

NY Paid Family Leave

Information for Covered Employers

Starting January 1, 2018, New York Paid Family Leave becomes a mandatory employee paid leave benefit. Virtually all private employers employing one or more employees at least 30 days in any calendar year are required to obtain Paid Family Leave insurance which will be added as a rider to the disability insurance policy you already carry.

Beginning January 1, 2018 covered employees are provided with job protection, continuation of health insurance and paid time off for these qualifying events:

1. Care for a family member (child, parent, parent-in-law, grandparent, grandchild, spouse or domestic partner) with a serious medical condition. This includes physical or psychological care.
2. Bond with the employee's child after birth, adoption, or welcome into foster care during the first 12 months after the baby's birth, adoption, or foster placement.
3. Assist when a spouse, child, domestic partner or parent is on active duty or has been notified of an impending call or order to active duty.



Which Employees Are Eligible for Paid Family Leave?

- ✓ Employees with a regular work schedule of **20 or more hours per week** are eligible after **26 consecutive weeks** of employment preceding the first full day of leave.
- ✓ Employees with a regular work schedule of **less than 20 hours per week** are eligible after **175 days worked** preceding the first full day of leave.

What is the Paid Family Leave Benefit?

The Paid Family leave Benefit will be phased in over four years.

Benefits Under NY Paid Family Leave

| 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% |

*New York State Average Weekly Wage (NYSAWW) for 2018 is \$1,305.92.

This means if an employee earns more than the current NYSAWW of \$1,305.92 the maximum benefit is capped at \$653 per week. An employee who earns \$2,000 per week will receive a Paid Family Leave Benefit of \$653 while an employee who earns \$1,000 per week will receive a Paid Family Leave Benefit of \$500.

To calculate an employee's average weekly wage for the paid family leave benefit, look to the employee's wages for the previous eight weeks with the same employer.

The benefit amount in effect at the time Paid Family Leave begins applies to the full duration of the leave for that event, even if a new calendar year with increased benefit levels falls within that period.

The benefit paid to employees will be taxable non-wage income that must be included in federal gross income.

What is the Source of Funding for Paid Family Leave?

New York Paid Family Leave is an employee funded benefit, and employers may deduct the premium cost for the Paid Family Leave insurance policy from employees through a payroll deduction or employers may choose to cover the cost themselves.

The maximum employee contribution in 2018 shall be 0.126% of an employee's weekly wage up to the annualized New York State Average Weekly Wage of \$1,305.92.

This means in 2018 a maximum contribution of \$1.65 per week for employees earning the current NYSAWW or above. The employee contribution is capped at \$85.56 for the year.

Employee premium contributions are appropriately deducted from an employee's after-tax wages.

When must an employee notify an employer of the need for Paid Family Leave?

When an employee's leave is foreseeable, such as birth of a child, placement of a child for adoption or foster placement, employee should provide employer with notice at least thirty days in advance of intent to use Paid Family Leave.

If the event is not foreseeable, the employee must notify the employer as soon as practical.

How does an employee submit a Paid Family Leave claim?

An employee should submit a completed claim package to their employer's insurance carrier within 30 days of their first day of paid leave. A claim form will be available from the employer's Paid Family Leave insurance carrier, or on the Paid Family Leave website.

An employee must submit a claim form and supporting documentation to the insurance carrier. The required supporting documentation will vary based on the nature of the request for Paid Family Leave. The insurance carrier must process the claim within 18 days. If carrier approves the claim, paid benefit begins immediately.

What do the New York Paid Family Leave Employee Forms look like?

- <https://www.ny.gov/sites/ny.gov/files/atoms/files/bonding1.pdf>
- https://www.ny.gov/sites/ny.gov/files/atoms/files/care_for_family_member1.pdf
- <https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-forms-employees-employers-and-insurance-carriers>

How does New York Paid Family Leave integrate with FMLA?

New York Paid Family Leave will run concurrently with FMLA if applicable, provided the employee is eligible for FMLA and the employer has provided FMLA designated notice to the employee. If the employer does not provide FMLA designated notice to the employee, the employer is deemed to have permitted the employee to receive the Paid Family Leave benefit without concurrently using FMLA leave.

FMLA vs. NY PFL

| SUBJECT | FMLA | NY Paid Family Leave |
|---|---|--|
| Covered Employers | 50 or more employees | 1 or more employees |
| Work Requirements (at same employer) | Employed for 12 months Work 1,250 hours within the last 12 months Work at a site with 50+ employees in a 75-mile radius | Employees who work 20 or more hours per week for 26 consecutive weeks Employees who work less than 20 hours per week for 175 consecutive workdays |
| Length of Leave | Up to 12 weeks in a 12 month period | Up to 12 weeks (Schedule to be phased in from 2018-2021) |
| Intermittent Leave | One hour increments | Must be taken in full-day increments |
| Maintenance of Health Insurance | Maintain health insurance as though actively employed | Maintain health insurance as though actively employed |
| Job Restoration | Entitled to position held at time of leave or an “equivalent” position | Entitled to position held prior to leave or comparable position with comparable benefits and pay |
| Use of Paid-Time-Off | Employer may require employee to use PTO for paid leave vs. unpaid | Employer cannot require employee to use PTO unless concurrent with FMLA |

How will billing work for Paid Family Leave?

Each disability carrier will develop their own billing statement. You will have a separate statement to support your Paid Family Leave premium which will be based on your employee payroll deductions.

Notice of Compliance- Paid Family Leave (PFL-120)

Upon securing Paid Family leave insurance, employers must obtain PFL-120 from their insurance carrier and display the form in a conspicuous location, similar to what you do for Workers’ Compensation and Disability Insurance.

You can email certificates@wcb.ny.gov to obtain a copy of this form.