

## New York State Paid Family Leave (PFL) Q & A

### Coverage

**Q: Who must obtain PFL coverage?**

**A:** Private employers who have one or more employees and who are required to provide New York State disability benefits insurance must obtain PFL coverage.

**Q: Who is not considered a private employer?**

**A:** The state, any political subdivision of the state, a public authority or any other governmental agency or instrumentality.

**Q: How will PFL be provided?**

**A:** PFL coverage will be automatically added to New York State Insurance Fund (NYSIF) disability benefits (DB) policies effective January 1, 2018, where applicable.

**Q: Who is eligible to use PFL?**

**A:** Employees with a regular schedule of 20 or more hours per week are eligible after 26 weeks of employment. Employees with a regular schedule of less than 20 hours per week are eligible after 175 days worked.

**Q: Are employees required to participate in the PFL program?**

**A:** Yes. Participation in the program is not optional for employees. A public employer may choose to opt into the program. Public employees who are represented by a union may be covered if Paid Family Leave is collectively bargained. In limited circumstances, employees whose regular work schedules are temporary or seasonal may opt out of Paid Family Leave. The New York State Workers' Compensation Board (WCB) will provide a waiver form for employers to offer to employees in these circumstances to allow them to opt out.

### Eligibility

**Q: When can a parent use PFL to care for or bond with a child?**

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

**Q: When using PFL to care for a family member with a serious health condition, how is family member defined?**

**A:** A family member includes a spouse, domestic partner, child, parent, parent-in-law, grandparent, and grandchild.

**Q: What constitutes a serious health condition?**

**A:** 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/supervision by a health care provider.

**Q: How can PFL be used for 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 (FMLA) when a spouse, child, domestic partner or parent of the employee is on active duty abroad or has been notified of an impending call or order of active duty abroad. Paid Family Leave cannot be used for one's own disability or qualifying military event.

**Funding**

**Q: Who pays for PFL coverage?**

**A:** New York's Paid Family Leave is entirely employee-funded. That is, the benefit is paid for by employees. Employers may collect the cost of Paid Family Leave through payroll deductions. 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.

**Q: When do employers start deducting PFL contributions from employees' paychecks?**

**A:** Private employers may begin PFL payroll deductions today. A public employer may opt into Paid Family Leave by submitting an application and plan to the Workers' Compensation Board, along with providing notice to its employees at least 90 days before collecting employee contributions.

**Q: Do employers have to take deductions from their employees?**

**A:** Employers may deduct the premium cost for the Paid Family Leave insurance policy from employees through a payroll deduction or choose to cover the cost themselves.

**Q: Are PFL employee premium deductions collected pre- or post-tax?**

**A:** Premiums should be deducted from employees' after-tax wages. Employers should report employee contributions on Form W-2 using Box 14 – State disability insurance taxes withheld.

**Q: What is the rate for employee contributions?**

**A:** The maximum Paid Family Leave benefit is based on the New York State Average Weekly Wage (NYSAWW). The 2016 NYSAWW used for this calculation is \$1,305.92.

**Contribution Examples:**

Employee	Employee Weekly Wage	NYS AWW Cap of \$1305.92	2018 Maximum Contribution %	2018 Maximum You Can Withhold Per Week
Sam	\$300	Under Cap	0.126%	\$0.38
Beth	\$1,000	Under Cap		\$1.26
Mary	\$1,750	\$1,305.92		\$1.65

**Q: When are rates issued for PFL?**

**A:** The 2018 rate has been established. The Department of Financial Services (DFS) will set rates annually on September 1, effective for the following year.

**Q: Where and when do I find the current NYSAWW?**

**A:** The NYSAWW is updated annually and is posted on the [NYS Department of Labor's website](#).

**Q: What is the payment procedure between NYSIF and the employer?**

**A:** NYSIF will send DB policyholders a bill for estimated PFL premium, which will be payable later in the year. After the initial bill, PFL premium will be included as a line item on DB bills.

**Q: Does the employer pay an employee's salary on PFL?**

**A:** No. An employee will receive benefits payments from NYSIF while on PFL. If the employer decides to pay the employee's full salary, the employer may request reimbursement from NYSIF for the PFL benefit the employee would have received.

## Benefits

**Q: Does an employee have to use all their vacation/sick leave before using PFL?**

**A:** No. Employees do not have to take all of their sick leave and/or vacation before using paid family leave. An employer may permit the use of sick or vacation leave for full pay, but may not require an employee to use this leave.

**Q: Can an employee use both temporary disability and PFL?**

**A:** An employee's combined total disability leave and Paid Family Leave in any 52-week period may not exceed 26 weeks.

**Q: Does PFL provide job protection?**

**A:** Employees are guaranteed to be able to return to their job and continue their health insurance. Employees who contribute to the cost of their health insurance must continue to pay their portion of the premium cost while on PFL.

**Q: Can an employee collect PFL while receiving workers' compensation benefits?**

**A:** No. If an employee is not working and is collecting workers' compensation, the employee may not use Paid Family Leave.

**Q: Can PFL benefits be taken on an hourly basis?**

**A:** No. Paid Family Leave is only available in full day increments, but it can be taken intermittently. Employees can take only the full days off during the week when they are caring for a relative or bonding with a child.

**Q: How does an employee file for PFL?**

**A:** An employee is responsible for notifying his/her employer if intending to claim Paid Family Leave benefits. If the family leave is foreseeable, the employee must give the employer 30-days advance notice so they can plan for the absence. If the event is not foreseeable, the employee must notify the employer as quickly as possible.

**Q: Will PFL claim benefits be taxable?**

**A:** Benefits paid to employees will be taxable, non-wage income that must be included in federal gross income. NYSIF will issue a 1099-G to claimants for tax reporting.

For more information regarding PFL, please refer to the following resources:

**NYSIF Website:** [www.nysif.com/paidfamilyleave](http://www.nysif.com/paidfamilyleave)

**NYS PFL Website:** [www.ny.gov/paidfamilyleave](http://www.ny.gov/paidfamilyleave)