



NYS Paid Family Leave Benefits Law (“PFL”)
 NY Workers Compensation Law and Final Regulations (July 2017)
 December 2017

<p>What is covered PFL “family leave”?</p>	<p>"Family leave" is any leave taken by an employee from work:</p> <ul style="list-style-type: none"> (a) to participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member; or (b) to bond with the employee's child during the first 12 months after the child's birth, or the first 12 months after the placement of the child for adoption or foster care with the employee; or (c) because of any qualifying exigency as interpreted under the FMLA arising 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. <p>Note that leave for an employee’s own serious health condition is not covered by the PFL.</p>
<p>What is a “serious health condition”?</p>	<p>A "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, continuing treatment or continuing supervision by a health care provider.</p>
<p>How does the PFLB define “family member”?</p>	<p>“Family member" means a child, parent, grandparent, grandchild, spouse, or domestic partner.</p>
<p>What are the eligibility criteria for PFL leave/benefits?</p>	<p>PFL covers employees whose regular employment schedule is at least 20 hours per week and have worked at least 26 consecutive weeks before the first full day of PFL leave/benefits begins.</p> <p>Part-time employees whose regular employment schedule is less than 20 hours per week are eligible for PFL leave/benefits after the employee has worked for 175 days for the employer. The 175 days</p>



	are actual days worked, not calendar days.
What is the weekly benefit for PFL leave/benefits?	<p>Employees are entitled to PFL leave/benefits on or after January 1, 2018. The weekly benefit for PFL leave is as follows:</p> <p>On or after 1/1/18: Leave Period: 8 weeks in any 52 week period Leave Benefits: the lesser of 50% of employee's average weekly wage or 50% of the state average weekly wage ("SAWW")</p> <p>On or after 1/1/19: -Leave Period: 10 weeks in any 52 week period -Leave Benefits: the lesser of 55% of employee's average weekly wage or 55% of SAWW</p> <p>On or after 1/1/20: -Leave Period: 10 weeks in any 52 week period -Leave Benefits: the lesser of 60% of employee's average weekly wage or 60% of SAWW</p> <p>On or after 1/1/21: - Leave Period: 12 weeks in any 52 week period - Leave Benefits: the lesser of 67% of employee's average weekly wage or 67% of SAWW</p> <p>SAWW are set every year by the NYSDOL, and were set at \$1,305.92 for 2016.</p>
What other benefits does the PFL provide?	<p>An employee who takes PFL leave is entitled, on return from such leave, to be restored to the position held by the employee when the leave commenced, or a comparable position with comparable employment benefits, pay and other terms and conditions of employment.</p> <p>An employee who receives health benefits through his/her employer is entitled to continued coverage during PFL leave on the same terms as if the employee had continued to work during the PFL leave.</p>



Is incremental paid leave permissible?	PFL leave may be taken intermittently (or for less than a full work week) in increments of one full day or one-fifth of the weekly benefit.
Is the employee required to give the employer notice?	<p>An employee must provide the employer with at least 30 days advance notice before PFL leave is to begin if the qualifying event is foreseeable.</p> <p>Foreseeable qualifying events include an expected birth, placement for adoption or foster care; planned medical treatment for a serious health condition of a family member; the planned medical treatment for a serious injury or illness of a covered service member; or other known military exigency.</p> <p>If 30 days advance notice is not practicable for reasons such as a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable.</p> <p>An employer may waive these notice requirements.</p>
Coordination with disability benefits	An employee may not receive both NYS disability benefits and PFL benefits for the same period of time. An employee who is eligible for both NYS disability benefits and PFL benefits during the same period of 52 consecutive calendar weeks may not receive more than 26 total weeks of disability and PFL benefits during that period of time.
Coordination with FMLA	Leaves under PFL and FMLA run concurrently. However, employers are obligated to provide employees with the requisite FMLA notices. If the employer fails to provide such notice, the employer is deemed to have permitted the employee to receive PFL leave without concurrently using FMLA leave.
Use of Vacation, Sick and Personal Leave	Employers may permit employees to supplement PFL benefits up to their full wages with accrued vacation, sick, personal or other paid time off. If an employer offers this option and an employee exercises it, the employer may request reimbursement from insurance carrier that insures its PFL benefits.



<p>What employer notices are required?</p>	<p>Employers must provide written guidance to their employees concerning the employee's rights and obligations under PFL, including information on how to file a claim for PFL benefits. If the employer maintains an employee handbook, then this information should be included in the handbook.</p> <p>Employers must display or post a notice concerning PFL in a form prescribed by the Workers Compensation Board.</p> <p>Employees must be provided the option to file a waiver of PFL leave/benefits when his or her regular employment schedule is 20 hours or more per week but the employee will not work 26 consecutive weeks; or when his or her regular employment schedule is less than 20 hours per week and the employee will not work 175 days in a 52 consecutive week period.</p>
<p>How are PFL leave/benefits funded?</p>	<p>PFL benefits are intended to be fully funded by employees through payroll deductions. Employers are permitted, but not required, to collect weekly employee contributions starting on 7/1/17 for PFL coverage beginning 1/1/18.</p> <p>The Department of Financial Services established the employee contribution rate for coverage beginning 1/1/18 to be 0.126% of the lesser of an employee's weekly wages or the SAWW. This amount is subject to change on September 1 of each year.</p> <p>Note: Any disability benefits policy issued to satisfy a covered employer's statutory disability benefits must also provide PFL coverage as of 1/1/18.</p>
<p>May employers self-Insure?</p>	<p>Yes, but only employers who self-insure for statutory short-term disability benefits prior to the effective date of the PFL (and continue to self-insure) have the option to elect to self-insure for PFL benefits. Such election to self-insure for PFL benefits must occur no later than 9/30/17.</p>

This summary is for general information purposes and should not be construed as legal advice.