

Employers Guide to the NY Paid Family Leave Act

Paid Family Leave



PFL Information for Employees

Starting in January of 2018, all employees who are covered under an employers' NYS DBL policy will be required to purchase a paid family leave (PFL) policy as part of their payroll deductions.

Here are some key points of the New York State Paid Family Leave Act:

- Paid Family Leave is designed to phase in over four years, starting January 1, 2018. Schedule:

Year	Weeks Available	Max % of Employee Average Weekly Wage	Cap % of State Average Weekly Wage
1/1/2018	8	50%	50%
1/1/2019	10	55%	55%
1/1/2020	10	60%	60%
1/1/2021	12	67%	67%

- Employers must purchase a policy, typically a new DBL policy that integrated DBL with the PFL benefit.
- DBL and PFL benefits cannot be collected at the same time

- An employee must be employed full-time for 26 weeks or part time for 175 days to be eligible for a Paid Family Leave Benefit.
- The premium for a PFL policy is paid for **by the employee**

Overview

New York's Paid Family Leave program provides wage replacement to employees to help them bond with a child, care for a close relative with a serious health condition, or help relieve family pressures when someone is called to active military service. Employees are also guaranteed to be able to return to their job and continue their health insurance. If you contribute to the cost of your health insurance, you must continue to pay your portion of the premium cost while on Paid Family Leave.

Timeline

Employees may take the maximum benefit length in any given 52-week period. The maximum benefit is eight weeks during the first year, 10 weeks during the second and third years, and 12 weeks the fourth and subsequent years. The 52-week clock starts on the first day the employee takes Paid Family Leave. Paid Family Leave coverage will be included under the disability policy all employers must carry. The premium will be fully funded by employees through payroll deductions, expected to begin approximately July 1, 2017. A maximum rate of employees' contribution will be established each year.

Eligibility

Virtually every full-time or part-time private employee in New York State will be eligible for Paid Family Leave. Participation in the program is not optional for employees. If you are a public employee, your employer may opt into the program. Public employees who are represented by a union may be covered if Paid Family Leave is collectively bargained.

An employee must be employed full-time for 26 weeks or part time for 175 days to be eligible for a Paid Family Leave Benefit.

Employees do not have to take all of their sick leave and/or vacation before using paid family leave. An employer may permit you to use sick or vacation leave for full pay, but may not require you to use this leave.

Maternity and Paternity Leave

Whether you are a parent expecting, fostering or adopting a child, you deserve to take time to care for your child without having to sacrifice your savings or your job. With proper documentation, in 2018, you may be eligible for up to 8 weeks of employee-funded Paid Family Leave.

Paid Family Leave only begins after birth and is not available for prenatal conditions. A parent may take Paid Family Leave during the first 12 months following the birth, adoption, or fostering of a child.

Caring for a Close Relative with a Serious Health Condition

New Yorkers have the right to be with their families in times of need without having to put their economic security at risk. The time you spend caring for a loved one with a serious health condition is critical. A close relative includes:

- Spouse
- Domestic partner
- Child
- Parent
- Parent in-law
- Grandparent
- Grandchild

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves:

- inpatient care in a hospital, hospice, or residential health care facility; or
- continuing treatment or continuing supervision by a health care provider.

For example, you need one or more full days to care for your mom when she undergoes chemotherapy; or your dad is having surgery followed by extensive recuperation; or your child is undergoing intense psychotherapy and is unable to attend school for a period of time. You can take Paid Family Leave in these types of instances.

Active Duty Deployment

Paid Family Leave is available for families eligible for time off under the military provisions in the federal Family Medical Leave Act when a spouse, child, domestic partner or parent of the employee is on active duty or has been notified of an impending call or order of active duty.

Paid Family Leave cannot be used for one's own disability or qualifying military event. It may only be taken to care for your:

- Spouse
- Domestic partner
- Child
- Parent

Rates

There no fixed rate as it is based on the employee's salary. The **weekly contribution rate for Paid Family Leave is 0.126%** of the employee's weekly wage (capped at New York State's current average weekly wage of \$1,305.92*). **This translates into a maximum contribution of \$1.65 per week per employee in 2018, regardless of gender, age, or other factors.**

Benefits

For example, in 2018, an employee who makes \$1,000 a week would receive a benefit of \$500 a week (50% of \$1,000). Another employee who makes \$2,000 a week would receive a benefit of approximately \$648, because this employee is capped at one-half of [New York State's Average Weekly Wage](#) (NYSAWW) —currently \$1,296. Half of that amount is the \$648 benefit.

The Average Weekly Wage (AWW) is set every year after a comprehensive analysis by the New York State Department of Labor.

PFL Information for Employers

How PFL Relates to DBL

Paid Family Leave will be administered as part of DBL — your existing DBL policy is likely being modified to include a PFL rider when the program takes effect.

How are DBL and PFL different?

- Paid Family Leave will be covered under an employer's DBL policy, and both benefits must be provided by the same carrier.
- Both benefits are mandatory for covered employees.
- If your employees are covered under DBL, they must also have PFL.

Where they differ

- DBL and PFL benefits cannot be collected at the same time.
- Combined, DBL and PFL must not amount to more than the 26-week benefit max during any 52 consecutive calendar weeks.
- If you're a public employer, who is typically excluded from DBL coverage, you can obtain a PFL-only policy.
- Paid Family Leave is designed to help provide additional benefits for employees (both male and female) who have had a child, are adopting, or need time to care for a sick family member or relative on a qualifying military leave.

What kinds of businesses does PFL impact?

- PFL impacts any private organization with more than one employee (not counting the owner).
- If you're currently covered under the existing Disability Benefits Law (Article 9 of Workers' Compensation Law) then PFL applies to you.
- Even if you aren't subject to the Family Medical Leave Act (FMLA), which mandates that companies provide unpaid leave for employees only if they are a certain size (more than 50 employees within a 75-mile radius), PFL will still apply.

Biggest changes for employers resulting from PFL

- Employers will be required to cover all eligible employees, though the cost of premiums will be paid through employee payroll contribution. As an employer, you can choose to contribute Paid Family Leave premium on behalf of your employees, or contribute a portion of the premium.
- You must continue full employee health coverage for any employee taking leave.
- You can offer your employees the option to use accrued vacation or charge all or part of their leave to PFL, thereby allowing them to receive their full salary for a portion of their leave (depending on how much time they have accrued) as opposed to the percentage provided for by PFL alone.
- If you're a sole proprietor, a member of an LLP, or any other self-employed person, you can access coverage by filling out a voluntary coverage form and filing with the state.

Will claims and billing processes change with PFL?

- While much of the information regarding the billing and claims process is still being decided by regulators, we believe it's likely that Paid Family Leave claims will be verified via a claim form, like DBL, and follow a similar process to DBL.

Employers are advised, once the payroll deduction rates are released for PFL, to start those payroll deductions as soon as possible. This will ensure that by January 1st, 2018, if an employee needs to take PFL and has the 26 week work requirement, then the payroll deductions will have already been started and that person can claim their benefit.



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