



**Paid Family
Leave**



A guide for employers and HR professionals

October 27, 2022

NYS Workers' Compensation Board



Agenda

1. Paid Family Leave Overview
2. What's New for 2023
3. Employer Responsibilities
4. Paid Family Leave and FMLA
5. Paid Family Leave and COVID-19
6. Resources





In April 2016, New York State enacted the nation's strongest and most comprehensive Paid Family Leave policy into law.

- Paid Family Leave is employee-funded insurance that helps workers be there for their family when they're most needed.
- Workers no longer have to choose between caring for their loved ones and their jobs.



Paid Family Leave basics

Paid Family Leave is **insurance fully funded by employees**
It 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 family
member is deployed abroad



Paid Family Leave & COVID-19



Employees can care for themselves, or their minor dependent child when under an order of quarantine or isolation due to COVID-19.



Employee rights and protections

Employees have paid time off and:

- **Job protection**
- **Continued health insurance** while on leave, on the same terms as if the employee had continued to work (Employees continue paying their share, if any)
- **Protection from discrimination and retaliation** for requesting or taking Paid Family Leave



Top 5 questions from employees

- How do I apply?
- Where do I send my completed application?
- Am I eligible?
- When will I get paid?
- What are the time off and wage benefits?



A close-up photograph of a man with glasses and a mustache kissing a baby on the forehead. The image is overlaid with a semi-transparent teal circle on the left side, which contains the title text. The overall image has a teal tint.

Basic uses of Paid Family Leave



Bonding with a child

Provides time for both parents to bond with a child **within the first 12 months of:**



Birth



Adoption



Foster Care



Caring for a family member with a serious health condition

Qualifying family members include:

- Spouse
- Domestic partner
- Child/stepchild
- Sibling*
- Parent/Stepparent
- Parent-in-law
- Grandparent
- Grandchild

These family members **can live outside** of New York State and even outside the U.S.

*** New in 2023 – check with your insurance carrier for details on when this goes into effect for your policy.**



Caring for a family member with a serious health condition

A serious health condition is defined as an illness, injury, impairment, or physical or mental health condition requiring either:

- **Inpatient care;** or
- **Continuing treatment or supervision** by a health care provider

A COVID-19 diagnosis may be considered a serious health condition



Assisting during a military deployment

For assistance when a family member is deployed abroad on active military service. Events may include:

- Short notice military deployment
- Military events; related activities
- Service member's rest and recuperation
- Counseling
- Post-deployment activities
- Making financial/legal arrangements
- Child care arrangements for military member's child

PaidFamilyLeave.ny.gov
(844) 337-6303



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A photograph of a woman with curly hair smiling at a young girl with a white bow in her hair. The image is overlaid with a teal circular graphic on the left side.

Benefits & contributions for 2023



Higher maximum benefit

In 2023, eligible employees may take up to **12** weeks of PFL at 67% of their AWW, up to 67% of the NYSAWW.

BENEFITS FOR 2023		
12 weeks	67% of employee's AWW, up to 67% of NYSAWW	New maximum weekly benefit \$1,131.08



Lower employee contribution

- 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



Weekly deduction calculator

A weekly deduction calculator is available:

[PaidFamilyLeave.ny.gov/
PFLbenefitscalculator2023](https://PaidFamilyLeave.ny.gov/PFLbenefitscalculator2023)

PAID FAMILY LEAVE

2023 Wage Benefit Calculator

Employees who take Paid Family Leave will receive 67% of their average weekly wage (AWW), capped at 67% of the New York State Average Weekly Wage. Generally, your AWW is the average of your last eight weeks of pay prior to starting Paid Family Leave, including bonuses and commissions. The maximum weekly benefit for 2023 is \$1,131.08.

Use the calculator below to view an estimate of your weekly benefit.

Enter your last eight weeks of gross wages:

0.00	0.00
0.00	0.00
0.00	0.00
0.00	0.00

SUBMIT

*Note: When calculating benefits, Paid Family Leave insurers must use whichever is higher: the last eight weeks worked **including** the week when PFL started, or the last eight weeks worked **not including** the week PFL started.*



Summarizing the updates for 2023

- **Maximum weekly benefit increase:** Benefit increasing from \$1,068.36 to \$1,131.08
- **Employee contribution rate:** As of January 1, 2023, 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

Employee eligibility





Who is covered?

- Most employees who work for private employers
- Public employers may opt in
- Public employees represented by a union may be covered if Paid Family Leave is collectively bargained





Who is eligible?

Employees who work for covered employers are eligible if they regularly work:

- **Full-time employees: 20 or more hours per week**
 - 26 consecutive weeks of employment with the same employer
- **Part-time employees: Less than 20 hours per week**
 - 175 days with the same employer

Citizenship and/or immigration status is not a factor in eligibility



Who is eligible?

- **Domestic workers**
 - 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



Can employees waive coverage?

Employees can only waive coverage if they:

- **Regularly work 20 or more hours per week** but won't be in employment with that employer for 26 consecutive weeks, or
- **Regularly work fewer than 20 hours per week** and won't work 175 days in a 52-week period

Employers **must** provide a waiver form to all employees who qualify

A template waiver form is available at PaidFamilyLeave.ny.gov/pfl-waiver-form

Employees who properly file a waiver will be **ineligible** for benefits and **exempt** from making contributions



Can waivers be revoked?

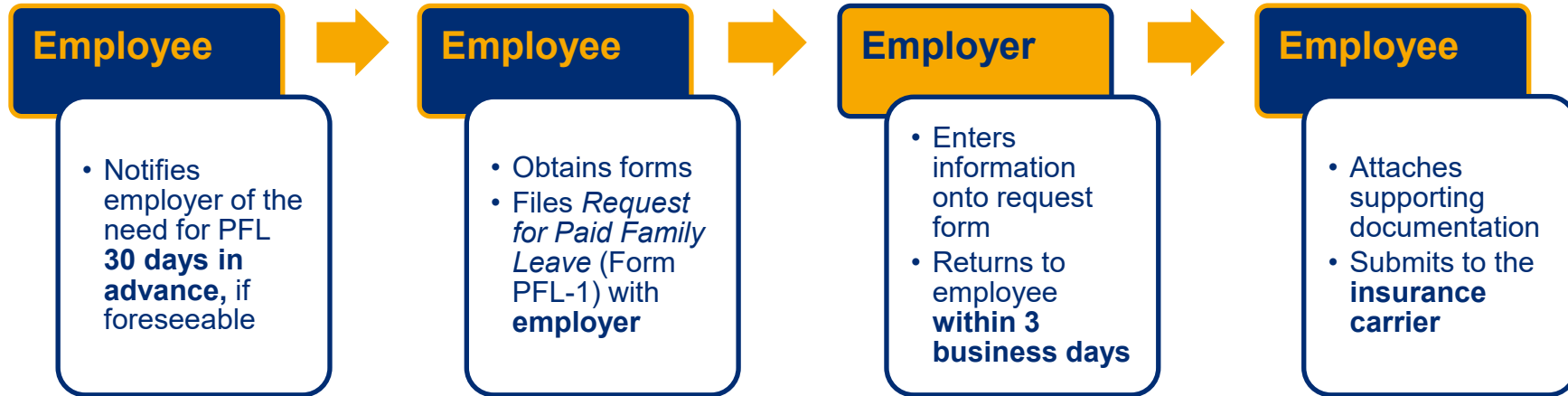
- If an employee's schedule changes such that they no longer qualify for a waiver, their waiver will be automatically revoked within 8 weeks of the schedule change
- Employee will begin making Paid Family Leave contributions along with any retroactive amounts due

How employees request Paid Family Leave





How employees request leave



In most cases, the insurance carrier must pay or deny benefits within **18 days of a completed request**, or the first day of leave, whichever is later



Getting request forms

Employees can get Paid Family Leave request forms from:

- Employer
- Employer’s insurance carrier
- [PaidFamilyLeave.ny.gov/forms](https://www.PaidFamilyLeave.ny.gov/forms)

The image shows the 'Request For Paid Family Leave (Form PFL-1)' form. It is titled 'Request For Paid Family Leave (Form PFL-1)' and includes the New York State logo. The form is divided into sections: 'PART A - EMPLOYEE INFORMATION (to be completed by the employee)', 'Paid Family Leave (PFL) Request', and a footer with contact information and a barcode.

PART A - EMPLOYEE INFORMATION (to be completed by the employee)

- Employee's legal name (last name, middle initial, first name)
- Other last names, if any, under which employee has worked
- Employee's mailing address (Street address, City, State, Zip code, Country (if not U.S.A.))
- Employee's Social Security number (SSN)
- Employee's date of birth (MM/DD/YYYY)
- Employee's primary telephone number
- Employee's email address
- Employee's gender (Male/Female)
- Employee's preferred language (English, Spanish, Punjabi, Polish, Chinese, Italian, Hindi, Korean, Other)
- Employee's ethnicity and race (Options for Hispanic or Latin American origin and race, and options for other ethnicities and races)

Paid Family Leave (PFL) Request

- Reason for PFL request (Sick with child, Care for family member, Military qualifying event)
- The family member is employee's (Child, Spouse, Domestic partner, Parent, Parent-in-law, Grandparent, Grandchild)
- Estimated PFL start date (MM/DD/YYYY)
- Estimated PFL end date (MM/DD/YYYY)
- If providing less than 30 days advance notice to the employer from the date in 13, please explain:

Footer: PFL-1 (03/20) Page 1 of 4. If you need assistance, please call (845) 251-2333 www.ny.gov/PaidFamilyLeave. Barcode.



Handling disputes

- If the employee's claim is denied, or they have another claim-related dispute, they may request arbitration
- Arbitration for Paid Family Leave is handled by NAM (National Arbitration and Mediation) nyspfla.namadr.com





Protection from discrimination

If the employer:

- does not reinstate the employee to the same or comparable position,
- terminates the employee,
- reduces the employee's pay and/or benefits, or
- disciplines the employee in any way for requesting or taking Paid Family Leave

The employee can file a **discrimination claim** with the Workers' Compensation Board

Paid Family Leave **PAID FAMILY LEAVE DISCRIMINATION / RETALIATION COMPLAINT**
 Paid Family Leave • PO Box 9030, Endicott, NY 13761-9030

Complete this form only if:

- You have submitted the Formal Request for Reinstatement Regarding Paid Family Leave (Form PFL-DC-119) to your employer AND the Workers' Compensation Board, and
- Your employer has not responded within 30 days OR you were not satisfied with their explanation as to why your employment conditions were changed.

A hearing will be scheduled after your employer receives this form and has an opportunity to respond.

Attach to this form:

- Proof of receipt of family leave benefits, or
- Your request for family leave benefits (if benefits were not received), and
- Evidence, such as a letter of termination or the name of a witness, that the following occurred in relation to requesting or taking Paid Family Leave:
 - Employer's refusal to reinstate you to your original or comparable position,
 - Termination of employment,
 - Reduced pay and/or benefits, and/or
 - Disciplinary action.

When you have completed the form:

- Send it to the Workers' Compensation Board: Paid Family Leave, PO Box 9030, Endicott, NY 13761-9030.
- Send a copy to your employer.
- Keep a copy for your records.

Failure to complete this form, including the required attachments, may delay processing of your complaint.

Employee's Information

Name (LAST, FIRST, MI): _____ Date of Birth: _____

Address: _____

Phone #: _____ Social Security #/Tax Identification #: _____

Employer's Information (as it appears on your pay stub)

Business Name: _____

Address: _____

Phone #: _____ Federal Identification Number (FEN): _____

Person who discriminated against me was:

Their position is (check one): Owner Supervisor Manager

Paid Family Leave Information

Check one of the following:

- Paid Family Leave was formally requested and granted. Start Date: _____ End Date: _____
- Paid Family Leave was formally requested and denied
- No formal request was made for Paid Family Leave

Date Request for Paid Family Leave (Form PFL-1) was given to employer, or mention of Paid Family Leave was made (if applicable): _____

Type of Paid Family Leave: Bonding with a Child Care for Family Member Qualifying Military Event

PFL-DC-120 (1-18) Page 1 of 2 If you need assistance, please call (844) 537-6303 www.ny.gov/PaidFamilyLeave

PaidFamilyLeave.ny.gov
(844) 337-6303



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Employer responsibilities





Employer responsibilities

Complying with the law:

- Ensure coverage is in place
- Inform employees about PFL
- Collect employee payroll contributions
- Offer waivers to employees who qualify for one
- Post a PFL Notice of Compliance

When a claim is received:

- Complete the employer section of the ***Request for Paid Family Leave (Form PFL-1)*** and return to the employee within 3 business days
- Discuss any specific leave tracking or other processes with the Paid Family Leave insurer

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(844) 337-6303



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Paid Family Leave & FMLA





How are Paid Family Leave and FMLA similar?

Both Paid Family Leave and the Family and Medical Leave Act provide:

- Leave for:
 - bonding with a child
 - caring for a family member with a serious health condition
 - assisting when a family member is called to active military service abroad
- Job protection
- Continued health insurance during leave on the same terms as if the employee had continued to work



How do Paid Family Leave and FMLA differ?

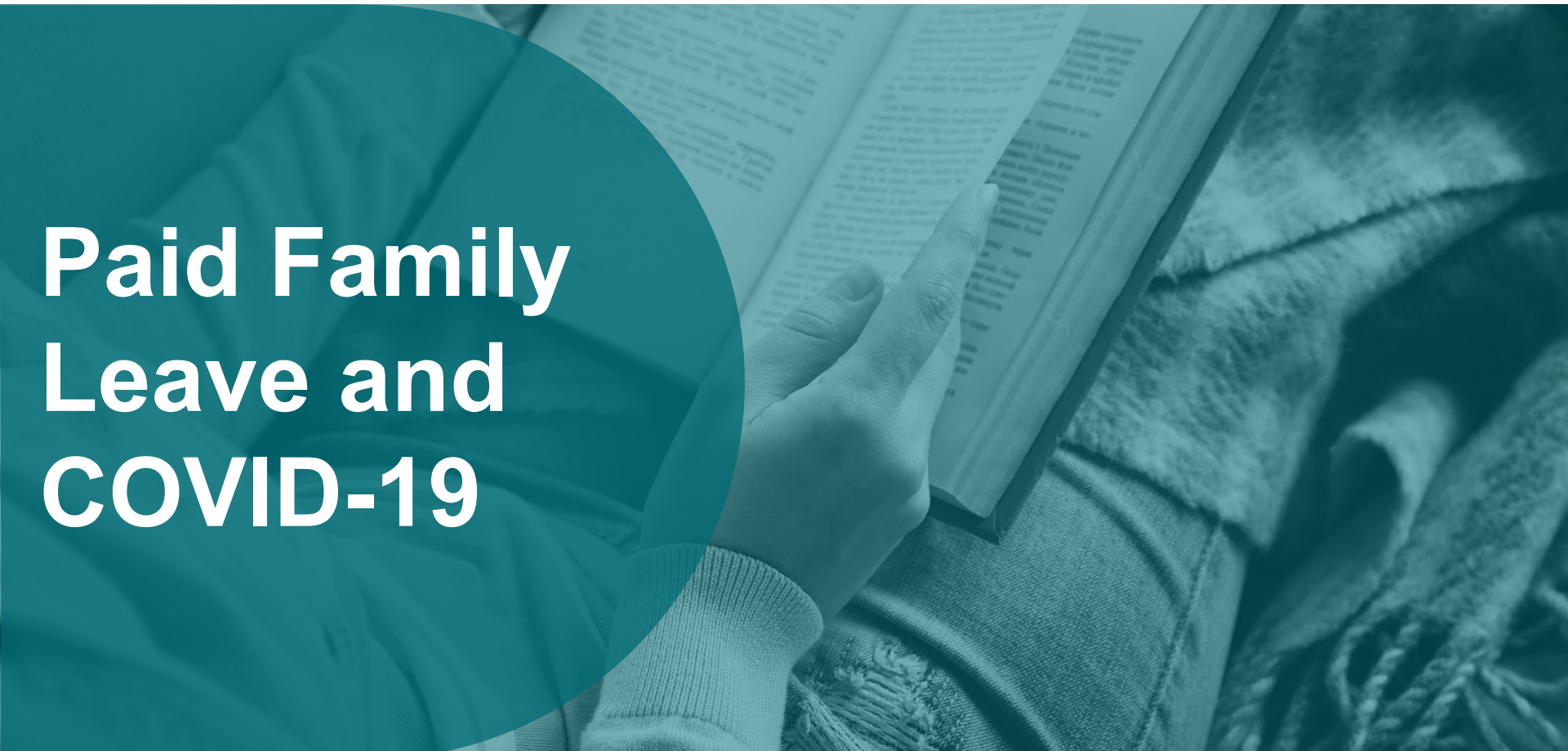
	PFL	FMLA
Benefits	Paid	Unpaid
Coverage	<ul style="list-style-type: none"> Almost all private employers Public employers may opt in One or more employees in employment on each of at least 30 days in any calendar year 	<ul style="list-style-type: none"> Public and private employers 50 or more employees in a 75-mile radius
Eligibility	<ul style="list-style-type: none"> After 26 consecutive weeks of employment if regularly working 20 or more hours per week After 175 days worked if regularly working less than 20 hours per week 	<ul style="list-style-type: none"> 12 months of employment 1,250 hours of work in the 12-month period preceding leave
Reason for Leave	<ul style="list-style-type: none"> Employees cannot use for own serious health condition Can be used to care for a child of any age 	<ul style="list-style-type: none"> Employee can use for own serious health condition Can only be used to care for a child if the child is under 18 years old, or “incapable of self-care because of a mental or physical disability”
Length of Leave	<ul style="list-style-type: none"> Only in full-day increments 	<ul style="list-style-type: none"> Hourly basis
Paid Time Off	<ul style="list-style-type: none"> Employers cannot require employees use paid time off while on PFL 	<ul style="list-style-type: none"> Employer can compel an employee to use paid time off while on FMLA

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(844) 337-6303



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Paid Family Leave and COVID-19





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)
- **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
- Total combined benefits of **\$2,884.62** weekly
- 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 NYS Paid Family Leave if their minor, dependent child is under an order of mandatory or precautionary quarantine or isolation

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



Full details

PaidFamilyLeave.ny.gov/COVID19



PaidFamilyLeave.ny.gov
(844) 337-6303



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Employer resources





Employer resources

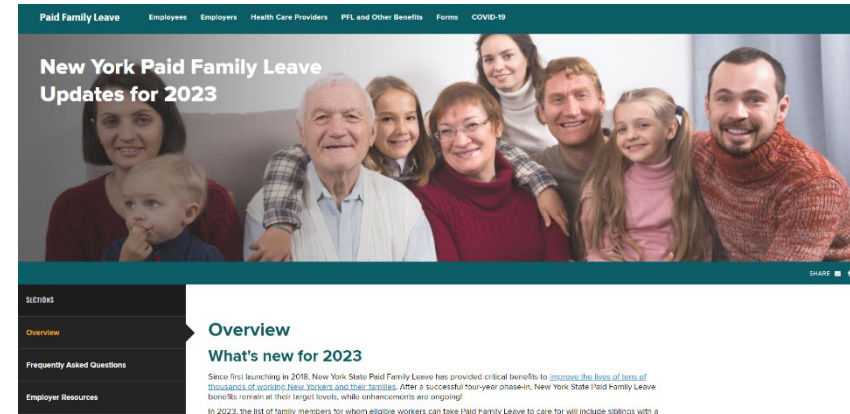
Visit PaidFamilyLeave.ny.gov to access:

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



Updates for 2023 webpage

- PaidFamilyLeave.ny.gov/2023
- Overview of changes
- FAQs
- New 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





Office of the Advocate for Business

AdvocateBusiness@wcb.ny.gov

NEW YORK STATE | **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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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



Thank you!