A guide for employers and HR professionals
Agenda

1. Paid Family Leave Overview
2. What’s New for 2022
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 spouse, domestic partner, child, or parent is deployed abroad
Paid Family Leave & COVID-19

Care for employees 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?
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
- Parent
- Parent-in-law
- Stepparent
- Grandparent
- Grandchild

NEW! Effective January 1, 2023, siblings will be included in family members eligible to receive family care under Paid Family Leave.

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

A COVID-19 diagnosis may be considered a serious health condition
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
Benefits & contributions for 2022
Time off and wage benefits

Eligible employees may take up to 12 weeks of PFL.

<table>
<thead>
<tr>
<th>Year</th>
<th>Weeks of Leave</th>
<th>Benefits</th>
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<tbody>
<tr>
<td>2022</td>
<td>12 Weeks</td>
<td>67% of employee’s AWW, Up to 67% of SAWW</td>
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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
Weekly deduction calculator

A weekly deduction calculator is available:

PaidFamilyLeave.ny.gov/paid-family-leave-calculator2022
Summarizing the updates for 2022

- **Maximum weekly benefit increase**: Benefit increasing 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](http://PaidFamilyLeave.ny.gov/2022)
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:

- **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
Who is eligible?

NEW! Domestic workers

- 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
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

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

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 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
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.
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
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?

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<th><strong>PFL</strong></th>
<th><strong>FMLA</strong></th>
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<tbody>
<tr>
<td><strong>Benefits</strong></td>
<td>Paid</td>
<td>Unpaid</td>
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</table>
| **Coverage**   | ▪ 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 | ▪ Public and private employers  
                  ▪ 50 or more employees in a 75-mile radius |
| **Eligibility**| ▪ 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 | ▪ 12 months of employment  
                  ▪ 1,250 hours of work in the 12-month period preceding leave |
| **Reason for Leave** | ▪ Employees cannot use for own serious health condition  
                         ▪ Can be used to care for a child of any age | ▪ 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** | ▪ Only in full-day increments | ▪ Hourly basis |
| **Paid Time Off** | ▪ Employers cannot require employees use paid time off while on PFL | ▪ Employer can compel an employee to use paid time off while on FMLA |
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
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 employees:

- 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.
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

New Paid Leave for COVID-19
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
- 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

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

AdvocateBusiness@wcb.ny.gov
Thank you!