1. Paid Family Leave Overview
2. What’s New for 2020
3. Employer Responsibilities
4. Frequently Asked Questions
5. Resources
NY Leads the Nation

In April 2016, Governor Cuomo signed the nation’s strongest and most comprehensive Paid Family Leave policy into law.
Making a Difference for New York

In the first year, over 128,000 New Yorkers took Paid Family Leave!

- 86,500+ bonding claims
- 39,000+ family care claims
- 150+ military claims

Helpline: (844) 337-6303  Website: PaidFamilyLeave.ny.gov
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 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**

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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

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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

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Caring for a Family Member with a Serious Health Condition

Qualifying family members include:

- Spouse
- Domestic partner
- Child
- Stepchild
- Parent
- Parent-in-law
- Stepparent
- Grandparent
- Grandchild

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

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Assisting During a Military Deployment

For assistance when a spouse, child, domestic partner or parent 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

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Benefits & Contributions
## Time off and Wage Benefits

<table>
<thead>
<tr>
<th>YEAR</th>
<th>WEEKS OF LEAVE</th>
<th>BENEFITS</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>10 weeks</td>
<td>55% of employee’s AWW,* up to 55% of SAWW**</td>
</tr>
<tr>
<td>2020</td>
<td>10 weeks</td>
<td>60% of employee’s AWW,* up to 60% of SAWW</td>
</tr>
<tr>
<td>2021</td>
<td>12 weeks</td>
<td>67% of employee’s AWW,* up to 67% of SAWW</td>
</tr>
</tbody>
</table>

* Benefits will be capped at the designated percentage of the New York State Average Weekly Wage

*The Department of Financial Services will review the marketplace every year before benefits are increased

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Employee Contributions

■ The current payroll contribution is 0.153% of an employee’s gross wages each pay period, capped at an annual maximum of $107.97.

■ For 2020, the payroll contribution is 0.270% of an employee’s gross wages each pay period, capped at an annual maximum of $196.72.

■ If an employee earns less than the New York State Average Weekly Wage, their annual contribution will be less than the cap.
Updates for 2020

■ **Wage benefit increase:** Benefit increases from 55% to **60%** of the employee’s average weekly wage, up to 60% of the NYS Average Weekly Wage
  - Maximum weekly benefit increasing from $746.41 to **$840.70**

■ **Employee contribution rate:** Starting January 1, 2020, employers may deduct at the new rate of **0.270%** of an employee’s gross wages each pay period

■ **More covered employees:** PFL extended to Farm laborers

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Employee Eligibility

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Website: PaidFamilyLeave.ny.gov
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
Employees who work for covered employers are eligible if they regularly work:

- **20 or more** hours per week
  - For **26** consecutive weeks of employment with the same employer
- **Less than 20** hours per week
  - For **175** days with the same employer

Citizenship and/or immigration status is **not a factor in eligibility**.
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 to those who qualify

A template waiver form is available at [PaidFamilyLeave.ny.gov](http://PaidFamilyLeave.ny.gov)

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

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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

Employee
- Notifies employer of the need for PFL 30 days in advance, if foreseeable

Employee
- Obtains forms
- Files Request for Paid Family Leave (Form PFL-1) with employer

Employer
- Enters information onto request form
- Returns to employee within 3 business days

Employee
- Attaches supporting documentation
- Submits to the insurance carrier

In most cases, the insurance carrier must pay or deny benefits within 18 days of receiving the completed request package, or the employee’s 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

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Website: PaidFamilyLeave.ny.gov
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) [www.nyspfla.com](http://www.nyspfla.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.
Employer Responsibilities
Employer Responsibilities

Complying with the law:
■ Ensure you have coverage
■ Inform your employees about PFL
■ Collect employee payroll contributions
■ Offer waivers to employees who qualify for one
■ Post a PFL Notice of Compliance

When you receive a claim:
■ 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 your Paid Family Leave insurer

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Frequently Asked Questions
How are Paid Family Leave and FMLA Similar?

Both Paid Family Leave and the federal 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

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# How do Paid Family Leave and FMLA Differ?

<table>
<thead>
<tr>
<th></th>
<th>PFL</th>
<th>FMLA</th>
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</thead>
<tbody>
<tr>
<td><strong>Benefits</strong></td>
<td>Paid</td>
<td>Unpaid</td>
</tr>
<tr>
<td><strong>Coverage</strong></td>
<td>• Almost all private employers</td>
<td>• Public and private employers</td>
</tr>
<tr>
<td></td>
<td>• Public employers may opt in</td>
<td>• 50 or more employees in a 75-mile radius</td>
</tr>
<tr>
<td></td>
<td>• <strong>One or more employees</strong> in employment on each of at least 30 days</td>
<td></td>
</tr>
<tr>
<td></td>
<td>• One or more employees in employment on each of at least 30 days in</td>
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<tr>
<td></td>
<td>a calendar year</td>
<td></td>
</tr>
<tr>
<td><strong>Eligibility</strong></td>
<td>• After 26 consecutive weeks of employment with that employer if</td>
<td>• 12 months of employment</td>
</tr>
<tr>
<td></td>
<td>regularly working 20 or more hours per week</td>
<td>• 1,250 hours of work in the 12-month period preceding leave</td>
</tr>
<tr>
<td></td>
<td>• After 175 days worked for the same employer if regularly working</td>
<td></td>
</tr>
<tr>
<td></td>
<td>less than 20 hours per week</td>
<td></td>
</tr>
<tr>
<td><strong>Reason for Leave</strong></td>
<td>• Employees <strong>cannot</strong> use for own serious health condition</td>
<td>• Employee can use for own serious health condition</td>
</tr>
<tr>
<td></td>
<td>• Can be used to care for a child of any age</td>
<td>• Can only be used to care for a child if the child is under 18 years</td>
</tr>
<tr>
<td></td>
<td></td>
<td>old, or “incapable of self-care because of a mental or physical</td>
</tr>
<tr>
<td></td>
<td></td>
<td>disability”</td>
</tr>
<tr>
<td><strong>Length of Leave</strong></td>
<td>• Only in full-day increments</td>
<td>• Hourly basis</td>
</tr>
<tr>
<td><strong>Paid Time Off</strong></td>
<td>• Employers cannot require employees use paid time off while on</td>
<td>• Employer can compel an employee to use paid time off while on FMLA</td>
</tr>
<tr>
<td></td>
<td>PFL</td>
<td></td>
</tr>
</tbody>
</table>
What about Paid Family Leave and Other Types of Leave?

- **Short-term disability**: Employees cannot collect statutory disability and Paid Family Leave benefits during the same period of time.

- **Workers’ Compensation**: Employees cannot collect Paid Family Leave benefits while collecting Workers’ Compensation for a total disability.
  - Employees on a reduced earnings schedule may be eligible for benefits.
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?

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Employer Resources

Visit PaidFamilyLeave.ny.gov to access:

■ Detailed information on Paid Family Leave
■ Paid Family Leave request and waiver forms
■ Paid Family Leave fact sheets
■ Weekly benefit and payroll deduction calculators
■ Resource guide for small businesses

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Updates for 2020 Page

PaidFamilyLeave.ny.gov/2020

- FAQs
- New Employee Statement of Rights
- Updated Model Language for Written Materials
- 2020 Deduction Calculator
- Employee Deduction Notification (template)

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Website: PaidFamilyLeave.ny.gov
Additional Employer Resources

Helpline:
(844) 337-6303

Website:
PaidFamilyLeave.ny.gov

Get Email Updates:
Select “Get Paid Family Leave Updates” on the bottom of PFL website
GET UPDATES
Advocate for Business

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