

Paid Family Leave Overview



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NY Paid Family Leave is an employee paid benefit that will mandate up to 12 weeks of job-protected paid leave to address family related issues including:

1. Bonding with a newborn, adopted or foster care child during the first 12 months after birth or placement
2. Caring for a seriously ill family member
3. Addressing important needs related to a family member's military service

What Is the Benefit?

- The PFL benefit is scheduled to start January 1st 2018 at 8 weeks
- The combined maximum DBL and Paid Family Leave time is 26 weeks during 52 consecutive calendar weeks. (This includes concurrent employment from both employers)

Effective Date / Weeks of PFL*	Benefit Amount and Maximum**
Jan. 1, 2018 / up to 8 weeks	50% of employee AWW not to exceed 50% of the State AWW
Jan. 1, 2019 / up to 10 weeks	55% of employee AWW not to exceed 55% of the State AWW
Jan. 1, 2020 / up to 10 weeks	60% of employee AWW not to exceed 60% of the State AWW
Jan. 1 each succeeding year / up to 12 weeks	67% of employee AWW not to exceed 67% of the State AWW

*The New York Superintendent of Financial Services has the authority to delay any of these increases.

** AWW is average weekly wage, the 2016 statewide AWW is \$1305.92

Paid Family Leave Rates

Rates and Benefits:

- One **community rate** for males and females statewide
- The premium rate is **0.126% of an employee's weekly wage.**
- The premium rate is deducted from the employee's payroll.
- Employers **may** begin to deduct the employee contribution starting July 1, 2017, to assist in the employer's responsibility to pay their DBL/PFL carrier annually in advance.

Maximum Benefit and Premium:

- Employees wages that are at or above the statewide average weekly wage are eligible **only** for the maximum Family Leave Benefit; therefore, their premiums will be a percentage of the statewide average weekly wage.
- The statewide average weekly wage for 2016 is \$1,305.92; therefore, the maximum contribution would be \$1.65 weekly.
 - The updated New York average weekly wage will be released on July 1, 2017 for 2018 PFL calculations.

*Each year, on or before September 1st, the **DFS has the authority to change the rates**

which will impact the employer's payroll deductions.

Paid Family Leave Policy

Policy Details

1. All NY state employers required to provide PFL
2. ALL **existing and new** DBL policies (Statutory & Enriched) must include a PFL rider on 1/1/2018
3. Local government and public employers do not have to provide PFL benefits, but may opt in
4. PFL policy will be a rider on the DBL policy- must use same carrier **unless** self-insured
5. PFL can be a stand-alone policy offering to employers that are self-insured

Eligibility

1. Full-time employees
 - Must work at least 20 hours a week
 - Eligible after 26 consecutive weeks of work
2. Part-time workers
 - Work less than 20 hours a week
 - Eligible on the 175th day of work

Bonding Benefit



- Leave to care for a child after **birth** or placement for **adoption** or **foster care** within the first 12 months after the birth or placement.
 - Disability may be taken after birth as well, but not at the same time as PFL
 - Men are now able to take leave for bonding
 - Expect a shift from DBL to PFL for maternity leave

Bonding Eligibility

Birth

- PFL can't be paid until ***after the birth*** mother delivers the baby.
- If the birth mother gives up the baby for adoption than the birth mother can only use their DBL benefit.
- Entitlement to family leave for a birth expires at the end of the consecutive 52-week period beginning on the date of the birth.
- Both disability and family leave benefits can be received, but not at the same time.

Adoption/Foster Care

- May take leave before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed
 - For Example; the employee may be required to attend counseling sessions, appear in court, attorney meetings or the doctor(s) representing the birth parent, submit to a physical examination, or travel to another country to complete an adoption.
- Entitlement to family leave for adoption or foster care begins expires at the end of the consecutive 52-week period beginning on the date of the placement or first day of leave taken.

Family Members-Bonding

Eligible:

- Biological Mother & Father
- Domestic Partner of Birth parent
- Spouse of Birth parent
- Step Parent
- Adoptive Parent
- Foster Parent
- Legal Guardian
- Loco Parentis (Assumes responsibility as a parent)

Not eligible:

- Surrogate Mother
- Grandparent
- Siblings

Event:

Child (Birth- 1 year of age), Foster Child (Birth- 17 years of age), Adoption (Birth- 17 years of age)

Bonding Claim Requirements

The standardized state form used for bonding is labeled PLF-2. There are specific documents required for each of the eligible instances for bonding.

Biological Parents

- Birth mother's documentation
 - A birth certificate with their name on it; or
 - Documentation of pregnancy or birth from a health care provider that includes the mother's name and the child's due or birth date
- Parent other than birth mother
 - A birth certificate with their name on it; or
 - A voluntary acknowledgment of paternity or court order of filiation.
 - If these 2 types of documents are not available, then the employee must get a copy of documentation of pregnancy or birth from a health care provider that includes:
 - Mother's name
 - Child's due or birth date, **and** a second document verifying the parent's relationship with the birth mother or child (i.e. marriage certificate, civil union documents, or domestic partner documents).
 - If these documents are not available a parent may submit other documentary evidence of parental relationship for evaluation on a case-by-case basis. (Example, a paternity test result)

Bonding Claim Requirements (cont.)

Adoptive parents

- A court document indicating that an adoption is in process or is being finalized; or
- When leave is taken the adoption is completed, a document evidencing that the adoption process is underway, including but not limited to;
 - A signed statement from an attorney, adoption agency, or adoption-related social service provider that states that the employee is in the adoption process.
 - If the employee's name isn't on this statement they must also provide a document verifying their relationship to the parent named in the statement document (i.e. marriage certificate, civil union documents, or domestic partnership documents).

Foster parents

- A letter of placement issued by the county or city department of social services or local volunteer agency.
 - If the employee's name is not on the placement document, they also provide a second document that verifies their relationship to the foster parent that **is** named in the placement document (i.e. marriage certificate, civil union documents, or domestic partnership documents).

Military Service Benefit

Time away from work to manage a exigency or qualifying circumstance rising out of the fact that the spouse, domestic partner, child, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the armed forces of the United States.



What is Qualifying Exigency Leave?

A “qualifying exigency” includes: (not limited to)

- Short-notice deployments of up to 7 days to address issues arising from the notification of an impending call to active duty.
- Military events and related activities such as ceremonies, programs, events, or information briefings related to active duty or a call to active duty.
 - Childcare and school activities.
 - Financial and legal arrangements.
- Counseling related to active duty or the call to active duty provided by someone other than a health care provider.
- Rest and Recuperation for up to 5 days during deployment.
- Post-deployment activities such as reintegration events up to 90-days after active duty terminates or dealing with the death of a service member.
- Additional service related activities- as agreed to by employer.

Family Member- Military Service

Eligible:

- Spouse
- Domestic Partner
- Parent or Step Parent of the employee
- Child
 - Biological
 - Adopted
 - Foster son or daughter
 - Stepson or stepdaughter
 - Legal ward
 - A son or daughter of a domestic partner
 - The person to whom the employee stands in loco parentis

Military Claim Requirements

Active Duty Orders

We may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to covered active duty status, and the dates of the military member's covered active duty service.

- This information need only be provided once.
 - If a **new** need arises out of a different covered active duty or call to covered active duty status (or notification of an impending call or order to covered active duty) of the same or a different military member a copy of **new** active duty orders or other documentation issued by the military may be required.

Military Claim Requirements

Required Information

1. Statement or description, signed by the employee, of appropriate facts regarding the qualifying exigency for which paid family leave is requested.
 - The facts must be sufficient to support the need for leave.
 - Such facts include information on the type of qualifying exigency for which leave is requested and any available written documentation which supports the request for leave; such documentation, for example, may include a copy of a meeting announcement for informational briefings sponsored by the military, a document confirming an appointment with a counselor or school official, or a copy of a bill for services for the handling of legal or financial affairs;
2. Approximate date on which the qualifying exigency commenced or will commence.
3. If request is for a continuous period of time; must provide the beginning and end dates for such absence.
4. If request for an intermittent time period: must provide an estimate of the frequency and duration of such absence.
5. If the qualifying exigency involves meeting with a third party must provide;
 1. Contact information for the individual or entity with whom the employee is meeting (such as the name, title, organization, address, telephone number, fax number, and email address)
 2. Brief description of the purpose of the meeting; and
6. For Rest and Recuperation Leave must provide a copy of the military member's rest and recuperation orders with dates of leave.
 1. Or other documentation issued by the military which indicates that the military member has been granted rest and recuperation leave

Military Claim Requirements (cont.)

Verification

- Completed information: If an employee submits a complete and sufficient certification to support his or her request for leave because of a qualifying exigency, the carrier or self-insured employer may not request additional information from the employee.
- Third Party: The carrier or self-insured employer may contact the individual or entity with whom the employee is meeting for purposes of verifying a meeting or appointment schedule and the nature of the meeting between the employee and the specified individual or entity.
- Employee's Permission: This is not required in order to verify meetings or appointments with third parties, but no additional information may be requested by the carrier or self-insured employer.
- Department of Defense: A carrier or self-insured employer also may contact an appropriate unit of the Department of Defense to request verification that a military member is on covered active duty or call to covered active duty status (or has been notified of an impending call or order to covered active duty); no additional information may be requested, and the employee's permission is not required.

Family Care for Serious Health Condition

Time away from work to provide care for a family member with a "Serious Health Condition" including an illness, injury, impairment, or physical or mental condition that involves:

- In-patient care in a hospital, hospice, or residential health care facility
- Continuing treatment or continuing supervision by a health care provider



Health Conditions Defined

- **Providing care**
 - Definition: "providing care" may include necessary physical care, emotional support, visitation, assistance in treatment, transportation, arranging for a change in care, assistance with essential daily living matters and personal attendant services.
 - Covered employee providing care must be present at the same location as the family member during the majority of the employment period from which leave has been taken.
 - Travel necessitated for the purpose of securing medication or to arrange care for the family member, or other such deviations determined to be reasonably related to providing care, shall satisfy this definition.
- **"Serious Health Condition"** means 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.**
- **"Continuing treatment or continuing supervision by a health care provider"** means one or more of the following:
 - A period of more than 3 consecutive, full calendar days during which a family member is unable to work, attend school, perform regular daily activities, or is otherwise incapacitated due to illness, injury, impairment, or physical or mental conditions, and any subsequent treatment or period of incapacity relating to the same condition, that **also involves**:
 - treatment 2 or more times by a health care provider; or
 - treatment on at least 1 occasion by a health care provider, which results in a regimen of continuing treatment under the supervision of the health care provider.

Family Members-Serious Health Condition

Eligible relationships:

- Child (Biological, adoptive, foster)
- Spouse
- Domestic partner
- Parent (Birth, Step, Foster, In-Law, Legal guardian, or the person to whom the employee stands in loco parentis to the employee)
- Grandchild (The child of the employees child)
- Grandparent (Parent of the employees parent)

What are the required claim documents?

Health Care Provider Form

The employee must provide documentation of family member's serious health condition from a health care provider with the following information:

- Name, address, telephone number, email address, license number and state of license of the health care provider and the type of medical practice/specialization;
- Approximate date on which the serious health condition commenced, and its probable duration;
- Certification regarding the patient's health condition for which PFL is requested. The certification must be sufficient to support the need for leave. The certification must include the diagnosis codes (ICD-10) applicable to the care recipient's serious health condition; and
- An estimate of the frequency and duration of the leave required to care for the family member, including whether the need for care is continuing or on an intermittent basis.

**A health care provider may refuse to supply a certification for family leave when the employee requesting the leave is the perpetrator of domestic violence or child abuse against the care recipient.

What are the required claim documents?

Medical Certification and HIPAA Authorization Form

The Medical Certification and HIPAA Authorization includes:

- Name, address, telephone number, email address, license number and state of license of the health care provider and the type of medical practice/specialization
- Approximate date on which the serious health condition commenced, and its probable duration; estimate of the frequency and duration of the leave and whether it is continual or intermittent
- Health condition & certification must include the diagnosis codes (ICD-10) applicable to the care recipient's serious health condition

****When certification is required, it is the employee's responsibility to provide the carrier with a complete and sufficient certification and failure to do so may result in the denial of family leave. The authorization, release, or waiver executed by the care recipient shall be subject to the authorization rules and exceptions thereto of the HIPAA Privacy Rule (45 C.F.R. parts 160 and 164 [2005]).**

Employer Readiness

Knowledge

- Understand coverage, regulations, billing and claims process
- Maintain same or similar job upon return
- Maintain health insurance for the employee on leave

****Keep asking questions****

Preparation

- HR process
- Temp agencies
- Payroll: employee contribution will begin January 1st, 2018

Communication

- Update employee handbook
- Display the coverage details
- Conspicuously post the NYS Workers' Comp Board's prescribed notice by January 1, 2018
- Inform any employee that is on FMLA of their PFL benefit eligibility

Compliance

- Non-compliance: the NYS Workers' Comp Board may assess penalties for non-compliance,
 - up to one half of 1% of the employers' weekly payroll for period of non-compliance,
 - plus payment of any PFL claims and an additional sum of up to \$500.



