



OVERVIEW

What is Paid Family Leave?

Paid Family Leave is an employee-funded insurance policy that provides job-protected, paid time off for eligible employees to bond with a newly born, adopted or fostered child, care for a family member with a serious health condition, or assist loved ones when a family member is deployed abroad on active military service.

How does it impact union members?

- **Private sector:** All private sector union employees are covered for Paid Family Leave. Your employer must secure Paid Family Leave insurance unless your union decides to provide the insurance. If your union provides the insurance, the benefit must be at least as favorable as what is required by the law.
- **Public sector:** Public sector union employees are not covered for Paid Family Leave unless your employer chooses to offer it. This will be negotiated. The insurance benefit must be at least as favorable as what is required by the law.

What are the minimum eligibility standards?

Unless more favorable terms are negotiated, here's when you become eligible for Paid Family Leave:

- **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.

Does Paid Family Leave limit the ability of unions to negotiate other leave benefits?

No. Paid Family Leave does not limit the existing right of employers and unions to negotiate and provide leave benefits unrelated to Paid Family Leave insurance that would address the need of employees to balance work and family responsibilities; such unrelated leave benefits are not statutory Paid Family Leave policies.

BENEFITS

How much will you receive in benefits?

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

BENEFITS (cont'd)

The minimum required benefits appear below.

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. Again, your union may have a negotiated agreement that provides for more generous benefits.

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

Who pays for Paid Family Leave?

New York's Paid Family Leave is employee funded. The 2018 payroll contribution is 0.126% of an employee's weekly wage and is capped at an annual maximum of \$85.56. Employees earning less than the New York State Average Weekly Wage (\$1305.92 per week), will have an annual contribution amount less than the cap of \$85.56, consistent with their actual weekly wages.

Public employers who have opted in must notify the NYS Workers' Compensation Board, and all employees who will make contributions, 90 days before the first Paid Family Leave employee deduction is made.

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.

COLLECTIVE BARGAINING AGREEMENTS (CBAS)

Is a private employer required to negotiate with a union over Paid Family Leave?

Private employers are required to provide Paid Family Leave coverage to all of their eligible employees. The employer and union may negotiate how the benefits will be provided.

Is a public employer required to negotiate with a union over Paid Family Leave?

Yes. While public employers are required to negotiate Paid Family Leave for union-represented employees, the parties are not required to reach an agreement under which benefits are provided.

CBAS (cont'd)

What aspects of Paid Family Leave are negotiable?

ISSUE	CAN THIS BE NEGOTIATED IN A CBA?
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 than the statute	Yes
CBA may provide that employees do not have to pay a weekly contribution	Yes
CBA may require that employees pay more than maximum weekly contribution	Only if approved by the Workers' Compensation Board

Negotiated pre-existing paid leave benefits are not an insurance product that would be subject to review by the Workers' Compensation Board.

TAKING PAID FAMILY LEAVE

How do you request Paid Family Leave?

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 the type of leave you need to take. 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. Submit *Form PFL-1*, the other request forms specific to the leave you are taking, 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

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

