



YOUR GUIDE TO NYSIF'S FREE SAFETY RESOURCES

NEW YORK STATE INSURANCE FUND

Workers' Comp

ADVISOR

nysif.com

3rd Quarter 2017

WHAT YOU NEED TO KNOW

Get Ready for Paid Family Leave



HIGHLIGHTS OF 2017 WORKERS' COMPENSATION REFORMS



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Paid Family Leave - The Basics

- Last year, Governor Andrew M. Cuomo signed into law a Paid Family Leave (PFL) program, which will provide New Yorkers job-protected, paid leave to bond with a new child, care for a loved one with a serious health condition, or help relieve family pressures when someone is called to active military service.
- Beginning on Jan. 1, 2018, PFL coverage will be required for most private New York State employers. Public employers may opt into the program. Public employees who are represented by a union may be covered if PFL is collectively bargained.
- Eligible employees of NYSIF disability benefits insurance policyholders will be automatically covered under their employer's NYSIF disability benefits policy. Eligibility begins after an individual has been employed 20 or more hours a week for 26 weeks or less than 20 hours for 175 days under the same employer.
- PFL is funded through employee payroll deductions, which employers may begin deducting as of July 1, 2017. Employers may not retroactively collect payroll contributions for PFL. For example, if a withholding was missed in February 2018, those contributions cannot be collected in May 2018.
- The rate for employee contributions is established by the New York State Department of Financial Services. PFL premium rates will be set by DFS annually on September 1 (Employee contribution and premium information is outlined in the box below).
- Employees on PFL have guaranteed job protection and continuation of health insurance coverage. Employers may require that employees continue to pay their health insurance premium contributions.

DISABILITY BENEFITS POLICYHOLDERS

PFL Employee Contribution and Premium Information

The Department of Financial Services has set the 2018 PFL contribution rate at 0.126% of an employee's weekly wages, not to exceed 0.126% of the current New York State Average Weekly Wage (NYSAWW) of \$1,305.92.

NYSIF will soon be sending an employer census to its Disability Benefits (DB) policyholders. The census will include examples of how to complete the form and how to calculate employee wages. Your responses to the census will enable NYSIF to accurately estimate the PFL portion of your DB policy premium.

Later this year, NYSIF will send DB policyholders a bill for estimated 2018 PFL premium.



NYSIF Disability Benefits Insurance Provides Paid Family Leave Coverage



In 2016, Governor Cuomo signed into law the nation's most comprehensive PFL program. New York is now the fourth state in the country to offer PFL and will have the strongest benefit package in the nation.

Benefits are designed to phase in over the next four years, and when the program is fully phased in, an

employee will be eligible to take up to 12 weeks of PFL at 67% of their Average Weekly Wage (AWW), capped at 67% of the NYSAWW.

Employers or insurance reps seeking disability benefits and PFL coverage, can apply online at:

nysif.com/Home/Employer/LookingForInsurance/InsuranceApplication or call 1-866-NYSIFDB (1-866-697-4332) for an application.

Paid Family Leave
starts January 1, 2018 and
phases in over four years

Year	Maximum Number of Weeks	Maximum Benefits (% of AWW or NYSAWW)
2018	8	50%
2019	10	55%
2020	10	60%
2021	12	67%

How Benefits Are Used

Maternity and Paternity Leave

A parent can use PFL to care for a child during the first 12 months following the birth, adoption or fostering of that child.

A parent may take family leave before the actual placement or adoption of a child if an absence from work is required for the placement to occur.

Caring for a Seriously-Ill Close Family Member

An employee can use PFL to care for a close family member with a serious health condition. A close family member includes a spouse, domestic partner, child, parent, parent-in-law, grandparent, and grandchild.

Active Military Duty Deployment

Employees can use PFL under military provisions of the federal Family Medical Leave Act when a spouse, child, domestic partner, or parent is on active duty, or has been notified of an impending call or order of active duty.

How Benefits Are Calculated

An employee's average weekly wage determines the PFL benefit, with a benefit cap tied to the New York State Average Weekly Wage (NYSAWW), based on percentages shown in the chart above.

In year one (2018) the benefit is calculated by taking total gross wages (including tips) over the 8-week period preceding the start of PFL, dividing by 8 and then multiplying by 50%.

Example 1: An employee who earns on average \$1,000 a week would receive a weekly benefit of 50% of his or her weekly wages, resulting in a benefit of \$500 per week.

Example 2: An employee who earns on average \$2,000 a week exceeds the NYSAWW of \$1,305.92. This employee would receive a maximum weekly benefit limited to \$652.96, which is 50% of the NYSAWW.

Implementation of New York State Paid Family Leave is directed by the Department of Financial Services and the Workers' Compensation Board. Information in this issue of *Advisor* is based on rules contained in the PFL regulations.

For more information, check these resources for updates:
ny.gov/paidfamilyleave • nysif.com/paidfamilyleave

PFL Questions & Answers for Employers

GENERAL

Who must obtain PFL coverage?

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

Who pays for PFL coverage?

PFL is payable by the employer through employee-funded payroll deductions.

Do I have to take deductions from my employees?

While PFL is referred to as an employee-funded benefit in the law, employers may opt to pay for PFL premium on behalf of their employees.

When can I start deducting PFL from my employees' paychecks?

Employers may begin employee payroll deductions for PFL as of July 1, 2017.



BENEFITS



Can multiple employees working for the same employer take PFL to care for the same individual?

If the employees work for the same employer, PFL can be denied to one or more employee(s) if a claim is submitted to care for the same individual, at the same time. However, if the employees work for different employers, they will be eligible to take PFL at the same time, even if it is to care for the same individual.

Must an employee use all their vacation/sick leave before they use PFL?

No. An employee does not have to exhaust all vacation and/or sick leave before using PFL.

Can an employee use both temporary disability benefits and PFL?

An employee eligible to use disability benefits and PFL, such as following the birth of a child, can opt to use both benefits if they are not taken at the same time. Total leave cannot exceed 26 weeks in any 52-week period.

Can an employee collect PFL while receiving workers' comp benefits?

No. Employees who are out of work on workers' comp cannot receive PFL benefits. Employees receiving reduced earnings may be eligible for PFL.

When does an employee need to provide notice to an employer to use PFL?

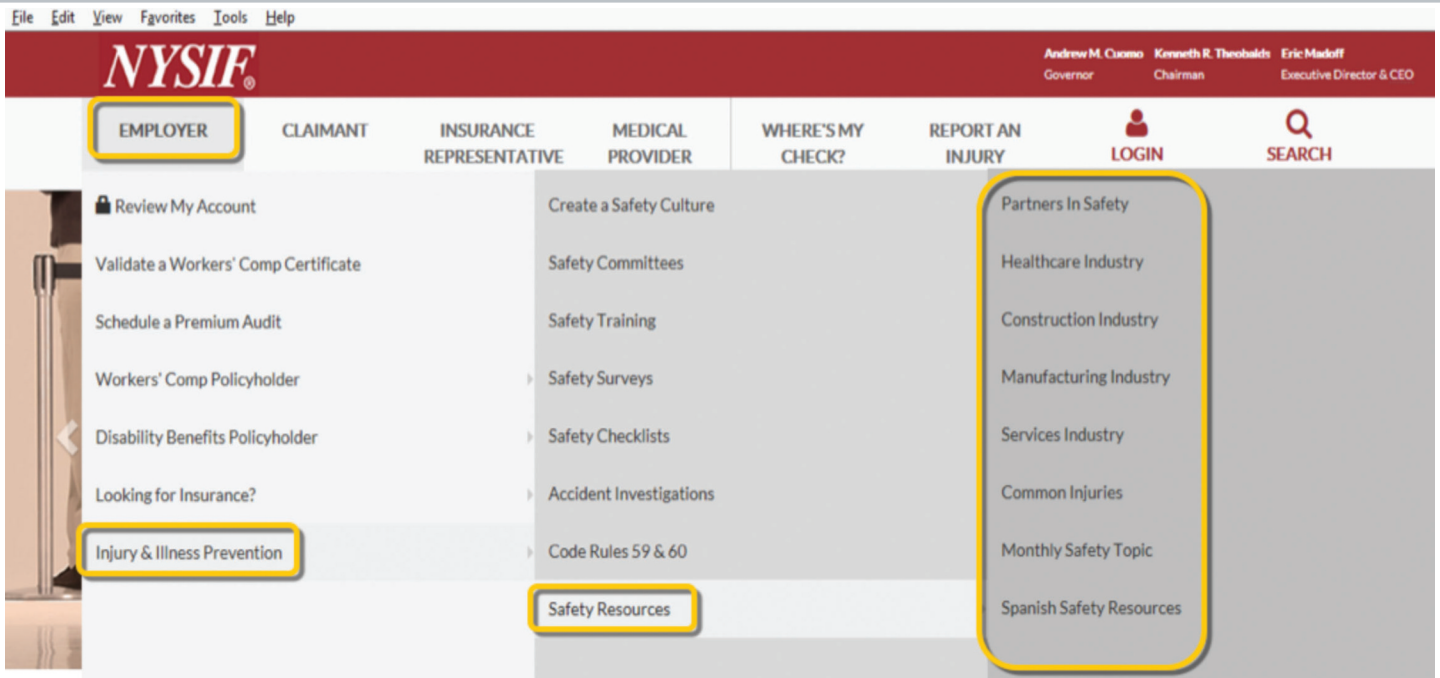
For a foreseeable event, employees must provide an employer 30-days notice to plan for their absence. For an unforeseeable event, employees must notify their employer as soon as possible.

How does an employee file for PFL?

Unless directed otherwise, employees are responsible for submitting a completed request to the insurance carrier within 30 days of the qualifying event. The employee will need information from the employer to complete the request.

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

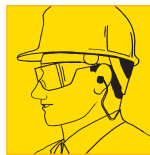
No. An employee will receive benefit payments from the insurance carrier while on PFL. If the employer decides to pay the employee's full salary, the employer may request reimbursement from the insurance carrier for the PFL benefit the employee would have received.



SAFETY COP

Gary Dombroff, CSC

NYSIF



Make Full Use of NYSIF Resources

You may already use NYSIF's online services to pay premium bills, print or validate certificates of insurance, schedule audits and track claims, but have you taken full advantage of our new **Illness and Injury Prevention** pages? The new section includes free safety materials that can enhance your safety efforts and help lower your workers' comp costs through education and training.

Regular or periodic safety training is required by many businesses [WCA2Q2017, p5]. Good safety materials, properly used, are an important part of safety training. Our new safety resources are useful for any business starting a safety program, or to augment your accident prevention efforts.

OPEN A WINDOW TO SAFETY

There is no login required to access our safety materials. Simply go to the **Employer** tab at the top of the home page at nysif.com and then click **Injury and Illness Prevention**.

Here you'll find links that provide business owners and managers with general safety information for how to [Create a Safety Culture](#) and use [Safety Committees](#) to help your business achieve its safety goals.

There is no login required to access NYSIF safety materials. Visit the **Employer** tab at nysif.com and choose **Injury and Illness Prevention** for information about workplace safety and access to NYSIF's free [Safety Resources](#).

Next, go to [Safety Training](#), [Safety Surveys](#), [Safety Checklists](#) and [Accident Investigations](#) to learn about training and how to achieve and maintain safe working conditions.

GUIDES, HANDOUTS & POSTERS

Then open the [Safety Resources](#) link for a new window to a large selection of materials to use in your safety efforts.

Arranged by industry sector – **Healthcare**, **Construction**, **Manufacturing** and **Service** – our safety resources are applicable to any business. If you're looking for material on specific hazards, go to our **Common Injuries** section to find just what you're looking for without having to search by industry. A separate section lists key resources in [Spanish](#).

There are two types of materials in each industry sector: **Employer Guides** and **Employee Handouts**. Each sector has several topics, such as Chemical Safety, Electrical Safety, Personal Protective Equipment and Fall Protection, that are specific to that industry, and each of these has an Employer Guide with in-depth information, and an Employee Handout with a quiz that reinforces a safety topic.

Use guides and handouts to share with employees during training, safety meetings and toolbox talks. Some topics have a safety poster that emphasizes a key safety message.

The section also features a [Monthly Safety Topic](#) to remind businesses owners to make safety training, hazard identification and remediation a continuing part of their workplace safety efforts. In addition, you can download a PDF copy of [Partners in Safety](#), our guide to implementing a safety program and motivating your employees to work safely.

Highlights of 2017 Workers' Comp Reform

Workers' comp reforms signed by Governor Andrew Cuomo in the 2017-2018 Executive Budget are expected to generate cost savings for employers while providing better protections for injured workers.

Here is an overview of key reforms from the WCB:

Permanent Impairment Guidelines: The WCB will consult with labor, business, medical providers, insurance carriers and self-insured employers to adopt new guidelines that incorporate medical advances for determining scheduled loss of use awards, to be published for public comment by Sept. 1, 2017, with new guidelines, or interim regulations, effective Jan. 2, 2018.

Drug Formulary: The WCB will adopt a comprehensive formulary of drugs that may be prescribed for a causally-related condition by Dec. 31, 2017. Non-preferred drugs may only be prescribed with a variance. The WCB Medical Director's Office will establish a method to review adding pharmaceuticals to the preferred list.

Non-Scheduled Permanent Partial Disability: Provides a carrier credit toward durational limits for payments of temporary PPD, with exceptions, beyond 130 weeks after the date of injury, which in many cases will shorten claim duration.

Post-PPD Labor Market Attachment: Effective immediately, claimants entitled to benefits for permanent partial disability are no longer required to demonstrate ongoing labor market

attachment. This does not apply to periods of temporary disability prior to classification.

Extreme Hardship Determination: Effective immediately, the Loss of Wage Earning Capacity (LWEC) threshold is lowered from 80% disability, to 75% disability for claimants with PPD who apply to the WCB for redetermination due to extreme hardship. See [Extreme Hardship Redetermination Procedure](#)

Other Provisions: Amends the law as follows to require: release of an annual report on industry savings related to the 2017 reforms in each of the next 10 years by a public actuary; refunds of current year savings by carriers as a result of caps on injuries, no later than Dec. 31, 2018; a public hearing for workers' comp rate filings of a 5% or greater increase over the prior year's loss costs, and a reduction in the WCB assessment balance allowance to no more than 5%.

Penalties: Effective immediately, the WCB can impose fines against insurance carriers without a hearing for failure to pay or controvert a claim within the 18 days required by law. The WCB may also establish standards and issue aggregate penalties against carriers or self-insured employers.

NOTE: Employers should notify NYSIF immediately of a workplace injury or illness. NYSIF must submit reportable claims to the WCB within 18 days of the incident, or within 10 days after the employer learns of the incident. Employers face WCB fines of up to \$2,500 for late reports.

FRAUD FILE

Charge Trucking Owner, Worker

Authorities arrested a Queens trucking company owner and one of his workers for falsifying documents that led to more than \$216,000 in alleged workers' comp fraud against NYSIF.

The Queens DA approved the arrest of John Constanza, president of Stanza Trucking, Inc., on May 16, 2017, charging him with fraudulent practices in violation of the Workers' Compensation Law and offering a false instrument for filing, both felonies.

Mr. Constanza allegedly underreported payroll for his trucking company from July 2012 through July 2015 to avoid paying the proper premium to NYSIF, claiming he worked alone and had no employees.

However, investigators also arrested Miguel Bennazar-Davila, a NYSIF claimant who submitted forms to NYSIF attesting to not working, but allegedly worked off the books for Stanza Trucking while collecting workers' comp benefits. He is charged with workers' comp fraudulent practices, offering a false instrument for filing and grand larceny.

Investigators said Mr. Constanza allegedly employed several trucks and drivers whom he paid in cash, and allegedly owed

NYSIF more than \$158,000 in insurance premiums.

Mr. Bennazar-Davila allegedly continued to collect benefits for an injury that occurred in May 2012, after he went to work for Stanza Trucking on July 1, 2013. Investigators said the amount of alleged fraud is at least \$58,000 and, as a result of the arrest, the potential savings on his claim is \$152,805.

Construction Owner Facing Manslaughter

A Brooklyn construction company owner and his businesses face multiple charges in an indictment announced on May 10, 2017, stemming from a wall collapse that killed a worker at an excavation site in September 2015.

The Brooklyn DA's Office said charges against Michael Weiss, RSBY NY Builders, Inc., and Park Ave Builders, Inc., include second-degree manslaughter, criminally negligent homicide, grand larceny and workers' comp fraud, among others.

Mr. Weiss allegedly told workers to excavate an area not approved in Department of Buildings plans and, despite repeated requests from workers, failed to provide material for shoring or underpinning the site and adjacent exposed walls.

Worker Fernando Vanegaz, 18, was killed when an adjacent wall collapsed. Two other workers were severely injured.

Mr. Weiss was ordered held until bail of \$250,000 bond or \$100,000 cash was posted, and to return to court on Aug. 9. The top count carries a maximum sentence of 15 years in prison.

CUSTOMER APPRECIATION



NY Academy of Medicine, 80 Years, NYC

The NY Academy of Medicine, established 1847, addresses health challenges facing New York City and the world's urban populations. Its Institute for Urban Health has a world class medical library and a Fellows program of more than 2,000 experts from across all professions affecting health.

Photo (l.-r.): NYSIF Field Rep Stephen McInnis, Academy of Medicine's Janet Bubica, Brian Milack

Kolping New York, 80 Years, NYC



Kolping NY, which began on Oct. 14, 1888, offers housing for young men, adults and seniors. The Kolping House at 165 E. 88th Street opened on May 27, 1914. Kolping NY also has residences in Montrose, NY, and on the Grand Concourse in the Bronx.

Photo (l.-r.): Kolping's Gail Gleason, Ken Rose



RC Lacy Ford Lincoln Subaru, 85 Years, Catskill, NY

One of the oldest auto dealerships in America, RC Lacy is family owned and operated since 1914. Founder RC Lacy was sure automobiles would be a hit, even though back then the sales approach was not just to convince customers to buy a car, but also not to buy a horse. Today, RC Lacy is 100% recommended on DealerRater.com

Photo (l.-r.): NYSIF Field Rep Anthony Apuzzi, RC Lacy's Troy Lacy



Roger Smith Hotel, 80 Years, NYC

Roger Smith Hotel, at 501 Lexington Avenue since 1929, is a family-owned hotel in 21st-Century Midtown Manhattan. Art and culture are important to the boutique hotel, including guest rooms with hand-picked furnishings and paintings, and exhibits and cultural events hosted in the hotel's public spaces.

Photo (l.-r.): Roger Smith Director Craig Russell, NYSIF Field Rep Stephen Lieber



462 SIK Associates, 75 Years, NYC

462 SIK Associates, a real estate corporation, owns 462 Seventh Avenue, between 34th and 35th streets, in Manhattan's Midtown South. Built in 1925, the 185,000 square-foot building has 23 stories, 24 units, and is near 14 subway lines, the Long Island Railroad and PATH.

Photo (l.-r.): SIK's Brett Shah, Leo Cabanas

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NYSIF's education and information series for employers.



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Quote Revision Now Easier

Now it's easier for employers and brokers to complete a NYSIF eQuote request. If your eQuote request was returned for incomplete information, talk to your underwriter about updating your quote without having to start all over again.

Audit Worksheets and Exit Forms Online

Workers' comp policyholders and brokers can now access premium audit worksheets and exit interview forms through their NYSIF online accounts using the Earned Premium Audit system. See the User Guide on your NYSIF online account home page for additional information.

DB Claims' Reports

Disability benefits policyholders can now access claims payment information any time through their NYSIF online accounts. Log in and choose "Claims Payment Report" from your home page.

Premium Audit Scheduling System

PASS now allows employers or reps to schedule an initial audit appointment for new policies, or schedule an audit to determine final premium on cancelled policies.

—nysif.com—

**HAVE YOU
SIGNED UP
YET?**

Register Now

[If you have a question for NYSIF 'U' email jmesa@nysif.com]