



New York Paid Family Leave: A Guide for **Human Resources Professionals**



**Paid Family
Leave**

Agenda

1. Why New York Needs Paid Family Leave
2. Paid Family Leave Overview
3. Updates for 2019
4. Human Resources' Responsibilities
5. PFL Frequently Asked Questions
6. Resources
7. Your Questions

Helpline: (844) 337-6303

Website: PaidFamilyLeave.ny.gov



**Paid Family
Leave**

Why Do We Need Paid Family Leave?

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



**Paid Family
Leave**

Why Do We Need Paid Family Leave?

1. Employees struggle to maintain their jobs while caring for family in a specific time of need
2. Pressures can impact job performance and the workplace
3. Paid leave increases likelihood employees return to work, resulting in higher retention and lower costs for employers

NY Leads the Nation

In April 2016, Governor Cuomo signed the nation's **strongest** and **most comprehensive** Paid Family Leave policy into law

Helpline: (844) 337-6303

Website: PaidFamilyLeave.ny.gov



**Paid Family
Leave**

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

Employee Rights and Protections

Employees have paid time off and:

- **Job protection**
- **Health insurance** continued 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

A woman with blonde hair is shown in profile, kissing a baby's forehead. The baby is lying down, and the woman's hands are visible near the baby. The background is a soft, out-of-focus blue.

Uses of Paid Family Leave

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



**Paid Family
Leave**

Bonding with a Child

- Provides 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

Provides paid time off to care for:

- a family member
- with a serious health condition

Helpline: **(844) 337-6303**

Website: **[PaidFamilyLeave.ny.gov](https://www.PaidFamilyLeave.ny.gov)**



**Paid Family
Leave**

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

Caring for a Family Member with a Serious Health Condition

Conditions that may qualify as serious health conditions:

- an employee's mother is receiving chemotherapy
- an employee's father is recuperating from surgery
- an employee's child is undergoing treatment for addiction

These are situations that may qualify as serious health conditions if certified by the patients' health care providers

Assisting During a Military Deployment

For assistance when a spouse, domestic partner, child or parent is deployed abroad on active military service

Events may include:

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



Benefits

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



**Paid Family
Leave**

Time Off Benefits

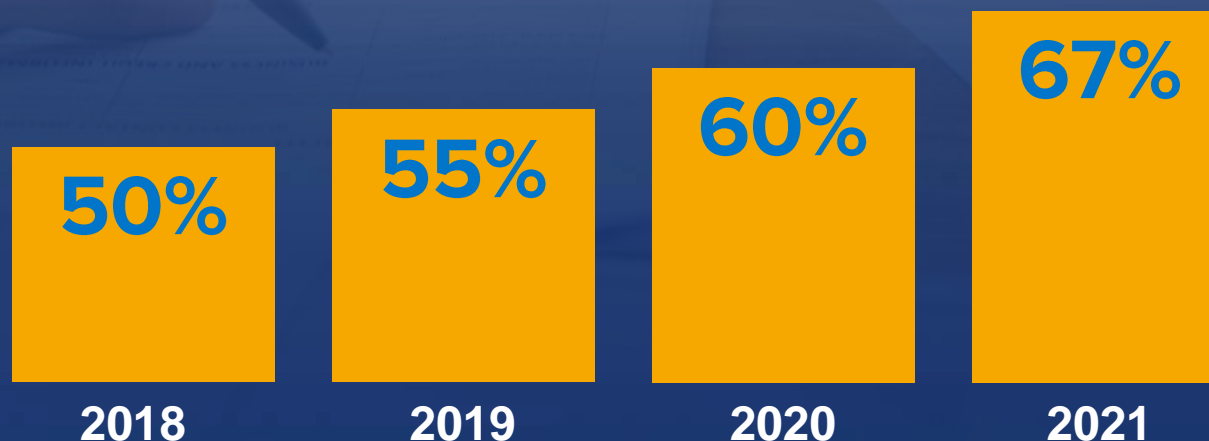
Time off benefits **phased in** starting January 1, 2018 at **8 weeks** and will reach **12 weeks** by 2021



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

Wage Benefits

Benefits **phased in** starting January 1, 2018 at **50%** of an employee's average weekly wage and will reach **67%** by 2021



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

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



Wage Benefit Calculator

- A wage benefit calculator is available:
ny.gov/PFLbenefitscalculator

PAID FAMILY LEAVE
Wage Benefit Calculator

In 2018, employees who take Paid Family Leave will receive 50% of their average weekly wage (AWW), capped at 50% of the New York State Average Weekly Wage. Your AWW is the average of your last eight weeks of pay prior to starting Paid Family Leave. The maximum weekly benefit for 2018 is \$652.96.

Use this calculator to get an estimate of your Paid Family Leave wage benefit.

Enter your last eight weeks of gross pay:

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.

Helpline: (844) 337-6303

Website: PaidFamilyLeave.ny.gov



Employee Contributions

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



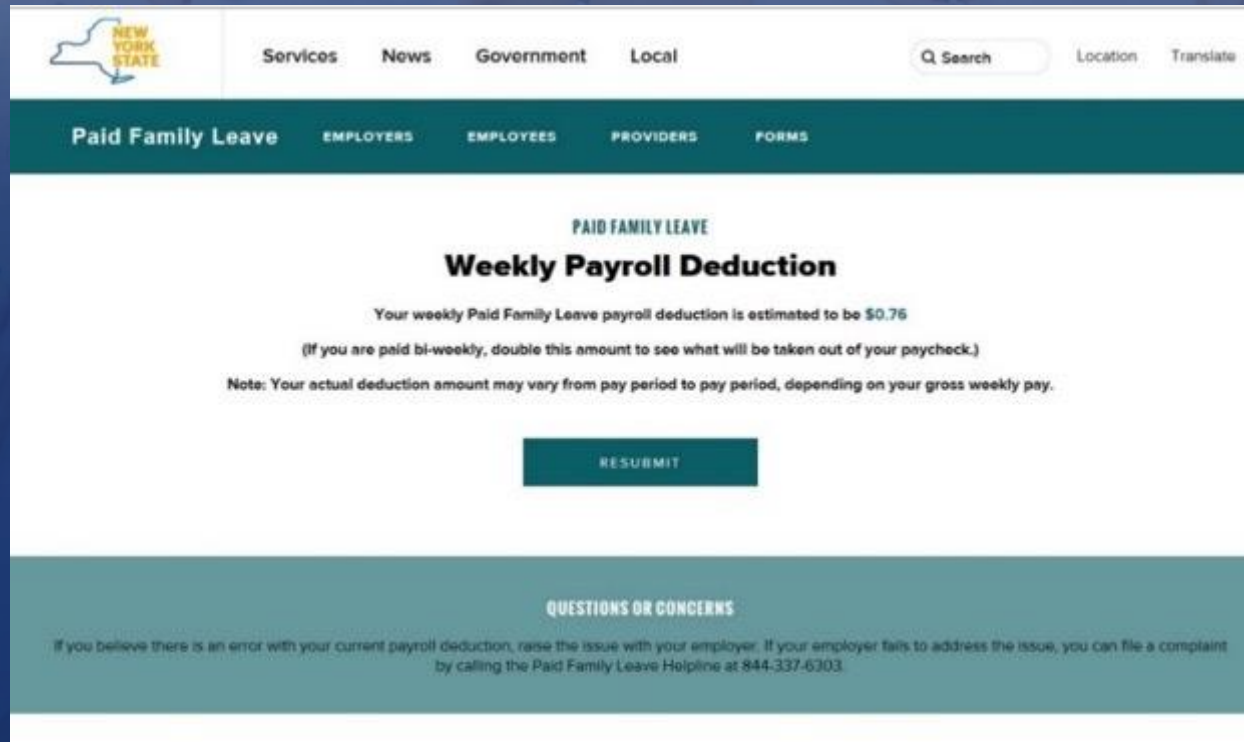
**Paid Family
Leave**

How Much Do Employees Pay?

- Employees pay for this coverage through a small payroll deduction
- The 2018 payroll contribution is 0.126% of an employee's weekly wage
 - Contributions are capped at an annual maximum of \$85.56
 - If an employee earns less than the New York State Average Weekly Wage, their annual contribution will be less than the cap
- Example: If an employee earns **\$27,000 this year** (\$519 a week), they will pay about **65 cents** per week for Paid Family Leave
- Contribution rate will change for 2019

Weekly Deduction Calendar

- A weekly deduction calculator is available: ny.gov/PFLcalculator



The screenshot shows the New York State Paid Family Leave website. At the top, there is a navigation bar with the New York State logo, links for Services, News, Government, and Local, a search bar, and links for Location and Translate. Below this is a dark green header with 'Paid Family Leave' and sub-links for EMPLOYERS, EMPLOYEES, PROVIDERS, and FORMS. The main content area is white and features the heading 'PAID FAMILY LEAVE' followed by 'Weekly Payroll Deduction'. The text states: 'Your weekly Paid Family Leave payroll deduction is estimated to be \$0.76 (If you are paid bi-weekly, double this amount to see what will be taken out of your paycheck.)' and includes a note: 'Note: Your actual deduction amount may vary from pay period to pay period, depending on your gross weekly pay.' A green 'RESUBMIT' button is centered below the text. At the bottom, there is a section titled 'QUESTIONS OR CONCERNS' with a link to a page that provides information on how to file a complaint if there is an error with the current payroll deduction.

Helpline: [\(844\) 337-6303](tel:844-337-6303)

Website: PaidFamilyLeave.ny.gov



Employee Eligibility

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



**Paid Family
Leave**

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

Helpline: (844) 337-6303

Website: PaidFamilyLeave.ny.gov



**Paid Family
Leave**

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

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 and won't work 175 days in a 52-week period

Employers **must** provide a waiver to those who qualify for one

Waivers are available at ny.gov/PaidFamilyLeave

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

Can Waivers Be Revoked?

- The waiver will be automatically revoked if the employee's schedule changes or they may voluntarily revoke it at any time
- Employee will begin making Paid Family Leave contributions along with any retroactive amounts due



Requesting Paid Family Leave

Helpline: **(844) 337-6303**

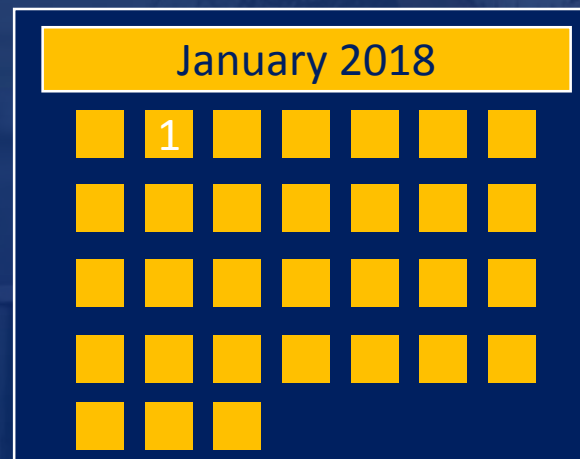
Website: **PaidFamilyLeave.ny.gov**



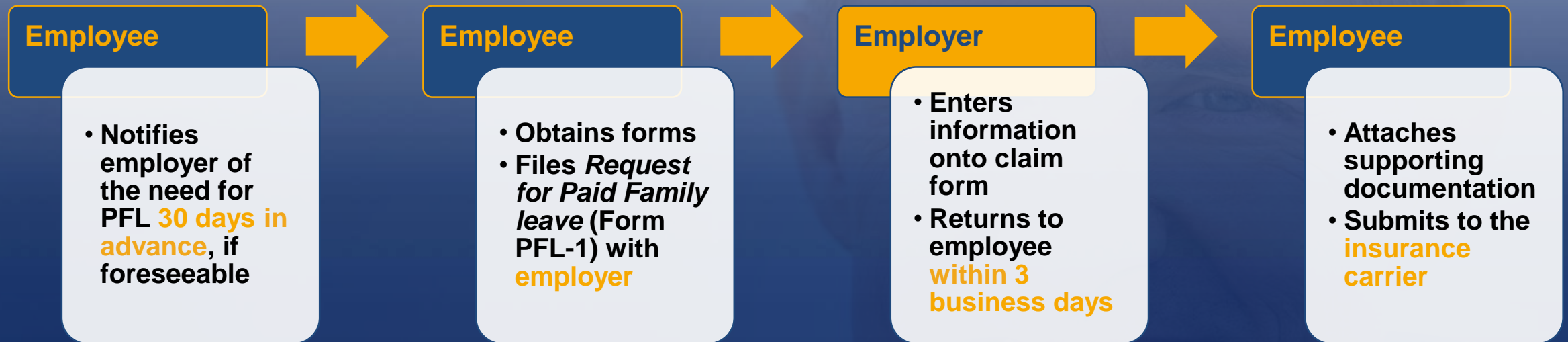
**Paid Family
Leave**

When Can Employees Take Paid Family Leave?

- As of **January 1, 2018**
- Maximum benefit available **once every 52 weeks**



How Employees Request Leave

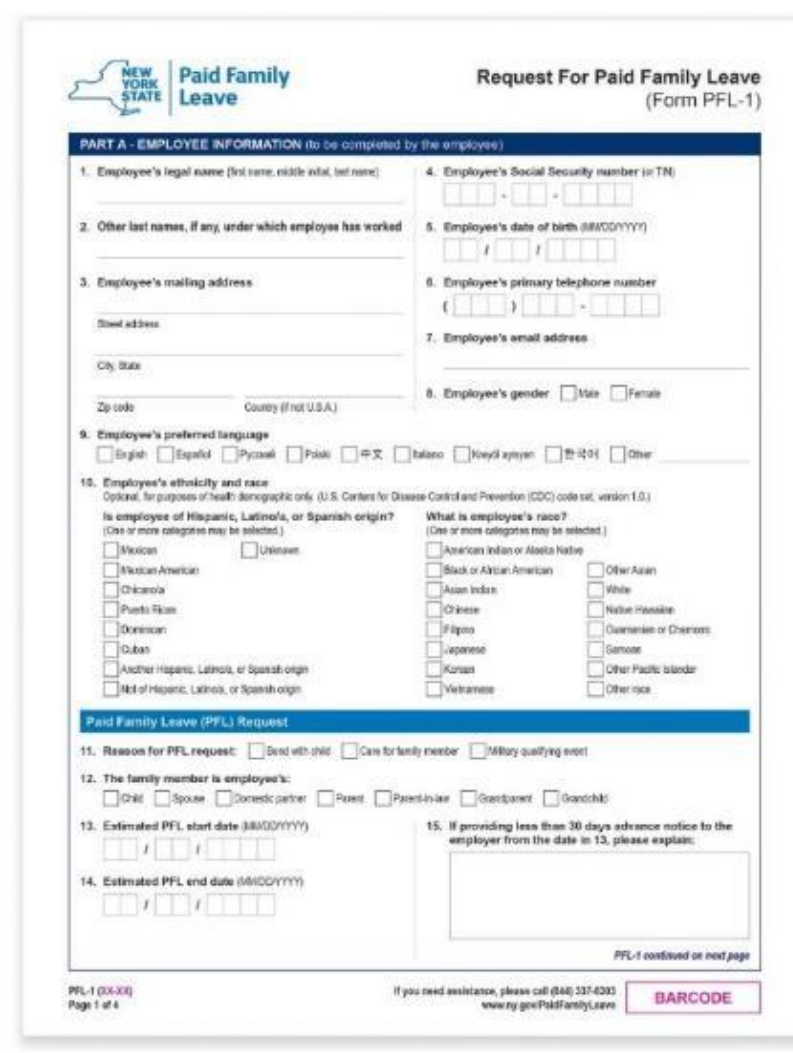


- In most cases, the insurance carrier must pay or deny benefits within **18 days** of receiving the completed request package, or the employee's first day of leave, whichever is later

Getting Request Forms

Employees can get Paid Family Leave request forms from:

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



The image shows the 'Request For Paid Family Leave (Form PFL-1)' from New York State. The form is titled 'Request For Paid Family Leave (Form PFL-1)' and is divided into two main sections: 'PART A - EMPLOYEE INFORMATION (to be completed by the employee)' and 'Paid Family Leave (PFL) Request'.
PART A - EMPLOYEE INFORMATION (to be completed by the employee)
1. Employee's legal name (not sure, middle initial, last name)
2. Other last names, if any, under which employee has worked
3. Employee's mailing address (Street address, City, State, Zip code, Country if not U.S.A.)
4. Employee's Social Security number (in TN)
5. Employee's date of birth (MM/DD/YYYY)
6. Employee's primary telephone number
7. Employee's email address
8. Employee's gender (Male/Female)
9. Employee's preferred language (English, Spanish, Polish, Chinese, Italian, Korean, Vietnamese, Hindi, Other)
10. Employee's ethnicity and race (Optional, for purposes of health demographic only). It includes checkboxes for Hispanic/Latino/Spanish origin and race categories like Mexican, Black or African American, White, etc.
Paid Family Leave (PFL) Request
11. Reason for PFL request (Care for family member, Military qualifying event)
12. The family member is employee's (Child, Spouse, Domestic partner, Parent, Parent-in-law, Grandparent, Grandchild)
13. Estimated PFL start date (MM/DD/YYYY)
14. Estimated PFL end date (MM/DD/YYYY)
15. If providing less than 30 days advance notice to the employer from the date in 13, please explain.
At the bottom, it says 'PFL-1 continued on next page', 'PFL-1 (03-20) Page 1 of 4', and provides contact information: 'If you need assistance, please call (844) 337-6303 www.ny.gov/PaidFamilyLeave' and a 'BARCODE' area.

Handling Disputes

- If an 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

Protection from Discrimination

If the employer:

- does not reinstate the employee to the same or similar 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

Updates for 2019

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



**Paid Family
Leave**

Paid Family Leave Benefits Updates for 2019

Eligible employees will be able to take:

- Up to 10 weeks of Paid Family Leave
- At 55% of their pay

Helpline: (844) 337-6303

Website: PaidFamilyLeave.ny.gov



Paid Family
Leave

Fully-funded by Employees

The 2019 payroll contribution is **0.153%** of an employee's gross wages each pay period

- Contributions are capped at an **annual maximum of \$107.97**
- If an employee earns less than the New York State Average Weekly Wage, their annual contribution will be less than the cap

2018 and 2019 Paid Family Leave Cost and Benefit Examples

	Weekly Salary	Weekly PFL contribution	Maximum PFL Time Off	Weekly Pay on PFL	Maximum Paid Benefit
2018	\$1,000 (\$52,000 annually)	\$1.26/week (\$65.52 annually)	8 weeks	\$500	\$4,000
2019	\$1,000 (\$52,000 annually)	\$1.53/week (\$79.56 annually)	10 weeks	\$550	\$5,500

Helpline: (844) 337-6303

Website: PaidFamilyLeave.ny.gov



**Paid Family
Leave**

Employer's Checklist

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



**Paid Family
Leave**

Employer's Checklist:

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 claimant within **3 business days**
- Discuss any specific leave tracking or other processes with your Paid Family Leave insurer

Paid Family Leave & Other Leave Policies

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



**Paid Family
Leave**

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 family members are 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"> All private employers Public employers may opt in One or more employees 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

Helpline: (844) 337-6303

Website: PaidFamilyLeave.ny.gov



Paid Family Leave

What about Paid Family Leave and Other Types of Leave?

- **Short-term disability:** Employees cannot collect 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 Questions from HR Professionals

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



**Paid Family
Leave**

Question One

Q: If an employee starts **continuous leave** in 2018, and it extends into 2019, are they eligible for the benefits at the 2019 rate and an extra two weeks?

A: Employees get the benefit rate and number of weeks in effect on the first day of their leave.

Question Two

Q: If an employee starts **intermittent leave** in 2018, and it extends into 2019, are they eligible for the benefits at the 2019 rate and an extra two weeks?

A: Employees get the benefit rate and number of weeks in effect on the first day of a period of leave. If more than three months passes between days of Paid Family Leave, the employee's next period or Paid Family Leave is considered a new claim under the law.

Question Three

Q: If an employee took eight weeks of bonding leave in 2018 and it's still within twelve months of his child's birth, is the employee eligible to take an additional two weeks of bonding leave in 2019 (based on the 2019 benefit being ten weeks)?

A: This depends on whether it is considered a new period or claim. If days of leave are separated by more than three months, it is considered a new claim, and the employee may be able to request PFL for another two weeks at the 2019 rate. All bonding leave must be completed within the first year of birth, adoption or placement.

Question Four

Q: If a family member has an **ongoing medical condition** and a health care provider certifies it as “lifetime,” is there a point where new certification is required?

A: The employee must apply for days of PFL or at least estimate those days. If more than three months passes between days of PFL, it is considered a new claim under the law and a new request for PFL must be filed.

Question Five

Q: What happens if an employer does not complete their section of the PFL-1 and return it to the employee in three business days?

A: The employee can move forward and submit the PFL-1 form they completed, along with the rest of their request package, directly to the insurance carrier

A request cannot be deemed incomplete solely because an employer did not complete Part B of the PFL-1 form

If the employer did not provide wage information, it is likely the insurance companies will use the wage information provided by the employee

Question Six

Q: Will the average weekly wage still be calculated using eight weeks, or will it change to ten weeks in 2019?

A: The calculation for average weekly wage is set by regulation, and will continue to be calculated using eight weeks

Question Seven

Q: How does holiday pay work with Paid Family Leave?

A: The interaction of holidays and PFL is not specifically mentioned in the law, however, employees generally choose which days to take for PFL

A day of Paid Family Leave is defined as a any full day in which the employee was prevented from performing work for the covered employer because the employee used Paid Family Leave

Question Eight

Q: Are we required to notify employees about the increase in benefit rate and amount for 2019?

A: While there is no explicit requirement, it is **strongly recommended** that you notify your employees of this change, and please also keep in mind that you must have the PFL-271S available, which has information about the increased rate.

Question Nine

Q: What should an employer do with contributions if an employee leaves?

A: PFL deductions may only be taken (at the rate set by DFS) to pay your PFL premium

If an employee leaves employment, there is no requirement to return contributions to that employee, as contributions taken from them could only have been used to cover the cost of having that employee on your PFL policy

Question Ten

Q: What if you already offer Paid Family Leave?

A: Employers are free to offer a more generous Paid Family Leave benefit

Employers with insurance policies through a carrier:

- Discuss options with your carrier
- Carrier will file notifications of enhanced benefit with Workers' Compensation Board
- Board will review to ensure benefits are “at least as favorable” to statutory benefits

Question Ten cont'd

Q: What if you already offer Paid Family Leave?

A. Self-insured employers:

- Obtain the required documents from your plan administrator or the Board
- File notifications of enhanced benefit with the Board
- **Board will review to ensure benefits are “at least as favorable” to statutory benefits**

Employers offering more generous benefits outside of Paid Family Leave: No additional notification required, still need proof of coverage for statutory PFL benefits

Paid Family Leave Is Here

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



**Paid Family
Leave**

Employer Resources

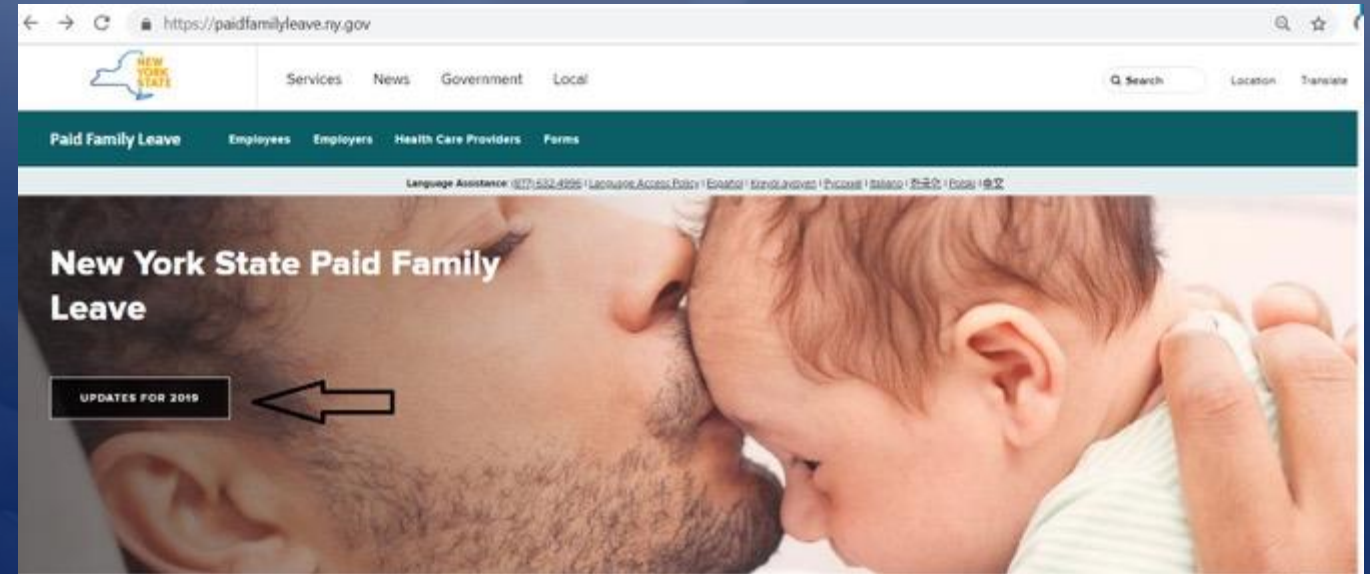
Visit PaidFamilyLeave.ny.gov to access:

- Detailed information on Paid Family Leave
- Paid Family Leave forms
- Weekly benefit and payroll deduction calculators
- Paid Family Leave frequently asked questions
- Resource guide for small businesses
- Paid Family Leave updates for 2019

Resources for 2019

Employer Resources:

- FAQs
- New Employee Statement of Rights
- Updated Model Language for Written Materials
- 2019 Deduction Calculator
- Employee Deduction Notification (template)



Additional Employer Resources

- Recorded Employee Webinar
- Employee Fact Sheets
- Graphic link to the Paid Family Leave Website
- Paid Family Leave Poster

Helpline: (844) 337-6303

Website: PaidFamilyLeave.ny.gov



**Paid Family
Leave**

Additional Employer Resources

Helpline:
(844) 337-6303

Website:
PaidFamilyLeave.ny.gov

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

GET UPDATES

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



**Paid Family
Leave**

Advocate for Business

Neil Gilberg
Advocate for Business
(518) 486-3331
Neil.Gilberg@wcb.ny.gov

Helpline: **(844) 337-6303**

Website: **[PaidFamilyLeave.ny.gov](https://www.PaidFamilyLeave.ny.gov)**



**Paid Family
Leave**

Questions?

Helpline: **(844) 337-6303**

Website: **PaidFamilyLeave.ny.gov**



**Paid Family
Leave**