



# Farm Laborers Fair Labor Practices Act

FALL 2019

**IMPORTANT INFORMATION FOR FARM LABORERS:** As of January 1, 2020, the Farm Laborers Fair Labor Practices Act provides important protections for farm laborers, including new coverage requirements and other changes related to workers' compensation, disability benefits and Paid Family Leave. Read on to understand your benefits and rights.

## Workers' Compensation: For injuries or illnesses on the job

Workers' compensation provides lost-wage benefits and health care should you become injured or ill because of your work. Generally, all employees are covered for workers' compensation.

### Lost Wage Benefits

Workers' compensation lost wage benefits are two-thirds of your average weekly wage (AWW) multiplied by your degree of disability, which is a percentage of how much you are disabled (determined by a Board-authorized medical provider). For workers' compensation, your AWW is based on your gross earnings, including overtime and other compensation, for the 52 weeks before the date of your injury or illness.

**Two-thirds of your AWW multiplied by your percentage of disability = weekly benefit**

*Note: Workers' compensation lost wage benefit payments are tax free.*

The minimum weekly lost wage benefit is \$150, and the maximum benefit is based on the year you were injured or became ill. The maximum weekly benefit is calculated every July 1 and is based on the Statewide Average Weekly Wage (SAWW), determined by the NYS Department of Labor.

Date of Injury/Illness	Maximum Amount
July 1, 2019 – June 30, 2020	\$934.11
July 1, 2018 – June 30, 2019	\$904.74
July 1, 2017 – June 30, 2018	\$870.61
July 1, 2016 – June 30, 2017	\$864.32
July 1, 2015 – June 30, 2016	\$844.29
July 1, 2014 – June 30, 2015	\$808.65

There are some restrictions on lost wage benefits depending on how much time you miss from work:

- **Seven days or less:** You do not receive workers' compensation lost wage benefits.
- **Eight to 14 days:** You receive workers' compensation lost wage benefits starting on the eighth missed day.
- **15 days or more:** You may receive workers' compensation lost wage benefits from the first day you missed work.

### Medical Treatment Benefits

Workers' compensation provides you with medical treatment for a work-related injury or illness by Board-authorized providers at no cost to you, for your lifetime. This treatment is covered whether or not you lose any time from work or are receiving lost wage benefits. Your employer's insurance carrier (or your employer, if they are self-insured) will directly pay health care providers for medical bills related to your injury or illness; you do not pay out of pocket. You also may be reimbursed for mileage, public transportation or other expenses you incur when traveling for treatment.

## Disability Benefits: For injuries or illnesses unrelated to your job

Disability benefits (DB) provide temporary cash benefits when you are injured or become ill outside of your job and are unable to work. Most employees who work for private employers are covered for DB after working four weeks for that employer. Public employers may voluntarily provide coverage to their employees.

### Cash Benefits

DB cash benefits are 50% of your AWW, up to a maximum of \$170.00 per week. For DB, the AWW is based on your wages for the eight weeks of work prior to the last day worked. Benefits are paid for up to 26 weeks of disability during 52 consecutive weeks. There is a seven-day waiting period for benefits; benefits begin on the eighth consecutive day of disability. DB cash benefits are subject to Social Security taxes.

## Paid Family Leave: For taking care of your family in times of need

Paid Family Leave (PFL) provides job-protected, paid time off 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 spouse, domestic partner, child or parent is deployed abroad on active military service.

You must meet certain requirements to take PFL: full-time employees must have worked for their employer for 26 consecutive weeks; part-time employees must have worked for their employer for 175 days, which do not need to be consecutive.

### Time Off and Wage Benefits

The PFL wage benefit is a percentage of your AWW, up to the same percentage of the SAWW. For PFL, the AWW is the average of your last eight weeks of work prior to taking PFL, including bonuses and commissions.

PFL time off and wage benefits have been phasing in since 2018 and will reach full benefits in 2021.

YEAR	WEEKS OF LEAVE	BENEFIT
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

### Rights and Protections

- You have job protection while taking PFL, so you are entitled to return to the same job (or a comparable one) when you return from leave.
- Your health insurance continues while on leave on the same terms as if you had continued working. If you contribute to the cost of your health insurance, you must continue to pay your portion of the cost while on leave.
- Your employer is prohibited from discriminating or retaliating against you for requesting or taking PFL.

### Paid Family Leave Funding

Paid Family Leave is fully-funded through employee payroll contributions set each year by the Department of Financial Services to match the cost of coverage. Details on the current contribution rate are available at [PaidFamilyLeave.ny.gov/cost](https://www.paidfamilyleave.ny.gov/cost).

### Waiving Coverage

If you are a part-time or seasonal employee, you may qualify for a waiver to opt out of coverage. You qualify for a waiver if you:

- work a regular schedule of less than 20 hours per week, and will not work 175 days in a year; or
- work a regular schedule of 20 or more hours per week but won't be in employment for 26 consecutive weeks with the same employer.

Your employer must offer you a waiver if you qualify. If you waive coverage, you will not make contributions and will not be eligible for Paid Family Leave benefits. If your schedule changes such that you no longer qualify for a waiver, your waiver will automatically be revoked. You may also choose to revoke a waiver at any time.