugyou Seido to Ryouritu Shien Jigyou no Kaisetu). Tokyo. Japan Institute for Women's Empowerment & Diversity Management.
- MOL Women's Bureau. 1998. Revised Equal Employment Opportunity Act for Men and Women, Labor Standards Act and Child Care and Family Care Leave Act Definitive edition (Kaisei Danjo Koyou Kikai Kintouhou Roudou Kijunhou Ikuji Kaigo Kyuugyou Hou Ketteiban). Tokyo. Roudou Kijun Chousakai.
- Mitsubishi UFJ Research and Consulting Co., Ltd. 2013a. Research Report for the Actual Situation on the Balance of Work and Nursing Care (Shigoto to Kaigo no Ryouritu nikansuru Jittaihaaku no tameno Tyousa Kenkyuu Jigyou Houkokusyo). http://www.mhlw.go.jp/bunya/koyoukintou/dl/h24_itakuchousa00.pdf
- Mitsubishi UFJ Research and Consulting Co., Ltd. 2013b. Workers Survey on Work and Nursing Care (2012 MHLW commissioned survey) Results Summary (Shigoto to Kaigo no Ryouritsu nikansuru Roudousya Ankeito Tyousa (Heisei 24 nendo Kouseiroudousyou Itakutyousa) Kekka Gaiyou). http://www.mhlw.go.jp/bunya/koyoukintou/dl/h24_itakuchousa05.pdf
- SANRO Research Institute, Inc. 1994. Family Care Leave System and Home Help System Getting Started Guide. Tokyo: Keieisyoin.
- The Japan Institute for Labour Policy and Training (JILPT). 2016. Survey of Carer's Employment and Left a job (Kaigosya no Syuurou to Risyoku nikansuru Tyousa). <http://www.jil.go.jp/institute/research/2016/documents/153.pdf>
- Women's and Young Workers' Problems Council. 1995. For Legal Arrangements of Nursing Care Leave Systems (Proposition) (Kaigo Kyuugyou Seidotou no Houteki Seibi nituite (Kengi). <http://www.ipss.go.jp/publication/j/shiryuu/no.13/data/shiryuu/roudou/539.pdf>