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New York State

PAID FAMILY LEAVE

{ AGENT / BROKER HIGHLIGHTS }

PFL EFFECTIVE DATE | 01/01/18

PFL BENEFITS DATE | 01/01/18

HIGHLIGHTS UPDATE | 08/01/17

NY STATE DISABILITY & PAID FAMILY LEAVE SERVICES
NY-PFL BULLETIN 08/01/17

POWERED BY



516.482.2696 / www.LiDAC.com

New York State Paid Family Leave

{AGENT / BROKER HIGHLIGHTS}

EMPLOY-EE Considerations

SERIES IX

Eligible Employees covered by an employer in the State of New York may be eligible for Paid Family Leave (PFL) commencing January 1st, 2018 with the following considerations:

- Employees will realize enhanced benefits commencing in 2018 with schedule changes through 2021, which will include increasing the maximum percentage of covered wages and the duration period.
- Paid Family Leave (PFL) claims will be completed, verified and reviewed in accordance with the applicable new PFL claim form and submitted to the underwriting carrier for processing and approval.

EMPLOYEE PFL NOTIFICATION

Employees are required to advise employers with a 30-day notice of their request to use PFL benefits, if the qualifying event is **foreseeable**. If not **foreseeable**, the employee shall advise the employer as soon as **practicable, usual, and customary** notice requirements applicable to such leave.

- **When the need for family leave is foreseeable** and an employee fails to give 30 days advance notice, the employer or the carrier may file a partial denial of the family leave claim for a period of up to 30 days from the date notice is provided.
- An employer may require **an employee to comply** with the employer's usual and customary notice and procedural requirements for requesting leave, absent of unusual circumstances. Where an employee does not comply **with the employer's usual notice and procedural requirements**, and no unusual circumstances justify the failure to comply, PFL may be delayed or denied.



JOB PROTECTION & DISCRIMINATION

- Eligible Employees will have job protection while taking extended time away from work.
 - Eligible Employees will be protected against discrimination for taking extended time away from work.
- Eligible Employees for PFL may include an undocumented workers whose immigration status has no impact on their eligibility for benefits.
 - Eligible Employees may be covered under PFL benefits to care of an eligible relative living outside New York, subject to them providing medical certification.

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EMPLOY-EE Considerations-Cont'd

SERIES IX

EMPLOYEE VACATION / PAID TIME OFF

Eligible Employees have the ability to elect an option to apply accrued vacation time to all or part of their leave for PFL. This enables them to receive their full salary in lieu of the percentage provided by PFL benefits alone.

- Eligible Employees won't be able to collect both vacation pay and PFL benefits simultaneously.
- Eligible Employees who are not working and collecting Workers' Compensation Benefits may not be eligible to receive Paid Family Leave.

PFL CONDITIONS

Eligible Employees may be covered by PFL in the result of qualifying events such as: paid maternity leave to recover from having a child, bonding with infant or adopted children, caring for a seriously ill family member, or spending time with a family member on a qualifying military leave.

FAMILY MEMBER

Eligible Employees cannot use (PFL) benefits for their own disability or qualifying military service. It may only be used for the care of family members that include:

- *Spouse • Domestic partner • Child • Parent • Parent in-law • Grandparent • Grandchild*



CARE OF FAMILY MEMBER

Employees may be eligible to take the necessary time to provide care for a loved one with a serious health condition

- Serious Health Conditions may include an illness, injury, impairment or physical or mental condition that involves:
 - > Inpatient care in a hospital, hospice or residential health care facility; or
 - > Continuing treatment or continuing supervision by a health care provider.



MATERNITY LEAVE

PFL only begins after birth and is not available for prenatal conditions:

- If an eligible employee's child was born or adopted or placed by foster care before January 1, 2018, the employee may take paid family leave on or after January 1, 2018, during the first 12 months after the child's birth or placement.

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EMPLOY-EE Considerations-Cont'd

SERIES IX

MILITARY SERVICE

Eligible Employees may be covered to provide care and assistance to family members under the military provisions in the federal Family Medical Leave Act.

- This entails of when a spouse, child, domestic partner or parent of the employee is on active duty or has been notified of an impending call or order of active duty.



EMPLOYEE AVERAGE WEEKLY WAGE

Employee's average weekly wage shall be calculated using the average weekly wage of the employee's previous 8 weeks of employment or portion thereof that the employee was in such employment with the same employer that is collecting the employee's contribution.

- In the case of a self-employed person, the average weekly wage for such person shall be the greater of the person's self-employment income for the previous full calendar year divided by 52 weeks, or the statewide average weekly wage.

EMPLOYEES COVERED BY MULTIPLE EMPLOYERS

An employee with multiple covered employers is not required to take paid family leave from each covered employer during a single period of family leave.

- An employee with multiple covered employers **may not** take Paid Family Leave for a single qualifying event from different covered employers at separate intervals, but must take family leave from all covered employers during the same family leave period.



MARRIED COUPLES

Eligible married employees working for independent employers may be eligible to take benefits separately under the PFL law.

However, if you and your spouse work for the same employer, they can deny Paid Family Leave to more than one employee at the same time to care for the same family leave recipient, or to bond with a child.

INDEPENDENT CONTRACTOR

Individuals who are not regularly scheduled to work for a covered employer in the State of New York or who are an independent contractor will not have Paid Family Leave benefits, unless they purchase coverage for themselves.

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EMPLOY-EE Considerations-Cont'd

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COLLECTIVELY BARGAIN EMPLOYEES

If employees of a covered employer are entitled to receive family leave benefits under a collective bargaining agreement, the employer shall be relieved of providing family leave benefits under Article 9 of the Workers' Compensation Law.

FAMILY LEAVE WAIVER

Employees have the **option to file a waiver to exempt them from making contributions for PFL.**

- If an employee is hired who **(i)** is ineligible for PFL benefits and **(ii)** enters into a waiver, the entered waiver shall be deemed revoked within eight weeks of a change to the employee's schedule that requires the employee to continue working for 26 weeks or 175 days in a year based on weekly hours worked.

PFL BENEFIT LIMITATIONS

Employee's request for PFL benefits may be denied by the carrier for the following reasons:

- **Employee may not collect benefits for short-term disability** required by New York State law and PFL concurrently.
- Employee who is also eligible for disability benefits **may receive only a combined amount of 26 weeks of disability benefits** and PFL benefits in a 52-consecutive calendar week period.
- Employee has not been employed with employer for a sufficient amount of time to be eligible for benefits.
- Employee is not an employee of the employer, or an Employee of a covered employer.
- The family member that the employee is **seeking leave to care for is not a covered family member** under subdivision (20) of section 201 of the Workers' Compensation Law; or
- Employee amount of **leave requested exceeds the statutory maximum benefit period** for family leave or disability benefits under Article 9 of the Workers' Compensation Law.

Other situations in which PFL benefits may not be payable include when the employee is:

- Receiving total disability payments pursuant to a claim for workers' compensation, volunteer firefighters' benefits, or volunteer ambulance workers' benefits;
- Not employed or is on administrative leave from his or her employment;
- Collecting sick pay or paid time off from the employer;
- Works at least part of that day with pay for the employer or for any other employer; and using the same period of family leave to care for the same family member in question.
- In addition, unless otherwise expressly permitted by the employer, leave available under the FMLA runs concurrently with PFL. For a subsequent, unrelated disability, an employee may seek benefits up to the maximum number of available weeks permitted.