



NEW  
YORK  
STATE

Paid Family  
Leave



# A guide for public employers

March 5, 2024

NYS Workers' Compensation Board



# Agenda

1. Paid Family Leave overview
2. Paid Family Leave & other benefits
3. Employer responsibilities
4. Opting in as a Public Employer
5. How Paid Family Leave is working
6. Employer resources



[PaidFamilyLeave.ny.gov](https://PaidFamilyLeave.ny.gov)  
(844) 337-6303



**Paid Family  
Leave**

# **Paid Family Leave overview**





# New York leads the nation

In April 2016, New York State enacted the nation's strongest and most comprehensive Paid Family Leave policy into law.

- Paid Family Leave is employee-funded insurance that helps workers be there for their family when they're most needed.
- Workers no longer have to choose between caring for their loved ones and their jobs.



## Paid Family Leave basics

Paid Family Leave is **insurance fully funded by employees.**

It provides **job-protected, paid time off** for employees to:



Bond with a new child



Care for a family member  
with a serious health condition



Assist loved ones when a family  
member is deployed abroad



## 2024 State of the State

- In her 2024 State of the State Address, Governor Hochul announced two initiatives that fall under Article 9 of the Workers' Compensation Law:
  - Increased disability benefits and job protection
  - NYS Paid Family Leave for prenatal care
- If passed, both initiatives will take effect on January 1, 2025.
- **Note:** These initiatives are currently part of the Budget proposal and have not yet passed.



## What is the benefit?

- Up to 12 weeks of job-protected, paid time off at 67% of pay, up to a cap of 67% of the NYS Average Weekly Wage.
- Leave can be taken all at once or in increments of full days.
- Visit [PaidFamilyLeave.ny.gov/benefits](https://PaidFamilyLeave.ny.gov/benefits) for the current maximum benefit.



## Bonding with a child

Provides time for both parents to bond with a child **within the first 12 months of:**



**Birth**



**Adoption**



**Foster Care**





# Caring for a family member with a serious health condition

Qualifying family members include:

- Spouse
- Domestic partner
- Child/stepchild
- Sibling
- Parent/stepparent
- Parent-in-law
- Grandparent
- Grandchild

These family members **can live outside** of New York State and even outside the U.S.



## Caring for a family member with a serious health condition

A serious health condition is defined as an illness, injury, impairment, or physical or mental health condition requiring either:

- **Inpatient care**, or
- **Continuing treatment or supervision** by a health care provider



## Assisting during a military deployment

Time off to assist a family member who is deployed abroad on active military service. Events may include:

- Short notice military deployment
- Military events; related activities
- Service member's rest and recuperation
- Counseling
- Post-deployment activities
- Making financial/legal arrangements
- Child care arrangements for military member's child



## Paid Family Leave & COVID-19



Under legislation signed into law in March 2020, PFL benefits may be available for mandatory or precautionary orders of quarantine or isolation due to COVID-19.



## Employee rights and protections

Employees have paid time off and:

- **Job protection**
- **Continued health insurance** while on leave, on the same terms as if the employee had continued to work. (Employees continue paying their share, if any.)
- **Protection from discrimination and retaliation** for requesting or taking Paid Family Leave.

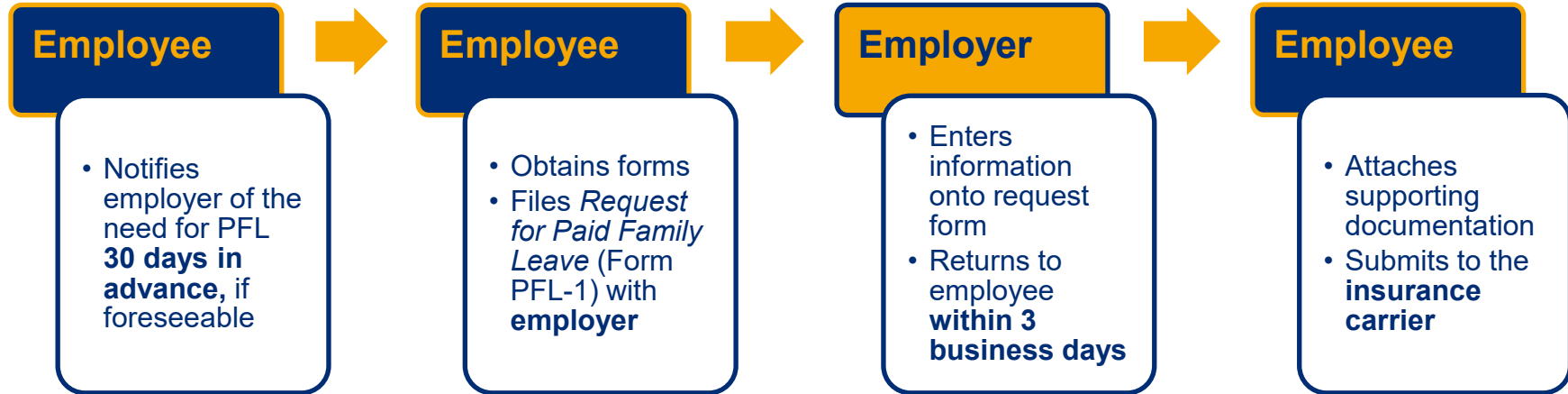


## How is Paid Family Leave funded?

- Paid Family Leave is fully-funded through employee contributions.
- The contribution rate is reviewed annually and is subject to change by the New York State Department of Financial Services.
- Visit [PaidFamilyLeave.ny.gov/cost](https://PaidFamilyLeave.ny.gov/cost) for the current contribution rate.



## How employees request leave



In most cases, the insurance carrier must pay or deny benefits within **18 days of a completed request**, or the first day of leave, whichever is later.



## Who is eligible?

Employees who work for covered employers are eligible if they regularly work:

- **Full-time employees (including domestic workers): 20 or more hours per week.**
  - 26 consecutive weeks of employment with the same employer.
- **Part-time employees: Less than 20 hours per week.**
  - 175 days with the same employer.

**Citizenship and/or immigration status is not a factor in eligibility.**





## Can employees waive coverage?

Employees can only waive coverage if they:

- **Regularly work 20 or more hours per week** but won't be in employment with that employer for 26 consecutive weeks, or
- **Regularly work fewer than 20 hours per week** and won't work 175 days in a 52-week period.

Employers **must** provide a waiver form to all employees who qualify.

A template waiver form is available at [PaidFamilyLeave.ny.gov/pfl-waiver-form](https://PaidFamilyLeave.ny.gov/pfl-waiver-form).

Employees who properly file a waiver will be **ineligible** for benefits and **exempt** from making contributions.



## Can waivers be revoked?

- If an employee's schedule changes such that they no longer qualify for a waiver, their waiver will be automatically revoked within eight weeks of the schedule change.
- Employee will begin making Paid Family Leave contributions along with any retroactive amounts due.

[PaidFamilyLeave.ny.gov](https://PaidFamilyLeave.ny.gov)  
(844) 337-6303



**Paid Family  
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A photograph of a woman with curly hair smiling warmly at a young child. The child has a large white bow in her hair and is wearing a striped shirt. The image is overlaid with a semi-transparent teal circle on the left side, which contains the main title text.

# **Paid Family Leave & other benefits**



## Paid Family Leave vs. FMLA

Both Paid Family Leave and the Family and Medical Leave Act provide:

- Leave for:
  - bonding with a child,
  - caring for a family member with a serious health condition, and
  - assisting when a family member is called to active military service abroad.
- Job protection.
- Continued health insurance during leave on the same terms as if the employee had continued to work.



# Paid Family Leave vs. FMLA

	PFL	FMLA
Benefits	Paid	Unpaid
Coverage	<ul style="list-style-type: none"> <li>▪ Almost all private employers</li> <li>▪ Public employers may opt in</li> <li>▪ <b>One or more employees in employment</b> on each of at least 30 days in any calendar year</li> </ul>	<ul style="list-style-type: none"> <li>▪ Public and private employers</li> <li>▪ <b>50 or more employees</b> in a 75-mile radius</li> </ul>
Eligibility	<ul style="list-style-type: none"> <li>▪ After <b>26</b> consecutive weeks of employment if regularly working <b>20</b> or more hours per week</li> <li>▪ After <b>175</b> days worked if regularly working less than <b>20</b> hours per week</li> </ul>	<ul style="list-style-type: none"> <li>▪ <b>12</b> months of employment</li> <li>▪ <b>1,250</b> hours of work in the <b>12</b>-month period preceding leave</li> </ul>
Reason for Leave	<ul style="list-style-type: none"> <li>▪ Employees <b>cannot</b> use for own serious health condition</li> <li>▪ Can be used to care for a child of any age</li> </ul>	<ul style="list-style-type: none"> <li>▪ Employee <b>can</b> use for own serious health condition</li> <li>▪ Can only be used to care for a child if the child is under 18 years old, or “incapable of self-care because of a mental or physical disability”</li> </ul>
Length of Leave	<ul style="list-style-type: none"> <li>▪ Only in full-day increments</li> </ul>	<ul style="list-style-type: none"> <li>▪ Hourly basis</li> </ul>
Paid Time Off	<ul style="list-style-type: none"> <li>▪ Employers cannot require employees use paid time off while on PFL</li> </ul>	<ul style="list-style-type: none"> <li>▪ Employer can compel an employee to use paid time off while on FMLA</li> </ul>



## What about Paid Family Leave and other leave types?

- **Short-term disability:** employees cannot collect disability and Paid Family Leave benefits during the same period of time.
- **Workers' compensation:** employees cannot collect Paid Family benefits while collecting Workers' Compensation for a total disability.
  - Employees on a reduced earnings schedule may be eligible for benefits.

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**Paid Family  
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A large teal circular graphic on the left side of the page, containing the text "Employer responsibilities".

# Employer responsibilities

A photograph of a woman with dark hair and bangs, smiling as she looks at a document held by another person. The image is overlaid with a teal tint.



# Employer responsibilities

## Complying with the law:

- Ensure coverage is in place.
- Inform employees about PFL.
- Collect employee payroll contributions.
- Offer waivers to employees who qualify for one.
- Post a PFL Notice of Compliance.

## When a claim is received:

- Complete the employer section of the ***Request for Paid Family Leave (Form PFL-1)*** and return to the employee within three business days.
- Discuss any specific leave tracking or other processes with the Paid Family Leave insurer.





# What aspects can unions negotiate?

Issues	Can this be negotiated in a collective bargaining agreement?
Eligibility acquired through union membership or some other measure rather than employment with a single employer.	Yes
Employees who are eligible under the statute may waive coverage if the employee will not use the benefit.	No
Coverage agreed to through the collective bargaining process provides fewer weeks or less weekly/daily benefits than the statute.	No
Coverage agreed to through the collective bargaining process provides more weeks or greater weekly/daily benefits as the statute.	Yes
Collective bargaining agreement may provide that employees do not have to pay a weekly contribution.	Yes
Collective bargaining agreement may require that employees pay more than maximum weekly contribution.	Only if approved by the Workers' Compensation Board.

The background of the slide is a photograph of a soldier in camouflage uniform and a cap, holding a young child. They are standing in a field filled with many American flags. The image has a teal color overlay. A large teal circle is on the left side of the image, partially overlapping the text.

# Opting in as a public employer



## Considerations for public employers

The process for a public employer to opt in to Paid Family Leave is easy. Before you opt in, consider:

- Which employees will you provide coverage for and when will your coverage begin?
- How will Paid Family Leave interact with your existing benefits?
- How will you obtain coverage?



## Which employees will you cover?

### ■ Non-represented employees

- Can begin coverage and payroll deductions as soon as the employer provides notice at least 90 days prior.

### ■ Represented (union) employees

- Must agree to Paid Family Leave coverage through collective bargaining.
- Labor union may negotiate with a public employer for Paid Family Leave benefits at least as favorable as those mandated by statute.



# How will Paid Family Leave interact with your existing benefits?

Public employers should also consider the following:

- Do you have existing leave benefits?
- How will Paid Family Leave interact with accruals, if applicable?
- Will you provide service (retirement) credit while an employee is on Paid Family Leave?



## Obtaining Paid Family Leave coverage

Public employers can obtain Paid Family Leave insurance coverage by:

- **Including Paid Family Leave benefits through a rider on an existing disability benefits policy.**
- **Purchasing a stand-alone Paid Family Leave insurance policy.**
- **Self-insuring for Paid Family Leave.**
  - Only for employers who self-insure for disability benefits or opt in only for Paid Family Leave.



## Notify the Workers' Compensation Board (Board)

Once you have obtained coverage, you must notify the Board of your decision to opt into Paid Family Leave.

In order to notify the Board, you must submit one of the following forms to the Plans Acceptance Unit at [pau@wcb.ny.gov](mailto:pau@wcb.ny.gov):

- *Employer's Application for Voluntary Coverage (No Employee Contribution) (Form PFL-135)*
- *Employer's Application for Voluntary Coverage (Employee Contribution Required) (Form PFL-136)*

PaidFamilyLeave.ny.gov  
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# Employer resources







## Employer resources

Visit [PaidFamilyLeave.ny.gov](https://PaidFamilyLeave.ny.gov) to access:

- Detailed information on Paid Family Leave.
- Paid Family Leave request forms and fact sheets.
- Weekly benefit and payroll deduction calculators.



## Employer resources

Visit the employer page of the website -  
**[PaidFamilyLeave.ny.gov/employers](https://PaidFamilyLeave.ny.gov/employers)** – for:

- An overview of employer responsibilities
- Information on employee eligibility
- Details on obtaining coverage
- Model language for employee handbooks and other resources



## Additional employer resources

### Helpline:

(844) 337-6303

### Homepage:

[PaidFamilyLeave.ny.gov](https://www.paidfamilyleave.ny.gov)

### Get Email Updates:

Select “Get Paid Family Leave Updates” on the bottom of PFL website.





# Office of the Advocate for Business

## AdvocateBusiness@wcb.ny.gov

**ADVOCATE FOR BUSINESS**

The Advocate for Business is the liaison between New York's business community and the Workers' Compensation Board, giving employers one place to contact for answers to their workers' compensation questions. The Advocate for Business:

- Assists businesses with insurance coverage problems and compliance with the Workers' Compensation Law;
- Educates employers and government personnel on how the workers' compensation system works and their responsibilities; and
- Meets with business associations and employer groups to hear their workers' compensation concerns, report those issues to the Chair of the Workers' Compensation Board, and offer solutions.

The Advocate for Business works with employers of all sizes in all industries, particularly small business owners, with issues they've been unable to resolve elsewhere.

**Workers' Compensation Board  
The Advocate for Business**

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The Advocate for Business offers educational presentations on topics important to business, such as an employer's responsibilities and insurance requirements, as well as reducing premiums and penalties. Call or email to schedule a presentation.

[www.wcb.ny.gov](http://www.wcb.ny.gov)



**Thank you!**