

FREQUENTLY ASKED QUESTIONS

Caregivers of a Family Member with a Serious Health Condition



Paid Family Leave

BENEFITS

How much will you receive in benefits?

Benefits phase in over four years. During 2018, you can take up to eight weeks of Paid Family Leave and receive 50% of your average weekly wage (AWW), capped at 50% of the New York State Average Weekly Wage (SAWW). Your AWW is the average of your last eight weeks of pay prior to starting Paid Family Leave. The SAWW is updated annually.

PAID FAMILY LEAVE BENEFITS EXAMPLES FOR 2018		
Worker's average weekly wage	Average Weekly Wage x 50% Capped at 50% of the New York State Average Weekly Wage (\$652.96)	Weekly PFL benefit (2018)
\$600		\$300
\$1,000		\$500
\$2,000		\$652.96

Benefits increase through 2021:

YEAR	WEEKS OF LEAVE	BENEFIT
2018	8 weeks	50% of employee's AWW, up to 50% of SAWW
2019	10 weeks	55% of employee's AWW, up to 55% of SAWW
2020	10 weeks	60% of employee's AWW, up to 60% of SAWW
2021	12 weeks	67% of employee's AWW, up to 67% of SAWW

FUNDING

How much do you pay for benefits?

You pay for these benefits through a small weekly payroll deduction, which is a percentage of your weekly wage up to a cap set annually.

The 2018 payroll contribution is 0.126% of your weekly wage and is capped at an annual maximum of \$85.56. If you earn less than the New York State Average Weekly Wage (\$1305.92 per week), you will have an annual contribution amount less than the cap of \$85.56, consistent with your actual weekly wages.

For example, in 2018, if you earn \$27,000 a year (\$519 a week), you will pay 65 cents per week.

To estimate your deduction, use the payroll deduction calculator at ny.gov/PFLcalculator.

ELIGIBILITY AND PARTICIPATION

Who is eligible?

Most employees who work in New York State for private employers are eligible to take Paid Family Leave. If you are a public employee, your employer may opt into the program.

- **Full-time employees:** If you work a regular schedule of 20 or more hours per week, you are eligible after working 26 consecutive weeks.
- **Part-time employees:** If you work a regular schedule of less than 20 hours per week, you are eligible after working 175 days, which do not need to be consecutive.

You are eligible regardless of your citizenship and/or immigration status.

ELIGIBILITY AND PARTICIPATION (cont'd)

Are employees required to participate in Paid Family Leave?

Yes. Paid Family Leave is not optional for most employees. An exception is if an employee is eligible for a waiver. An employee is eligible for a waiver if they do not expect to work for the same employer long enough to meet the eligibility requirements. If an employee works a regular schedule of 20 or more hours per week, they are eligible after working 26 consecutive weeks. If an employee works a regular schedule of less than 20 hours per week, they are eligible after working 175 days, which do not need to be consecutive. Employers must offer a waiver to any employee who will not meet these thresholds.

Can you opt out?

You can opt out of Paid Family Leave if you do not expect to work for your employer for the minimum amount of time required for eligibility.

If you meet this criteria, your employer must offer you a Paid Family Leave waiver, which is also available at ny.gov/PaidFamilyLeave. Employers should keep completed waivers on file.

If a change in your schedule results in you working enough time to meet the eligibility requirements, your waiver will be automatically revoked. You may voluntarily revoke your waiver at any time. If your waiver is revoked, employers may begin taking payroll deductions and may retroactively collect deductions from the date you signed the waiver.

Can part-time employees take Paid Family Leave?

Yes. If you work a regular schedule of 20 or more hours per week, you are eligible after working 26 consecutive weeks. If you work a regular schedule of less than 20 hours per week, you are eligible after working 175 days, which do not need to be consecutive.

Which family members are covered under Paid Family Leave for family care?

You can request Paid Family Leave to care for the following family members with a serious health condition: your spouse, domestic partner, child, stepchild, parent, parent-in-law, stepparent, grandparent, or grandchild. Siblings are not covered.

What is needed to demonstrate a domestic partnership?

There are a number of factors that are looked at when determining whether a domestic partnership exists. These include, but are not limited to: common ownership of property, children in common, signs of intent to marry, shared budgeting, and the length of the personal relationship.

How do your family members become eligible for family care under Paid Family Leave?

Qualifying family members need to have a serious health condition certified by their health care provider to receive family care under Paid Family Leave. A serious health condition is defined as: an illness, injury, impairment, or physical or mental condition requiring inpatient care in a hospital, hospice, or inpatient/outpatient residential health facility, or continuing treatment or supervision by a health care provider.

Can you use Paid Family Leave to care for an eligible family member living outside New York?

Yes, you can take Paid Family Leave to care for your family member living outside of New York, as long as you are in close proximity to the family member you're caring for during the majority of the Paid Family Leave period. This includes time needed to travel to the family member receiving care, travel to bring them to New York, secure their medication, or make arrangements for their care.

Can you take Paid Family Leave if you are collecting workers' compensation?

It depends. If you are not working and are collecting workers' compensation, you may not use Paid Family Leave. If you are working on a reduced earnings schedule and are collecting workers' compensation, you may still be eligible for Paid Family Leave.

Can you take Paid Family Leave if you are collecting short-term disability benefits?

No. You may not receive Paid Family Leave and short-term disability benefits at the same time.

TAKING PAID FAMILY LEAVE

How do you request Paid Family Leave for family care?

1. Notify your employer at least 30 days before your leave will start, if it's foreseeable. Otherwise, notify your employer as soon as possible.
2. Obtain the request form package for *Care for a Family Member with Serious Health Condition*. The forms are available from your employer, employer's insurance carrier, or directly from ny.gov/PaidFamilyLeaveApply.
3. Complete the *Request For Paid Family Leave (Form PFL-1)*, following the instructions on the cover sheet. Make a copy for your records, and submit it to your employer. Your employer must fill out their section of *Form PFL-1* and return it to you within three business days. If your employer fails to respond, you may proceed to the next step below.
4. Your family member (the care recipient), or their authorized representative, must fill out the *Release Of Personal Health Information Under The Paid Family Leave Law (Form PFL-3)* and submit it to their health care provider. This release will end after one year, or when your family member revokes it. The health care provider will keep it on file.
5. Complete the employee section of the *Health Care Provider Certification (Form PFL-4)*. You, your family member, or their authorized representative must provide *Form PFL-4* to your family member's health care provider.
6. Your family member's health care provider completes the remainder of *Form PFL-4* and returns it to your family member or their authorized representative. They then give *Form PFL-4* to you for submission.
7. Submit *Form PFL-1*, *Form PFL-4*, and supporting documentation to your employer's insurance carrier. You can submit your request before your leave starts or within 30 days after the start of your leave. The insurance carrier must pay or deny your request within 18 calendar days of receiving your completed request.
 - To learn who your employer's insurance carrier is, you can:
 - Look for the Paid Family Leave poster in your workplace.
 - Ask your employer.
 - Visit wcb.ny.gov and search your employer's name to look up their insurance carrier.
 - If you cannot determine your employer's insurance carrier, call the Paid Family Leave Helpline for assistance in finding the proper carrier.
 - Paid Family Leave Helpline: **(844) 337-6303** (8:30 a.m. – 4:30 p.m., ET, Monday – Friday)
 - If you believe your employer is uninsured, you can submit your request for Paid Family Leave to the NYS Workers' Compensation Board.
 - Paid Family Leave, PO Box 9030, Endicott, NY 13761-9030

Can multiple employees take Paid Family Leave to care for the same family member?

If the employees have different employers, they can take Paid Family Leave to care for the same family member whenever they want. However, employees who work for the same employer must have their employer's approval first if they want to take Paid Family Leave at the same time to care for the same family member.

TAKING PAID FAMILY LEAVE (cont'd)

Can you take Paid Family Leave and sick and/or vacation time together to receive your full salary?

You can only choose to take sick and/or vacation time during Paid Family Leave if your employer allows it. Taking your sick and/or vacation time at the same time as Paid Family Leave may allow you to receive your full salary for all or part of the leave. Your sick and/or vacation time will then be covered by the same rights and protections afforded to employees under the Paid Family Leave Law, including the right to keep your health insurance and the right to be reinstated to the same job (or a comparable one) when you return from leave.

DISPUTES

What if your Paid Family Leave request is denied?

If your Paid Family Leave request is denied, you may request to have the denial reviewed by a neutral arbitrator. Your insurance carrier (or employer, if self-insured) will provide you with the reason for denial and information about requesting arbitration.

DISCRIMINATION AND RETALIATION

What if you are discriminated against for requesting or taking Paid Family Leave?

If your employer terminates your employment, reduces your pay and/or benefits, or disciplines you in any way as a result of you requesting or taking Paid Family Leave:

First, you should request that your employer reinstate you. To request reinstatement:

1. Complete the *Formal Request For Reinstatement Regarding Paid Family Leave (Form PFL-DC-119)*.
2. File the completed *Form PFL-DC-119* with your employer.
3. Send a copy to: **Paid Family Leave, PO Box 9030, Endicott, NY 13761-9030**.

Your employer has 30 calendar days to respond to the request.

If your employer does not comply with your request for reinstatement within 30 calendar days, you have the right to a hearing with the NYS Workers' Compensation Board.

To request a hearing, file a discrimination/retaliation complaint:

1. Complete the *Paid Family Leave Discrimination/Retaliation Complaint (Form PFL-DC-120)*.
2. File the completed *Form PFL-DC-120* with your employer.
3. Send a copy to: **Paid Family Leave, PO Box 9030, Endicott, NY 13761-9030**.

The Board will assemble your case and reach out to you to schedule a hearing within 45 calendar days.

NOTE: *To file a complaint, you must have first requested reinstatement as described above.*

An administrative law judge may order an employer to reinstate you, pay any lost wages, pay attorney's fees, and pay up to \$500 in penalties.

For more information:
ny.gov/PaidFamilyLeave
(844) 337-6303

