

As of January 1, 2018, Paid Family Leave provides a structure to help employees care for their families. Paid leave has been shown to increase workplace morale and employee retention. Public employers may opt into Paid Family Leave; it is not mandatory in the public sector.

What are a public employer's coverage options?

Public employers have the option to provide Paid Family Leave to their employees at any time. Public employers who currently carry Disability insurance have additional considerations and near-term requirements, explained below. If and when you decide to opt in, Paid Family Leave insurance coverage may be secured by:

- providing Paid Family Leave benefits through an existing Disability insurance policy,
- obtaining a stand-alone Paid Family Leave insurance policy, or
- self-insuring for Paid Family Leave.

Public employers that offer disability benefits through an insurance policy may not self-insure for Paid Family Leave.

Coverage must be maintained for at least one year and may only be canceled after providing 12 months' notice to all affected unrepresented employees and to the Workers' Compensation Board.

For a list of approved insurers offering Paid Family Leave policies, visit dfs.ny.gov/insurance/pfl/pfl_carriers.htm.

What do public employers need to do?

For public employers who currently provide Disability benefits:

A public employer may opt to have only Disability benefits, only Paid Family Leave benefits, both, or neither. However, if a public employer currently provides Disability benefits, it must follow these steps:

- If you haven't already done so, email the *Plans Acceptance Unit* of the Workers' Compensation Board at PAU@wcb.ny.gov stating whether or not you plan to provide Paid Family Leave to employees in 2018.
- Notify your Disability benefits insurance carrier (if you do not self-insure) of your decision.
- Notify your employees of your decision. If you have employees who are not represented by a union, you may opt in to Paid Family Leave on their behalf. If you have employees who are represented by a union, their participation is subject to collective bargaining. If you wish to provide Paid Family Leave to such employees, you should engage their union(s) to negotiate the terms of their participation.

If you are not opting in to Paid Family Leave:

- If you haven't already done so, email the *Plans Acceptance Unit* of the Workers' Compensation Board at PAU@wcb.ny.gov stating that you do not plan to provide Paid Family Leave to employees in 2018.
- Notify your Disability benefits insurance carrier (if you do not self-insure) of your decision.
- Notify your employees. If you have employees who are represented by a union, you should advise any union(s) representing your employees of this decision.
- Even if you choose not to opt in by December 1, 2017 you may choose to do so at a later date.

Important: For most private employers, Paid Family Leave will be added to their existing Disability insurance policies. If you are an employer who currently carries Disability insurance, your insurer may **automatically** add Paid Family Leave coverage to your 2018 Disability policy. However, as a public employer, you are not required to add Paid Family Leave insurance to your existing Disability policy; you must **actively elect to opt in**.

What do public employers need to do? (cont'd)

For employers who do not currently provide Disability benefits:

If you decide to opt in to Paid Family Leave:

- Complete the opt in application available at ny.gov/PaidFamilyLeave. You may do so at any time.
- Completed applications should be submitted by email to the *Plans Acceptance Unit* of the Workers' Compensation Board at PAU@wcb.ny.gov.
- If you have employees that are represented by a union, their participation is subject to negotiation.

If you are not opting in to Paid Family Leave:

- No action is required.
- You can apply to provide voluntary Paid Family Leave coverage at any time by following the procedure above.

How does this impact labor unions?

Public employers choosing to opt in must collectively bargain with labor unions for Paid Family Leave benefits **at least as favorable** as those mandated by statute. Such negotiated programs may not permit eligible employees to opt out of Paid Family Leave, but the collective bargaining agreement may provide other rules that differ from the Paid Family Leave regulations. Where the agreement does not provide a different rule, the Paid Family Leave law and regulations will apply.

Paid Family Leave benefit plans that have been incorporated into a collective bargaining agreement must be submitted to the Workers' Compensation Board for approval to ensure that the terms are at least as favorable as the PFL statute requires. Plans can be submitted by emailing the Plans Acceptance Unit PAU@wcb.ny.gov.

How is Paid Family Leave funded?

Employees pay for these benefits through a small weekly payroll deduction, which is a percentage of their weekly wages up to a cap set annually. The employee contribution rate is set every year to match the cost of insurance coverage and you use the employee contributions to pay the insurance premium.

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.

For example, in 2018, if an employee earns \$27,000 a year (\$519 a week), they will pay 65 cents per week.

A public employer must notify all employees who will be required to make contributions and the NYS Workers' Compensation Board 90 days before the first Paid Family Leave employee deduction is made.

What are the Paid Family Leave benefits?

Benefits are paid directly by the Paid Family Leave insurance carrier or through self-insurance. The Paid Family Leave Act sets certain minimum standards for benefits.

Benefits phase in over four years. In 2018, 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). The AWW is the average of the 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 (cont'd)

Minimum 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

*AWW — Average Weekly Wage

**SAWW — New York State Average Weekly Wage

Who is eligible?

- Employees with a regular work schedule of 20 or more hours per week are eligible after 26 consecutive weeks of employment.
- Employees with a regular work schedule of less than 20 hours per week are eligible after 175 days worked (does not need to be consecutive).

Employees are eligible regardless of their citizenship and/or immigration status.

What is the leave request process?

1. The employee will notify you at least 30 days before their leave will start, if it's foreseeable. Otherwise, the employee should notify you as soon as possible.
2. The employee will contact you, your insurance carrier, or visit ny.gov/PaidFamilyLeave to obtain the request form package for the type of leave they need to take.
3. The employee completes the *Request For Paid Family Leave (Form PFL-1)* and submits it to you.
4. **As the employer, you must then fill out your section of *Form PFL-1* and return it to the employee within three business days.**
5. The employee will submit Form PFL-1, the other request forms specific to the leave they are taking, and supporting documentation to your insurance carrier. The insurance carrier must pay or deny the request within 18 calendar days of receiving the completed request.

What if you already offer Paid Family Leave?

You must ensure that your Paid Family Leave benefit offers what the law requires, at minimum; however, you may choose to supplement with a more generous leave policy. Covered employers are required to purchase an insurance policy or provide Paid Family Leave benefits directly if approved as a self-insured employer. More information on requirements for employers who provide, or wish to provide, a more generous family leave policy is available on the Employer section of ny.gov/PaidFamilyLeave.

If you pay full wages to your employees while they are on Paid Family Leave, you may seek reimbursement from your insurance carrier for the amount payable under your Paid Family Leave policy.

For more information, including Paid Family Leave forms and other resources for employers, visit ny.gov/PaidFamilyLeave or call (844) 337-6303.

