A guide for foster care

June 28, 2022
Agenda

1. Why New York needs Paid Family Leave
2. Eligibility, benefits and contributions
3. Taking Paid Family Leave for a newly adopted or fostered Child
4. Top questions about Paid Family Leave for bonding
5. Paid Family Leave and COVID-19
6. Resources
7. Questions
Why do we need Paid Family Leave?
Why do we need Paid Family Leave?

1. Employees struggle to choose between maintaining a job and caring for loved ones.
2. Employees face the stress of weeks of lost wages.
3. Employees fear losing their jobs.
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

Provides paid time off and job protection so you can:

- 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 yourself or your minor dependent child when under an order of quarantine or isolation due to COVID-19.
Your rights and protections

Paid time off and:

- **Job protection.**

- **Continued health insurance** while on leave, on the same terms as if you had continued to work.

- **Protection from discrimination and retaliation** for requesting or taking Paid Family Leave.
Paid Family Leave for foster care and adoption
**Bonding with a newly adopted or fostered child**

- Provides for both parents to bond with a child within the first 12 months of a child’s foster placement.

- This includes children placed in foster care in 2021, as long as the leave is taken and completed within the first 12 months of the placement.
How can Paid Family Leave help you and your newly adopted or fostered child?

Paid Family Leave provides you with time needed to build a connection with your newly fostered child.

- Helping them adjust to their new environment.
- Restoring normalcy and building connections.
- Providing support and assistance during the transition.

You may be able to take PFL for a pending foster placement if an absence from work is required for the placement to proceed.
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.
Benefits & contributions
**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>
</tr>
</tbody>
</table>
Wage benefit calculator

A wage benefit calculator is available:

PaidFamilyLeave.ny.gov/PFLbenefitscalculator2022
How much do you pay?

- In 2022, the payroll contribution is 0.511% of your gross wages each pay period, capped at an annual maximum of $423.71.

- If you earn less than the New York State Average Weekly Wage, your 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 increased from $971.61 to $1,068.38.

- **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.
- If you work for a public employer, your employer may opt in.
- If you’re a public employee represented by a union, you may be covered if Paid Family Leave is collectively bargained.
Who is eligible?

Employees who work for covered employers are eligible if you:

- Regularly work 20 or more hours per week.
  - After 26 consecutive weeks of employment with the same employer.
- Regularly work fewer 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.

- NEW! Effective January 1, 2023, siblings will be included in family members eligible to receive family care under Paid Family Leave.
Can you waive coverage?

You can only waive coverage if you:

- **Regularly work 20 or more hours per week** but won’t be in employment with your 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. Employees who properly file a waiver will be **ineligible** for benefits and **exempt** from making contributions.
Taking Paid Family Leave to bond with a newly fostered child
How to request leave

Step 1
Notify your employer

Step 2
Complete the request forms

Step 3
Send forms to the insurance carrier

Notify your employer at least 30 days before the start of your leave if foreseeable, or as soon as possible. Insurers must pay or deny the request within 18 days of receiving a completed request, or the first day of leave, whichever is later.
Step 1: Inform your employer

Let your employer know at least 30 days before your leave will start, if it’s foreseeable.

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<thead>
<tr>
<th>Sunday</th>
<th>Monday</th>
<th>Tuesday</th>
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<th>Thursday</th>
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<th>Saturday</th>
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Step 2: Complete the required PFL request forms

Bonding leave package includes two forms:

- Request for Paid Family Leave (Form PFL-1)
- Bonding Certification (Form PFL-2)
Getting request forms

You can get Paid Family Leave request forms from:

- Your employer,
- Your employer’s insurance carrier, or
- PaidFamilyLeave.ny.gov/forms.
Completing the Request for Paid Family Leave (Form PFL-1, Part A)

- Employee fills out Part A.
- Employer fills out Part B.
- You must also state why you are requesting the leave and how it pertains to you.
## Completing the Request for Paid Family Leave (Form PFL-1, Part A)

### PART A - EMPLOYEE INFORMATION (to be completed by the employee) - continued from prior page

**Form PFL-1 continued from prior page**

13. Will PFL be for a continuous period of time and/or periodic?

<table>
<thead>
<tr>
<th>Continuous</th>
<th>PFL start date (MM/DD/YYYY)</th>
<th>PFL end date (MM/DD/YYYY)</th>
<th>Dates are estimated</th>
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<table>
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<tr>
<th>Periodic</th>
<th>Identify dates periodic PFL will be taken:</th>
<th>Dates are estimated</th>
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14. If providing less than 30 day’s advance notice to the employer, please explain:
Completing the Request for Paid Family Leave (Form PFL-1, Part A)

<table>
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<th>Employment Information (to be completed by the employee)</th>
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<td>15. Business name</td>
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<td>16. Employee's date of hire (MM/DD/YYYY)</td>
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<td>17. Employee's work location</td>
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<tr>
<td>Street address</td>
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<tr>
<td>City, State Zip code Country (if not U.S.A.)</td>
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<td>18. Employee's average gross weekly wage (This data will be requested of both employee and employer)</td>
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<tr>
<td>19. Employer's telephone number for contact regarding this request ( ) -</td>
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<tr>
<td>20a. Does employee have more than one employer? Yes No</td>
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<tr>
<td>20b. If yes, is employee taking PFL from the other employer? Yes No</td>
</tr>
<tr>
<td>21. Is employee currently receiving Workers’ Compensation Lost Wage Benefits? Yes No</td>
</tr>
</tbody>
</table>

Disclosure statement: Information regarding PFL benefits received by the employee, such as payments received and types of leave, will be provided to the employer.
Completing the Request for Paid Family Leave
(Form PFL-1, Part A)

Declaration and signature

Any person who knowingly and with intent to defraud any insurance company or other person files an application for insurance or statement of claim containing any materially false information, or conceals for the purpose of misleading, information concerning any fact material thereto, commits a fraudulent insurance act, which is a crime, and shall also be subject to a civil penalty not to exceed five thousand dollars and the stated value of the claim for each such violation.

I am hereby making a request for paid family leave benefits under the NYS Workers’ Compensation Law. My signature affirms that the information I am providing is true and accurate to the best of my knowledge and belief.

Employee’s signature

Date signed (MM/DD/YYYY)

I am submitting this form in advance (see instructions about pre-submitting). I understand the insurance carrier will contact me to advise how to submit the required missing information.

If you need assistance, please call (844) 337-6303

www.ny.gov/PaidFamilyLeave
Employer to complete

Request for Paid Family Leave
(Form PFL-1, Part B)
Completing the **Bonding Certification (Form PFL-2)**
Proof of relationship

A foster parent’s claim for Paid Family Leave to bond with a child must be supported by documentation.

■ An official letter of placement.

If the employee is not named in the placement document, submit:

■ Copy of the document evidencing the placement, and
■ A second document verifying the relationship to the parent named in the document.
Step 3: Send forms to insurance carrier

- Send all forms and documentation to your employer’s insurance carrier.
- The insurance carrier must pay or deny within 18 calendar days of receiving your completed request, or the first day of leave, whichever is later.
Handling disputes

- If your claim is denied, or you have another claim-related dispute, you may request arbitration.

- Arbitration for Paid Family Leave is handled by NAM (National Arbitration and Mediation) nyspfla.namadr.com.
Protection from discrimination

If your employer:

■ does not reinstate you to the same or comparable position,

■ terminates you,

■ reduces your pay and/or benefits, or

■ disciplines you in any way for requesting or taking Paid Family Leave, you can file a discrimination claim with the Workers’ Compensation Board.
Top questions about Paid Family Leave for bonding
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, and
  ▪ 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 you had continued to work.
How do Paid Family Leave and FMLA differ?

<table>
<thead>
<tr>
<th>Benefits</th>
<th>PFL</th>
<th>FMLA</th>
</tr>
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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 |
How does Paid Family Leave work with other maternity/paternity leave policies?

- Employers are free to supplement Paid Family Leave with additional benefits.
- Employers can require Paid Family Leave to run concurrently with their own maternity/paternity leave policies.
- Check with your employer about how the benefits interact.
What if the child being fostered is not an infant?

- There is no age limit on taking Paid Family Leave to bond with a fostered child.
- Bonding leave must be completed within the first year after the child’s foster placement.
Paid Family Leave and COVID-19
COVID-19 quarantine leave

Available when:

- You are subject to an order of mandatory or precautionary quarantine or isolation due to COVID-19.

- Your minor, dependent child is subject to an order of mandatory or precautionary quarantine or isolation due to COVID-19.
Employees who work for small employers

For most employees who work for an employer with 10 or fewer employees and a business net annual income of less than $1 million:

- You can use a combination of Paid Family Leave and disability benefits.

- After receiving your full Paid Family Leave benefit (up to $840.70 weekly), you will receive disability benefits to match your 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.

You will have job protection for the duration of the quarantine.
For most employees who work for an employer with 11 to 99 employees, and smaller employers (1 to 10 employees) with a business net annual income greater than $1 million:

- Your employer is required to provide at least **five days** of COVID-19 paid sick leave.
- After that, you can use a combination of Paid Family Leave and disability benefits.
- After receiving your full Paid Family Leave benefit (up to $840.70 weekly), you will receive disability benefits to match your 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.

You will have job protection for the duration of the quarantine.
Employees who work for large employers

For most employees who work for an employer with 100 or more employees, as well as all public employees:

- Your employer is 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.

You will have job protection for the duration of the quarantine.
Taking leave for your child’s quarantine

You may also apply for NYS Paid Family Leave if your minor, dependent child is under an order of mandatory or precautionary quarantine or isolation.

- NYS Paid Family Leave provides 67 percent of pay, up to a maximum weekly benefit of $840.70.
Full details

PaidFamilyLeave.ny.gov/COVID19

New Paid Leave for COVID-19
Paid Family Leave is here to help
Learn more

Visit PaidFamilyLeave.ny.gov to access:

- Detailed information on Paid Family Leave,
- Paid Family Leave request forms and fact sheets,
- Weekly benefit and payroll deduction calculators,
- Information about COVID-19 quarantine leave benefits.
Learn more

Helpline:
(844) 337-6303

Website:
PaidFamilyLeave.ny.gov

Get Email Updates:
Select “Get Updates” on the bottom of PFL website.
Questions?