



**Paid Family  
Leave**



# Q&A For Employers

April 26, 2023

NYS Workers' Compensation Board



# Agenda

1. Paid Family Leave overview
2. Top questions from employers
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

In 2023, eligible employees may take up to **12** weeks of Paid Family Leave at 67% of their average weekly wage, up to 67% of the New York State average weekly wage.

<b>BENEFITS FOR 2023</b>		
<b>12 weeks</b>	<b>67% of employee's average weekly wage, up to 67% of NYS average weekly wage</b>	<b>New maximum weekly benefit \$1,131.08</b>



## Employee contributions

- The 2023 payroll contribution is **0.455%** of an employee's gross wages each pay period, capped at an annual maximum of **\$399.43**.
- If an employee earns less than the New York State average weekly wage of \$1,688.19, their annual contribution will be less than the cap.



## 2023 benefit and contribution summary

As of January 1, 2023:

- **Maximum weekly benefit:** Increases from \$1,068.36 to **\$1,131.08**.
- **Employee contribution rate:** Employers may deduct at the rate of **0.455%** of an employee's gross wages each pay period, capped at an annual maximum of **\$399.43**.

Full details at: [PaidFamilyLeave.ny.gov/2023](https://PaidFamilyLeave.ny.gov/2023)



# COVID-19 quarantine leave

## Available when:

- Employees are subject to an order of mandatory or precautionary quarantine or isolation due to COVID-19.
- An employee's minor, dependent child is subject to an order of mandatory or precautionary quarantine or isolation due to COVID-19.





## Taking leave for personal quarantine

- Eligible workers may apply for a combination of Paid Family Leave and disability benefits to receive their full pay (up to a cap).
- Paid Family Leave benefits are **67%** of pay, up to a maximum of **\$840.70** weekly.
- Disability benefits make up the difference, up to a maximum of **\$2,043.92** weekly.
- The total combined weekly benefit is **\$2,884.62**.
- There is no waiting period for either benefit.

**Workers have job protection for the duration of the quarantine.**



## Taking leave for a child's quarantine

Eligible workers may also apply for Paid Family Leave if their minor, dependent child is under an order of mandatory or precautionary quarantine or isolation.

- Paid Family Leave for a child's COVID-19 quarantine provides **67%** of pay, up to a maximum weekly benefit of **\$840.70**.

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: Are employees who work outside of New York state eligible to take Paid Family Leave?

- In order to be eligible for New York State Paid Family Leave, an employee must be in the employment of a covered employer.
- To be in employment, an employee's service must be "localized" in New York State.
- The localization test is found in section 201(6) of the Workers' Compensation Law.



## Question 2: Must employees expend all other leave types before becoming eligible for Paid Family Leave?

- Employers cannot require employees use paid time off while on Paid Family Leave.
- 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 3: 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 Paid Family Leave.
- However, the Paid Family Leave regulations allow an employer to charge accruals in accordance with the provisions of FMLA when FMLA and Paid Family Leave are running concurrently.
- We recommend employers do not require employees to use accruals when FMLA and Paid Family Leave are running concurrently.



## Question 4: If an employee has exhausted FMLA, does Paid Family Leave grant them an additional 12 weeks of leave?

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



## Question 5: Can an employee opt out of Paid Family Leave 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 6: 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 2023 payroll contribution is **0.455%** of an employee's gross wages each pay period, capped at an annual maximum of **\$399.43**.
- If an employee earns less than the New York State Average Weekly Wage, their annual contribution will be less than the cap.



## Question 7: Can an employee take Paid Family Leave 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 8: What is the process for submitting Paid Family Leave 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 9: Are siblings covered under Paid Family Leave for family care?

- Yes, effective in 2023.
- Check with your insurance carrier for details.
- Includes:
  - biological siblings,
  - adopted siblings,
  - step-siblings, and
  - 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: 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 12: When does the COVID-19 quarantine leave law expire?

- The New York State legislation that provides benefits for COVID-19 quarantine leave does not contain an end date.



## Question 13: Is there any recourse if you suspect an employee is abusing Paid Family Leave?

- 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.

PaidFamilyLeave.ny.gov  
(844) 337-6303



Paid Family  
Leave

# Employer resources





## Employer resources

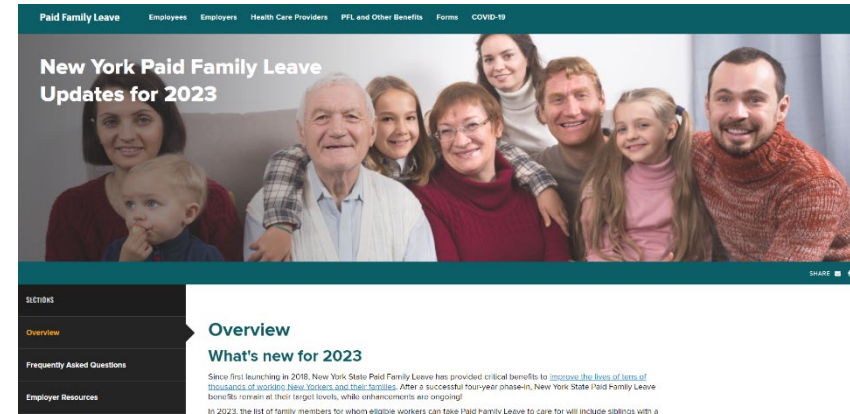
Visit [PaidFamilyLeave.ny.gov](https://PaidFamilyLeave.ny.gov) to access:

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



# Updates for 2023 webpage

- [PaidFamilyLeave.ny.gov/2023](https://PaidFamilyLeave.ny.gov/2023)
- Overview of changes,
- FAQs,
- New Employee Statement of Rights,
- Updated model language for written materials, and
- 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 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

328 State Street  
Schaenectady, NY 12305  
1-877-632-4996  
AdvocateBusiness@WCB.NY.Gov

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](http://WWW.WCB.NY.GOV)



# Additional questions?