



**Paid Family
Leave**



Q&A For Employers

April 8, 2022

NYS Workers' Compensation Board



Agenda

1. Paid Family Leave Overview
2. Top Employer Questions
3. Employer Resources
4. Q&A





Paid Family Leave basics

Paid Family Leave is **insurance, fully funded by employees**, which provides **paid time off** and **job protection** for employees to:



Bond with a new child



Care for a family member with a serious health condition



Assist loved ones when a spouse, domestic partner, child, or parent is deployed abroad



Paid Family Leave and COVID-19



Provides paid time off/job protection for employees to care for themselves or their minor dependent child when under an order of quarantine or isolation due to COVID-19



Time off and wage benefits

Eligible employees may take up to **12** weeks of PFL

BENEFITS FOR 2022		
Year	Weeks of Leave	Benefits
2022	12 Weeks	67% of employee's AWW, Up to 67% of SAWW



Employee contributions

- The 2022 payroll contribution is **0.511%** of an employee's gross wages each pay period, capped at an annual maximum of **\$423.71**
- If an employee earns less than the New York State Average Weekly Wage, their annual contribution will be less than the cap



Summarizing the updates for 2022

- **Maximum weekly benefit increase:** Benefit increased from \$971.61 to **\$1,068.36**
- **Employee contribution rate:** As of January 1, 2022, employers may deduct at the rate of **0.511%** of an employee's gross wages each pay period, capped at an annual maximum of **\$423.71**
- Full details at: PaidFamilyLeave.ny.gov/2022



Small employers

For most employers with **10** or fewer employees and a business net annual income of less than **\$1 million**:

- Employees can use a combination of Paid Family Leave and disability benefits
- After receiving their full Paid Family Leave benefit (up to **\$840.70** weekly), employees will receive disability benefits to match their full wages up to a maximum weekly disability benefit of **\$2,043.92**, for a total of **\$2,884.62** per week
- There is no waiting period for either benefit

Employees will have job protection for the duration of the quarantine



Medium employers

For most employers with **11 to 99** employees, and smaller employers (**1 to 10** employees) with a business net annual income greater than **\$1 million**:

- You are required to provide at least **five days** of COVID-19 paid sick leave
- After that, employees can use a combination of Paid Family Leave and disability benefits
- After receiving their full Paid Family Leave benefit (up to **\$840.70** weekly), employees will receive disability benefits to match their full wages up to a maximum weekly disability benefit of **\$2,043.92**, for a total of **\$2,884.62** per week
- There is no waiting period for either benefit

Employees will have job protection for the duration of the quarantine



Large employers

For most employers with **100 or more** employees, as well as all public employers:

- You are required to provide at least **14 days** of COVID-19 paid sick leave for a COVID-19-related quarantine, which should cover the period of a mandatory or precautionary order of quarantine or isolation

Employees will have job protection for the duration of the quarantine

A woman with glasses is sitting at a desk, looking down at a large document she is holding. She has her hand to her neck, suggesting she is thoughtful or stressed. The background is a blurred office setting. The entire image has a teal overlay, and a large teal circle is on the left side containing the text.

Top questions from employers



Question 1: Must employees expend all other leave types before becoming eligible for PFL?

- Employers cannot require employees use paid time off while on PFL
- If an employee has an event that qualifies for leave under **both** Paid Family Leave and FMLA, an employer may require the employee to take the leaves concurrently
- Employees cannot collect short-term disability and Paid Family Leave benefits at the same time



Question 2: If an employee's leave reason is covered under FMLA and Paid Family Leave, can the employer require the employee to take paid time off at that time?

- The Workers' Compensation Law does not allow employers to force employees to use accruals (such as vacation or PTO) during PFL
- However, the PFL regulations allow an employer to charge accruals in accordance with the provisions of the FMLA when FMLA and PFL are running concurrently
- We recommend employers do not require employees to use accruals when FMLA and PFL are running concurrently



Question 3: If an employee has exhausted FMLA, does PFL grant them an additional 12 weeks of leave?

- An employer may require an employee to use PFL concurrently with FMLA
- If an employer notifies an employee that a period of FMLA also qualifies for PFL and the employee fails to apply for benefits, the employer and insurance carrier may count the FMLA time against the employee's maximum PFL leave
- If an employee uses FMLA for an event that doesn't qualify for PFL, then the employee will still have PFL available



Question 4: Can an employee opt out of PFL if they work over 20 hours per week?

- Employees can only waive coverage if they regularly work:
 - **Fewer than 20 hours per week** and won't work 175 days in a 52-week period, or
 - **20 or more hours per week** but won't be in employment with that employer for 26 consecutive weeks
- Employers **must** provide a waiver form to all employees who qualify
- A template waiver form is available at [PaidFamilyLeave.ny.gov](https://www.PaidFamilyLeave.ny.gov)
- Employees who properly file a waiver will be **ineligible** for benefits and **exempt** from making contributions



Question 5: Is there an employer match fund for the payroll deduction, or is this solely funded by the employees?

- Paid Family Leave is fully-funded through employee contributions
- Department of Financial Services sets the contribution rate each year
- The 2022 payroll contribution is **0.511%** of an employee's gross wages each pay period, capped at an annual maximum of **\$423.71**
- If an employee earns less than the New York State Average Weekly Wage, their annual contribution will be less than the cap



Question 6: Can an employee take PFL more than once a year due to unique qualifying events?

- An employee may choose to use Paid Family Leave for more than one type of qualifying event
- Employees may take up to 12 weeks of Paid Family Leave in every 52-week period
- An employee who has multiple qualifying events within a 52-week period will still be limited to 12 weeks of Paid Family Leave



Question 7: What is the process for submitting PFL request forms?

- Employees should provide employers with 30 days' advance notice of their intent to use Paid Family Leave, if foreseeable
- Employers should have forms available for employees
- Employees must fill out Part A of the *Request for Paid Family Leave (Form PFL-1)*. Employers must complete Part B and return it to the employee within three business days
- If employers fail to return the form within three business days, the employee can submit the form directly to the insurance carrier without employer information



Question 8: Are domestic workers eligible for Paid Family Leave?

- Effective January 1, 2022
- Covered for disability benefits and Paid Family Leave if employee is working 20 or more hours per week for the private homeowner
- Eligible once in employment for 26 consecutive weeks



Question 9: Are siblings covered under Paid Family Leave for family care?

- Yes, effective January 1, 2023
- Includes:
 - Biological siblings
 - Adopted siblings
 - Step-siblings
 - Half-siblings



Question 10: How should employers address COVID-19 sick pay, paid sick leave and Paid Family Leave?

- Employers are required to provide a certain number of hours of Paid Sick Leave depending on the size of the employer
- When an employee is under an order of quarantine or isolation, an employer may be required to provide COVID-19 paid sick leave, depending on the size of the employer (this is separate from regular Paid Sick Leave the employer must provide)
- Some employees may also have Paid Family Leave benefits available



Question 11: How many times can an employee take COVID-19-related leave?

- Employees may qualify for COVID-19 quarantine leave for up to three orders of quarantine or isolation
- The second and third orders of quarantine or isolation must be based on a positive COVID-19 test



Question 12: If an employer offers paid sick leave, do they still need to pay for COVID-19 leave?

- COVID-19 paid sick leave is in addition to any other sick leave or accruals (PTO) an employer may offer



Question 13: Can employees use COVID-19 leave to take time to get tested for COVID-19?

- COVID-19 quarantine leave benefits are only available when an employee or their minor dependent child are subject to an order of quarantine or isolation



Question 14: Is there any recourse if you suspect an employee is abusing PFL?

- If an employer believes an employee is abusing Paid Family Leave, the employer should immediately contact their Paid Family Leave insurance carrier to notify them of the situation
- The Paid Family Leave insurance carrier will determine whether the employee's Paid Family Leave benefits are affected

Employer resources





Employer resources

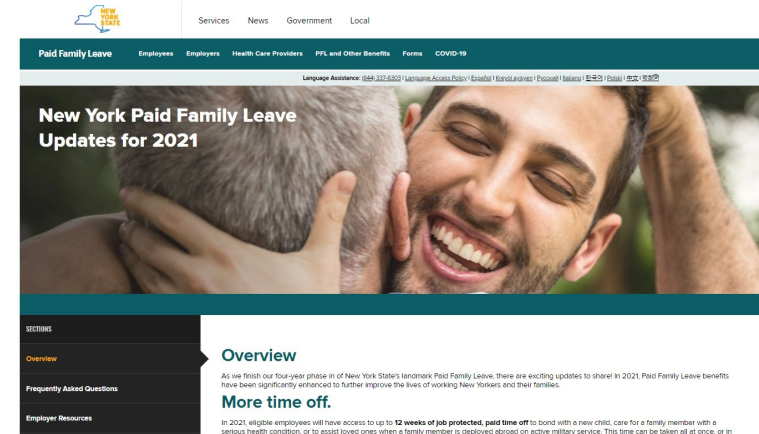
Visit PaidFamilyLeave.ny.gov to access:

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



Updates for 2022 page

- PaidFamilyLeave.ny.gov/2022
- Overview of changes
- FAQs
- Updated Employee Statement of Rights
- Updated model language for written materials
- Employee Deduction Notification (template)





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





Advocate for Business

AdvocateBusiness@wcb.ny.gov

 **Workers' Compensation Board**

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



Additional questions?