



< New York State Paid Family Leave

Paid Family Leave: Frequently Asked Questions

Benefits

What are the Paid Family Leave benefits?

Benefits phase in over four years. During 2018, employees can take up to eight weeks of Paid Family Leave and receive 50% of their average weekly wage (AWW), capped at 50% of the New York State Average Weekly Wage (SAWW). The AWW is the average of an employee's last eight weeks of pay prior to starting Paid Family Leave. The SAWW is updated annually.

Paid Family Leave Benefits Examples for 2018

Worker's Average Weekly Wage	Weekly PFL Benefit (2018)*
\$600	\$300
\$1,000	\$500
\$2,000	\$652.96

*The average weekly wage is capped at 50% of the New York State average weekly wage, which is \$652.96.

Benefits Increase Through 2021:

Year	Weeks of Leave	Benefit
2018	8 weeks	50% of employee's AWW, up to 50% of SAWW
2019	10 weeks	55% of employee's AWW, up to 55% of SAWW
2020	10 weeks	60% of employee's AWW, up to 60% of SAWW
2021	12 weeks	67% of employee's AWW, up to 67% of SAWW

Weekly Benefits Calculator

Who pays the Paid Family Leave benefits to employees?

Benefits are paid by the insurance carrier, or employer if self-insured.

What are employees' rights and protections under Paid Family Leave?

- Employees have **job protection**, ensuring they can return to the same job (or a comparable one) when they return from Paid Family Leave.
- Employees can keep their **health insurance** while on leave. If employees contribute to the cost of their health insurance, they must continue to pay their portion of the cost while on leave.
- Employers are **prohibited from discriminating or retaliating** against employees for requesting or taking Paid Family Leave.

Does Paid Family Leave replace short-term disability coverage?

No, Paid Family Leave does not replace disability benefits coverage. Some employees may be eligible for both Paid Family Leave and disability benefits, although they may not be taken simultaneously.

On March 31, 2018, New York updated the Statewide Average Weekly Wage (SAWW). Will benefits now be up to 50% of this new SAWW?

No. The new SAWW **will only apply to the 2019 benefit level** and will not affect Paid Family Leave benefits until January 1, 2019. The new SAWW does not have any impact on Paid Family Leave benefits in 2018.

Commission Payments

Q: How is my average weekly wage calculated if I don't get a regular paycheck (for example, I am mainly paid through commissions)?

A: Commissions are wages for PFL purposes, and they are included in your average weekly wage. To calculate your average weekly wage using commissions, you should add up all the commissions you earned in the 52 weeks prior to your PFL and divide by 52. If you are paid by commission only, this will be your average weekly wage. If you receive commissions in addition to a regular pay check, add the weekly commission amount to your average weekly wage.

Q: Is there a minimum benefit amount that I will get if I take PFL?

A: Yes. If your average weekly wage is more than \$100, the minimum benefit amount is \$100. If your average weekly wage is *less* than \$100, you will receive your full wages during a period of PFL. For example, if your average weekly wage is \$150, your PFL benefit rate would be \$100. If your average weekly wage is \$40, your PFL benefit rate would be \$40.

Q: How will I get deductions taken out if I get paid by commission?

A: Commissions are considered wages for PFL purposes. Your employer is entitled to deduct 0.126% of your weekly wages, up to an annual cap of \$85.56. If you are paid by commission, your employer may deduct 0.126% of your commission up to that annual cap of \$85.56, because commissions are considered wages for PFL purposes.

Funding

Who pays for Paid Family Leave?

New York's Paid Family Leave Program is funded by employees through payroll contributions.

How much do employees pay?

The 2018 payroll contribution is 0.126% of an employee's weekly wage and is capped at an annual maximum of \$85.56. If an employee earns less than the New York State Average Weekly Wage (\$1305.92 per week), they will have an annual contribution amount less than the cap of \$85.56, consistent with their actual weekly wages.

For example, in 2018, if an employee earns \$27,000 a year (\$519 a week), they will pay 65 cents per week.

How can employees learn what their weekly deduction will be?

Employees can get an estimate of their weekly deduction by using the [weekly deduction calculator](#).

Why did some employers begin taking deductions in July?

Deductions were permitted to begin on July 1, 2017. Early deductions allowed employers to collect funds in advance to pay the Paid Family Leave premium when it becomes due in 2018. However, whether employers start collecting on January 1, 2018 or earlier, the deductions are still subject to the same maximum employee contribution level.

Can an employer decide to pay for Paid Family Leave on behalf of their employees?

Yes, an employer may choose to pay for the PFL benefit on behalf of employees.

Taxation - Benefits & Contributions

Are Paid Family Leave benefits considered taxable income?

Yes. Pursuant to the Department of Tax Notice No. N-17-12, Paid Family Leave benefits are taxable. Taxes will not automatically be withheld from benefits, but employees can request voluntary tax withholding. You can find a link to that notice [here](#). Other questions related to the taxability of Paid Family Leave contributions should be referred to the [NYS Department of Taxation and Finance](#).

Who is responsible for withholding payroll contributions to pay for Paid Family Leave?

Employers are responsible for withholding contributions and using that money to pay for their Paid Family Leave insurance premium.

Are Paid Family Leave contributions tax deductible?

Pursuant to the Department of Tax Notice No. N-17-12, Paid Family Leave contributions will be deducted from employees' after-tax wages. You can find a link to that notice [here](#). Other questions related to the taxability of Paid Family Leave contributions should be referred to the NYS Department of Taxation and Finance.

How should employers report employee contributions for tax purposes?

Pursuant to the Department of Tax Notice No. N-17-12, employers should report employee contributions on Form W-2 using Box 14 – State disability insurance taxes withheld. Benefits should be reported by the State Insurance Fund on Form 1099-G and by all other payers on Form 1099-MISC.

Eligibility & Participation

Who is eligible for Paid Family Leave?

Most employees who work in New York State for private employers are eligible to take Paid Family Leave. Public employers may choose to offer Paid Family Leave.

- **Full-time employees:** Employees who work a regular schedule of 20 or more hours per week are eligible after working 26 consecutive weeks.
- **Part-time employees:** Employees who work a regular schedule of less than 20 hours per week are eligible after working 175 days, which do not need to be consecutive.

Employees are eligible regardless of their citizenship and/or immigration status.

Are employees who are not U.S. citizens eligible for Paid Family Leave?

You are eligible regardless of your citizenship and/or immigration status.

Can part-time employees take Paid Family Leave?

Yes. If you work a regular schedule of 20 or more hours per week, you are eligible after working 26 consecutive weeks. If you work a regular schedule of less than 20 hours per week, you are eligible after working 175 days, which do not need to be consecutive.

What if an employee has varying hours worked on a job due to varying shifts?

Employees who work a regular work schedule of less than 20 hours per week are eligible for Paid Family Leave after 175 days worked. Employees with irregular schedules should look at their average schedule to determine if they work, on average, fewer than 20 hours per week.

When would per diem workers be eligible to take Paid Family Leave?

Employees with a regular work schedule of less than 20 hours per week are eligible for Paid Family Leave after 175 days worked. To determine whether an employee has a “regular” schedule of less than 20 hours per week, employers can assess whether, on average, the employee works fewer than 20 hours. Employees can opt out of Paid Family Leave if they do not expect to work for their employer for this minimum amount of time required for eligibility. Employers must offer employees who will not meet minimum eligibility criteria the choice to opt out by completing a Paid Family Leave waiver, which is available at ny.gov/PaidFamilyLeave.

What happens if an employee works 20 hours each week, and then on the 26th week they only work 19 hours?

The 26th week would still count towards the 26 consecutive weeks of employment because the employee’s regular work schedule is 20 hours a week.

What happens if an employee switches jobs or their employment status changes?

In order to take Paid Family Leave, employees must have worked for their current employer for 26 consecutive weeks if they regularly work 20 hours or more per week, or 175 days if they regularly work less than 20 hours per week. If employees start a new job, they must work long enough with their new employer to meet the eligibility requirement.

Does the 26 consecutive weeks worked requirement restart every year? Does the eligibility roll over?

Once employees meet the eligibility requirements, they remain eligible for that employer until employment is terminated.

Are freelance workers eligible for Paid Family Leave?

Yes. However, if they do not have a regular employer and work as an independent contractor, they will not

have Paid Family Leave benefits unless they purchase coverage for themselves. If they wish to get coverage, they must purchase both disability and Paid Family Leave policies, or neither.

Are independent contractors eligible for Paid Family Leave?

Independent contractors are not considered employees for purposes of New York State's Disability and Paid Family Leave law. This means that employers are not required to cover independent contractors under their disability and Paid Family Leave policies. However, an independent contractor who is self-employed may purchase a disability and Paid Family Leave policy to become covered under the law.

Are domestic workers eligible for Paid Family Leave?

Domestic workers who are hired directly by a private homeowner and who work 40 or more hours a week for the private homeowner are required to be covered for Paid Family Leave, and are eligible once they have been in employment for 26 consecutive weeks.

Are farm laborers eligible for Paid Family Leave?

No. Employees who work in service as farm laborers are not eligible for Paid Family Leave benefits.

Are employees required to participate in Paid Family Leave?

Yes. Paid Family Leave is not optional for most employees. An exception is if an employee is eligible for a waiver. An employee is eligible for a waiver if they do not expect to work for the same employer long enough to meet the eligibility requirements. If an employee works a regular schedule of 20 or more hours per week, they are eligible after working 26 consecutive weeks. If an employee works a regular schedule of less than 20 hours per week, they are eligible after working 175 days, which do not need to be consecutive. Employers must offer a waiver to any employee who will not meet these thresholds.

Can you opt out?

You can opt out of Paid Family Leave if you do not expect to work for your employer for the minimum amount of time required for eligibility.

If you meet this criteria, your employer must offer you a Paid Leave waiver, which is also available at ny.gov/PaidFamilyLeave. Employers should keep completed waivers on file.

If a change in your schedule results in you working enough time to meet the eligibility requirements, your waiver will be automatically revoked. You may voluntarily revoke your waiver at any time. If your waiver is revoked, employers may begin taking payroll deductions and may retroactively collect deductions from the date you signed the waiver.

I live in New Jersey but work in New York City – am I eligible?

Yes, Paid Family Leave is for employees who work in New York, and where you live does not matter when determining whether or not you are in New York employment. If you are working in New York, your employment is considered New York employment.

If I mostly work in another state but come to New York for sales calls and other meetings, am I eligible?

Probably not. Your employment must be localized in New York State, which means that most of your work is performed in New York, and any work performed outside the state is only incidental or temporary.

I telecommute from another state for a New York-based employer. Am I eligible?

No. Your employment must be localized in New York State, which means that most of your work is performed in New York, and any work performed outside the state is only incidental or temporary.

General and Special Employment (with more than one employer)

Who is responsible for providing Paid Family Leave coverage in situations where there is both general and special employment?

Employees in certain industries may have more than one employer. Under the Workers' Compensation Law, a general employee of one employer may be a special employee of another. The general employer pays the employees' wages and may provide required employee benefits. The special employer takes control of the employee for a limited time. If there is a dispute over who is responsible for Paid Family Leave benefits, general employment is presumed to continue but the special employer would also be liable. While the parties may contract between themselves concerning the scope of their responsibilities, the NYS Workers' Compensation Board would determine the liable employer if there is a dispute.

A general and special employer may decide between them to designate full responsibility for Paid Family Leave to the general employer. However, absent an agreement otherwise, the general and special employers may both be found liable.

For example, if an employee works for a motion picture project employer (MPPE) as a general employee, and a certain film production company as a special employee, the MPPE may collect employee contributions and provide paid family leave benefits to the employee through its insurance policy, but the special employer also remains liable for compliance absent an agreement providing otherwise or the general employer maintaining control.

How is eligibility determined in general and special employment situations?

There is a relatively long period for employees to acquire eligibility for Paid Family Leave (26 weeks for employees working 20 or more hours per week). An employee's entire work history with the general employer would count toward their eligibility if the general employer is providing benefits and where the general employer maintains control over the employee. In addition, an employee's work history with the special employer while on the general employer's payroll applies toward eligibility when the special employer maintains control.

How should matters of reinstatement be addressed?

The general and special employer should make clear to the employee the general and special employers' responsibilities concerning the employee's reinstatement.

Taking Paid Family Leave

General:

What events can you take Paid Family Leave for?

Paid Family Leave provides job-protected, paid time off so you can:

- **bond** with a newly born, adopted or fostered child,
- **care** for a family member with a serious health condition, or
- **assist** loved ones when a family member is deployed abroad on active military service.

How do you request Paid Family Leave?

1. Notify your employer at least 30 days before your leave will start, if it's foreseeable. Otherwise, notify your employer as soon as possible.
2. Obtain the request form package for the specific type of leave you need to take. The forms are available from your employer, employer's insurance carrier or directly from this website.
3. Complete the *Request for Paid Family Leave (Form PFL-1)*, following the instructions on the cover sheet. Make a copy for your records, and submit it to your employer. Your employer must fill out their section of *Form PFL-1* and return it to you within three business days.
4. Submit Form *PFL-1*, the other request forms specific to the leave you are taking and supporting documentation to your employer's insurance carrier. You can submit your request before your leave starts or within 30 days after the start of your leave. The insurance carrier must pay benefits or deny your request within 18 calendar days of receiving your completed request.
 - To learn who your employer's insurance carrier is, you can:
 - Look for the Paid Family Leave poster in your workplace.
 - Ask your employer.
 - Visit wcb.ny.gov and search your employer's name to look up their insurance carrier.
 - If you cannot determine your employer's insurance carrier, call the Paid Family Leave Helpline for assistance in finding the proper carrier.
 - Paid Family Leave Helpline: 844-337-6303 (8:30 a.m. – 4:30 p.m., ET, Monday – Friday)
 - If you believe your employer is uninsured, you can submit your request for Paid Family Leave to the NYS Workers' Compensation Board.
 - Paid Family Leave, PO Box 9030, Endicott, NY 13761-9030

If I take Paid Family Leave, when will I get paid?

The insurance carrier has 18 days after receipt of a completed request for Paid Family Leave to pay or deny the claim, and after the initial payment, will pay benefits bi-weekly.

What happens if my leave is scheduled to begin before I've received a decision on my Paid Family Leave claim?

The insurance carrier must pay benefits or deny your request within 18 calendar days of receiving your completed request. In most cases, you will begin your leave before getting a final decision from the carrier (or your employer, if it's self-insured). If your request is approved by the insurance carrier, payment of your benefits will be made dating back to the first date on which you began leave.

For example, if you have requested Paid Family Leave from April 2 through April 30, the carrier may not decide your claim until April 20. In this case, you must begin your leave on the requested date, April 2, because you cannot receive the Paid Family Leave benefit for days you are working for that employer. You would then be paid dating back to April 2, even though the carrier did not approve your claim until April 20.

If the insurance carrier denies your request:

- You are not considered to be on Paid Family Leave; and

- It will be up to your employer to determine how to treat the time off

Is Paid Family Leave based on the calendar year or rolling calendar?

Paid Family Leave is based on a rolling 52-week period. You can use up to eight weeks of Paid Family Leave in 2018, 10 weeks in 2019 and 2020, and 12 weeks in 2021. The number of weeks for which you are eligible depends on when you begin your period of leave. For example, if an employee takes bonding leave beginning in November 2018, the employee will be eligible for eight weeks of leave. The employee will be eligible for 10 weeks of leave beginning in November 2019.

Can you take Paid Family Leave and sick and/or vacation time together to receive your full salary?

You can only choose to take sick and/or vacation time during Paid Family Leave if your employer allows it. Taking your sick and/or vacation time at the same time as Paid Family Leave may allow you to receive your full salary for all or part of the leave. Your sick and/or vacation time will then be covered by the same rights and protections afforded to employees under the Paid Family Leave Law, including the right to keep your health insurance and the right to be reinstated to the same job (or a comparable one) when you return from leave.

Can spouses take Paid Family Leave at the same time?

If you and your spouse have different employers, you are both eligible to take Paid Family Leave at the same time. Spouses with the same employer who want to take Paid Family Leave at the same time to bond with the same child, care for the same family member, or assist loved ones for the same family member deployed abroad on military service must have their employer's approval first. Otherwise, you and your spouse can take leave at different times.

Can you take Paid Family Leave if you are collecting workers' compensation?

It depends. If you are not working and are collecting workers' compensation, you may not use Paid Family Leave. If you are working on a reduced earnings schedule and are collecting workers' compensation, you may still be eligible for Paid Family Leave.

Can I take both temporary/short-term disability and Paid Family Leave?

Yes, but not at the same time. You can take short-term disability and then Paid Family Leave, or Paid Family Leave and then short-term disability, if you qualify. For example, if a mother qualifies for short-term disability after giving birth, she can take short-term disability first and then Paid Family Leave. You cannot take more than 26 weeks of combined short-term disability and Paid Family Leave in a 52-week period.

How does Paid Family Leave work with other benefits and leave policies?

- **Family Medical Leave Act: If you have an event that qualifies for leave under both FMLA and Paid Family Leave and your employer is covered under both laws, your leave should run concurrently.**
 - For example, in 2018, if you are eligible to take 12 weeks of leave to care for a family member with a serious health condition, the first eight weeks would be classified as both Paid Family Leave and FMLA, and the remaining four weeks would be classified as FMLA leave.
 - In order for the two types of leaves to run together, your employer must notify you that your leave qualifies for both FMLA and Paid Family Leave and that it will be designated as such.
 - If you have a qualifying event for FMLA and a different qualifying event for Paid Family Leave (for example, caring for your own medical condition using time with FMLA and bonding with a new child using Paid Family Leave), you may take these leaves at different times.

- **Short-term Disability:** You cannot take short-term disability and Paid Family Leave at the same time. However, if you qualify for short-term disability (for example, after giving birth), you may take short-term disability and then Paid Family Leave. You cannot take more than 26 weeks of combined short-term disability and Paid Family Leave in a 52-week period.
- **Workers' Compensation:** If you are collecting workers' compensation for a total disability, you cannot take Paid Family Leave. If you are on a reduced earnings schedule, you may still be eligible for Paid Family Leave.
- **Maternity Leave/Paternity Leave:** Check with your employer on how Paid Family Leave works with your employer's leave policies.

If I took parental leave or FMLA in 2017, am I still eligible for bonding leave in 2018 under Paid Family Leave?

Yes, you are eligible to take Paid Family Leave in 2018 to bond with your child as long as the child was born, adopted, or fostered within the last 12 months. Any leave you took in 2017 (paid or unpaid, whether maternity/paternity leave through your employer, FMLA or short-term disability) does not affect your Paid Family Leave eligibility for 2018. For example, if you gave birth to a child in May 2017, you can take up to eight weeks of Paid Family Leave before your child's first birthday, regardless of any time off you took in 2017. If you've taken short-term disability, it's important to note that you cannot exceed 26 weeks combined short-term disability and Paid Family Leave in a 52-week period.

If I completed paperwork for short-term disability, do I still need to do it for Paid Family Leave?

If you are requesting short-term disability and Paid Family Leave, you have to complete separate requests for each. These are separate benefits, which are not taken at the same time, and which require separate documentation from you and your employer.

Can an employee use Paid Family Leave for part of the work week and still work part-time?

Paid Family Leave can be taken all at once or intermittently, but must always be taken in full day increments. For example, if a normal work day is four hours long, you can take Paid Family Leave for the four-hour work day. You cannot take only two hours of Paid Family Leave that day and work the remaining two hours.

What if an employee has difficulty obtaining the required certification/supporting documentation for submitting their Paid Family Leave request?

The employee has 30 days from the beginning of their leave to submit their completed request without losing benefits. If the employee cannot get documentation to support a leave request within this timeframe, the insurance carrier can deny the request.

The employee may reapply once they have received the supporting documentation for submitting their completed Paid Family Leave request.

If the insurance carrier denies a request:

- An employee can appeal an insurance carrier's denial by requesting a review by neutral arbitration.
- If the employee started their leave already, the employee is not considered to be on Paid Family Leave, and it will be up to the employer to determine how to treat the time off. Employers are prohibited from discriminating or retaliating against employees for requesting or taking Paid Family Leave.

Employees who need further assistance can call the Paid Family Leave Helpline at (844) 337-6303.

Where do I send my completed request forms and documentation?

Your completed request should be sent to your employer's Paid Family Leave insurance carrier at the address provided in the PFL-1 Form Part B, Question 13 (the section your employer completed), or directly to your employer if they are self-insured. If the information is not on the form:

- ask your employer for the carrier's address, or
- contact the Paid Family Leave Helpline at 844-337-6303 for assistance.

Will I continue to earn sick and vacation leave accruals while out on Paid Family Leave?

It depends on your employer's policy. You should clarify with your employer on whether they allow employees to continue to accrue leave while out on Paid Family Leave.

I am a part-time employee working less than 20 hours a week with flexible work hours and days. How do I determine which days count toward my eligibility for PFL?

Any day on which you performed work for your employer counts as a day worked toward the 175 day eligibility requirement.

Do vacation days count toward my eligibility for PFL?

Yes. Vacation days approved by your employer count toward your eligibility for PFL. If you are paid wages while on vacation, your employer may continue to deduct PFL from those wages.

Does personal or sick time count toward my eligibility for PFL?

Yes. Any days away from work that are approved by your employer count toward your eligibility for PFL. If you are paid wages on these days, your employer may continue to deduct PFL from those wages.

Does time out on short-term disability count toward my eligibility for PFL?

No. Any time you are out on short-term disability does not count toward your eligibility for PFL.

Bonding Leave:

When can you take bonding leave?

You can take bonding leave during the first 12 months after the birth, adoption or foster placement of a child.

Who is eligible for bonding leave?

New parents are eligible to take Paid Family Leave during the first 12 months following the birth, adoption, or fostering of a child.

How do you request Paid Family Leave for bonding with a new child?

1. Notify your employer at least 30 days in advance, when possible. Otherwise, notify your employer as soon as possible.
2. Obtain the Bond with a Newborn, Newly Adopted or Fostered Child forms package. The forms are available from your employer, employer's insurance carrier or directly from this website.
3. Complete the Request for *Paid Family Leave (Form PFL-1)*, following the instructions on the cover sheet. Make a copy for your records, and submit it to your employer. Your employer must fill out their section of Form *PFL-1* and return it to you within three business days.

4. Complete the *Bonding Certification (Form PFL-2)*, and collect and attach supporting documentation for your leave (e.g., birth certificate, letter from health care provider or other forms of acceptable documentation).
5. Submit *Form PFL-1*, *Form PFL-2*, and supporting documentation to your employer's insurance carrier. You can submit your request before your leave starts or within 30 days after the start of your leave. The insurance carrier must pay benefits or deny your request within 18 calendar days of receiving your completed request.
 - To learn who your employer's insurance carrier is, you can:
 - Look for the Paid Family Leave poster in your workplace.
 - Ask your employer.
 - Visit wcb.ny.gov and search your employer's name to look up their insurance carrier.
 - If you cannot determine your employer's insurance carrier, call the Paid Family Leave Helpline for assistance in finding the proper carrier.
 - Paid Family Leave Helpline: 844-337-6303 (8:30 a.m. – 4:30 p.m., ET, Monday – Friday)
 - If you believe your employer is uninsured, you can submit your request for Paid Family Leave to the NYS Workers' Compensation Board.
 - Paid Family Leave, PO Box 9030, Endicott, NY 13761-9030

If you are in a same-sex relationship and only one parent or neither parent is the biological parent, what do you need to do in order to submit a request for Paid Family Leave?

The birth mother will need a birth certificate or documentation from a health care provider establishing maternity. A parent who is not the birth mother must submit documentation establishing their legal role as the child's parent, and demonstrating their relationship to the birth mother. Acceptable forms of documentation include:

- Legal role as child's parent – birth certificate, Court Order of Filiation, or Voluntary Acknowledgment of Paternity naming that parent
- Relationship to birth mother – marriage certificate, or evidence of a civil union or domestic partnership

If none of these documents are available, a parent may submit other documentary evidence of parental relationship to the child, to be evaluated on a case-by-case basis.

Can you take Paid Family Leave during pregnancy?

No. Paid Family Leave for bonding only begins after birth. It is not available for prenatal conditions.

Can you take Paid Family Leave for adoption before you have custody of the child?

Yes, you may take leave before the actual adoption of the child if an absence from work is required for the adoption to proceed.

Family Care Leave:

How do you request Paid Family Leave for family care?

1. Notify your employer at least 30 days in advance, when possible. Otherwise, notify your employer as soon as possible.
2. Obtain the *Care for a Family Member with Serious Health Condition* forms package. The forms are available from your employer, employer's insurance carrier or directly from this website.
3. Complete the *Request for Paid Family Leave (Form PFL-1)*, following the instructions on the cover sheet. Make a copy for your records, and submit it to your employer. Your employer must fill out their section of *Form PFL-1* and return it to you within three business days.
4. Your family member (the care recipient), or their authorized representative, must fill out the *Release of Personal Health Information Under the Paid Family Leave Law (Form PFL-3)* and submit it to their health care provider. This release will end after one year, or when your family member revokes it. The health care provider will keep it on file.
5. Complete the employee section of the *Health Care Provider Certification (Form PFL-4)*. You, your family member, or their authorized representative must provide *Form PFL-4* to your family member's health care provider.
6. Your family member's health care provider completes the remainder of *Form PFL-4* and returns it to your family member or their authorized representative. They then give *Form PFL-4* to you for submission.
7. Submit *Form PFL-1*, *Form PFL-4*, and supporting documentation to your employer's insurance carrier. You can submit your request before your leave starts or within 30 days after the start of your leave. The insurance carrier must pay benefits or deny your request within 18 calendar days of receiving your completed request.
 - To learn who your employer's insurance carrier is, you can:
 - Look for the Paid Family Leave poster in your workplace.
 - Ask your employer.
 - Visit wcb.ny.gov and search your employer's name to look up their insurance carrier.
 - If you cannot determine your employer's insurance carrier, call the Paid Family Leave Helpline for assistance in finding the proper carrier.
 - Paid Family Leave Helpline: 844-337-6303 (8:30 a.m. – 4:30 p.m., ET, Monday – Friday)
 - If you believe your employer is uninsured, you can submit your request for Paid Family Leave to the NYS Workers' Compensation Board.
 - Paid Family Leave, PO Box 9030, Endicott, NY 13761-9030

Which family members qualify under Paid Family Leave for family care?

Under Paid Family Leave, the list of family members you can take care of is expansive and includes:

- spouse
- domestic partner (including same and different gender couples; legal registration not required)

- child/stepchild and anyone for whom you have legal custody
- parent/ stepparent
- parent-in-law
- grandparent
- grandchild

If you are serving in the role of a parent for a child ('in loco parentis'), even if you are not legally or biologically related to the child, you may be eligible to take Paid Family Leave for that child. Similarly, if someone stood 'in loco parentis' to you when you were a child, you may be able to take leave to care for them. Your insurer may ask for a simple statement of the parental relationship or for other reasonable documentation to demonstrate how you stand in loco parentis to the child or how the person in need of care stood in loco parentis to you when you were a child.

What does 'in loco parentis' mean?

The term 'in loco parentis' is Latin for "in the place of a parent." A person is in loco parentis when they are fully responsible for a child in the same way a parent would be – responsible for the child's day-to-day care and financial support.

What is needed to demonstrate 'in loco parentis'?

To demonstrate you stand in loco parentis to a child, or how a person in need of care stood in loco parentis to you when you were a child, you should prepare a simple statement of the parental relationship or other reasonable documentation.

Such documentary support may include evidence of:

- the child's age,
- the degree to which the child is dependent on you,
- the amount of financial support, if any, you provided, and
- the extent to which you perform duties commonly associated with parenthood.

Similar evidence could be used to demonstrate the relationship of someone who stood in loco parentis to you when you were a child.

The determination as to whether you meet the criteria for in loco parentis is not decided by New York State or the Workers' Compensation Board, but by the insurance carrier, or, if appealed, by a neutral arbitrator.

Can you use Paid Family Leave to take care of an eligible relative living outside New York?

Yes, you can take Paid Family Leave to care for your family member living outside of New York, as long as you are in close proximity to the family member you're caring for during the majority of the Paid Family Leave period. This includes time needed to travel to the family member receiving care, travel to bring them to New York, secure their medication, or make arrangements for their care.

How do family members become eligible for family care under Paid Family Leave?

Qualifying relatives need to have a serious health condition, certified by the health care provider, in order to receive family care under Paid Family Leave.

What is a serious health condition?

A serious health condition is defined as an illness, injury, impairment, or physical, or mental condition requiring:

- **inpatient care** in a hospital, hospice, or inpatient/outpatient residential health facility; or
- **continuing treatment** or supervision by a health care provider.

Continuing treatment or supervision means one of the following reasons listed with some examples:

REASON	EXAMPLES
Chronic serious health condition that continues over an extended period, requires periodic treatment visits, and may cause episodic periods of incapacity	Asthma, diabetes, epilepsy, psychosis, schizophrenia, bipolar disorder, or post-traumatic stress disorder (PTSD)
Long-term or permanent period of treatment that may not be effective and the family member is under continuing supervision	Alzheimer's disease, severe stroke, or terminal stage of a disease
Treatment or recovery from restorative surgery after an accident or other injury, or a condition that would likely result in a period of incapacity of more than three consecutive full days in the absence of treatment	Cancer (chemotherapy and radiation), severe arthritis (physical therapy), or kidney disease (dialysis)
A period of more than three consecutive full days involving treatment two or more times by a health care provider or treatment on at least one occasion followed by continuing treatment under supervision	A course of prescription medication as a regimen of continuing treatment or treatment for a substance use disorder

What are some examples of non-serious medical conditions under Paid Family Leave?

Medical conditions like the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., are examples of conditions that are generally not included unless there are complications that meet the criteria.

Which health care providers can complete necessary documentation for Paid Family Leave?

The following licensed health care providers may complete necessary documentation within their scope of practice:

- Physician

- Physician Assistant
- Chiropractor
- Dentist
- Physical Therapist
- Nurse Practitioner
- Registered Professional Nurse
- Podiatrist
- Optometrist
- Psychologist
- Clinical Social Worker
- Occupational Therapist
- Midwife
- Mental Health Practitioner
- Speech-language Pathologists
- Audiologists

Military-Related Leave

How do you request Paid Family Leave for a military leave?

1. Notify your employer 30 days in advance, if it's foreseeable. Otherwise, notify your employer as soon as possible.
 2. Obtain the *Assist Families in Connection with a Military Deployment* forms package. The forms are available from your employer, insurance carrier or directly from this website.
 3. Complete the *Request for Paid Family Leave (Form PFL-1)*, following the instructions on the cover sheet. Make a copy for your records, and submit it to your employer. Your employer must fill out their section of *Form PFL-1* and return it to you within three business days.
 4. Complete the *Military Qualifying Event (Form PFL-5)*, collect, and attach supporting documentation for your leave (e.g., covered active duty orders, a letter from the military unit documenting impending call or other forms of acceptable documentation).
 5. Submit *Form PFL-1*, *Form PFL-5* and supporting documentation to your employer's insurance carrier. You can submit your request before your leave starts or within 30 days after the start of your leave. The insurance carrier must pay benefits or deny your request within 18 calendar days of receiving your completed request.
- To learn who your employer's insurance carrier is, you can:
 - Look for the Paid Family Leave poster in your workplace.

- Ask your employer.
- Visit wcb.ny.gov and search your employer's name to look up their insurance carrier.
- If you cannot determine your employer's insurance carrier, call the Paid Family Leave Helpline for assistance in finding the proper carrier.
 - Paid Family Leave Helpline: 844-337-6303 (8:30 a.m. – 4:30 p.m., ET, Monday – Friday)
- If you believe your employer is uninsured, you can submit your request for Paid Family Leave to the NYS Workers' Compensation Board.
 - Paid Family Leave, PO Box 9030, Endicott, NY 13761-9030

Which of your family members are covered under Paid Family Leave for a military qualifying event?

You can take Paid Family Leave to assist loved ones when your spouse or domestic partner, child or stepchild, parent or stepparent, or parent-in-law is on active service in a foreign country or has been notified of an impending call or order of active service to a foreign country. This includes deployment to international waters.

What are some examples of military qualifying events?

Paid Family Leave covers needs that may arise due to the military family member's deployment. This includes time off before a short-notice deployment, to attend pre- and post-deployment military events, to make arrangements for childcare or parental care, attend counseling, during military family member's Rest and Recuperation leave, financial or legal arrangements, or other similar activities.

Can military-related leave be used for employees to take time off to care for a service member's child?

Military leave covers making arrangements for the military member's child as well as urgent, non-routine childcare by the family member. This includes circumstances when the covered active service or call to covered active service status of the military member necessitates a change that may result in arranging for alternative childcare; providing childcare for a child on an urgent, immediate need basis; enrolling in or transferring to a new school or day care facility; or attending meetings with staff at a school or a daycare facility. Ongoing, routine childcare needs would not be covered. For example, an employee cannot take Paid Family Leave to watch a service member's child during summer vacation – but the employee could take Paid Family Leave time to arrange such childcare.

What documentation is required for a military qualifying event request?

The request form needs to have attached either a copy of the military family member's covered active service orders, a letter from the military unit documenting the impending order to covered service, or documentation of the family member's military leave signed by the approving authority for Rest and Recuperation leave. In addition, if the type of qualifying event involves meeting with a third party, documentation such as a meeting announcement, appointment confirmation, or bill is necessary.

Employers

What coverage do employers need?

Private employers must have Paid Family Leave (PFL) insurance in place by January 1, 2018. Generally, coverage will be added to your existing disability benefits policy. The insurance policy will provide payment of the Paid Family Leave benefit to your employees. Public employers may choose to offer Paid Family Leave to their employees.

How can employers get a Paid Family Leave policy?

If you have carrier-provided disability benefits insurance coverage, Paid Family Leave will generally be

added as a rider to this policy. If you self-insure for disability benefits, you had the option to either apply to self-insure for Paid Family Leave coverage for 2018 by September 30, 2017, or you can purchase a Paid Family Leave-only policy. If you want to self-insure in the future, you can contact the Workers' Compensation Board's Self-Insurance Office at selfinsurance@wcb.ny.gov. Guidance for self-insurers is also available on the [Workers' Compensation Board website](#).

What policies are available?

The Department of Financial Services has published a list of insurers offering approved Paid Family Leave policies [on its website](#).

What if you already offer Paid Family Leave?

You must ensure that your Paid Family Leave benefit is at least as favorable as what the law requires, at minimum; however, you may choose to supplement with a more generous leave policy. Covered employers are required to purchase an insurance policy or provide Paid Family Leave benefits directly if approved as a self-insured employer. More information on requirements for employers who provide, or wish to provide, a more generous family leave policy is available on the [Employer section](#) of this site.

If you pay full wages to your employees while they are on Paid Family Leave, you may seek reimbursement from your insurance carrier for the amount payable under your Paid Family Leave policy.

If you completed paperwork for your employees' short-term disability request, do you still need to do it for their Paid Family Leave?

Yes, short-term disability and Paid Family Leave are separate benefits, which are not taken at the same time, and which require separate documentation from both the employee and the employer.

How will employers be notified if an employee's request for Paid Family Leave is approved?

Carriers do not have a specific legal requirement to notify an employer about whether an employee's request for Paid Family Leave is approved or denied, but employers may be in contact with their insurance carriers to develop a process for this.

What prevents someone from filing a fraudulent Request for Paid Family Leave?

Each type of leave requires documentation to support the need for Paid Family Leave – employees will not get approval without it. Additionally, when filing for Paid Family Leave, employees must sign the request forms to affirm that the information they are providing is true and accurate to the best of their knowledge and belief. Insurers investigate potentially fraudulent requests and may make referrals to law enforcement. Any person who knowingly commits a fraudulent insurance act, which is a crime, is subject to civil penalties.

Is an employee who mostly works outside of New York but sometimes works in New York eligible?

Probably not. The employee must be in New York State employment to be eligible for Paid Family Leave, which means that most of the employee's work is performed in New York, and any work performed outside the state is only incidental or temporary.

Funding

How is Paid Family Leave funded?

Employees pay for these benefits through a small weekly payroll deduction, which is a percentage of their weekly wages up to a cap set annually. The employee contribution rate is set every year to match the cost of insurance coverage and you use the employee contributions to pay the insurance premium.

The 2018 payroll contribution is 0.126% of an employee's weekly wage and is capped at an annual maximum of \$85.56. Employees earning less than the New York State Average Weekly Wage (\$1305.92 per week), will have an annual contribution amount less than the cap of \$85.56, consistent with their actual weekly wages.

For example, in 2018, if an employee earns \$27,000 a year (\$519 a week), they will pay 65 cents per week.

Can an employer decide to pay for Paid Family Leave on behalf of their employees?

Yes, an employer may choose to pay for the Paid Family Leave benefit on behalf of employees.

What should employers do with the money they withhold from employees?

The employee contributions that are withheld for Paid Family Leave are to be used to pay for the insurance.

If an employer allows an employee to use paid vacation and/or sick time while they're out on Paid Family Leave, can the employee collect more than their full wages?

No. An employee cannot receive more than their full wages while receiving Paid Family Leave benefits.

Can employers get reimbursed if they pay an employee's full wages during Paid Family Leave?

If an employer pays an employee their full wages while they are out on Paid Family Leave, the employer may request, and in many instances receive, reimbursement from the insurer, up to the amount offered in the Paid Family Leave benefit.

How can the employer alert the Paid Family Leave carrier that it's paying the employee their full wages?

The employer **must** indicate on the *Request For Paid Family Leave* (Form PFL-1, Part B, Question 10) that it is paying the employee their full wages **and** requesting reimbursement from the insurance carrier. If the employer fails to select "Yes" for requesting reimbursement from the insurance carrier, it will waive its right to reimbursement.

What options does an employer have if it wants to pay an employee their full wages while they're on Paid Family Leave?

If the employer has an internal policy that provides the employee with wages that are higher than what's covered under Paid Family Leave, the employer can pay the employee up front and then request reimbursement from the carrier, up to the amount of the Paid Family Leave benefit. Alternatively, the employer can supplement the employee's Paid Family Leave benefit up to the amount provided under the internal policy.

Unemployment Insurance

Can an employee collect unemployment insurance while on Paid Family Leave?

No. When an employee is on Paid Family Leave (or vacation or any other paid leave), he or she is not entitled to unemployment insurance benefits because he or she is still employed (even if not required to perform work) and because he or she is not available for work.

Are the premiums paid under the Paid Family Leave program through employee payroll deduction considered remuneration for unemployment insurance purposes?

Yes. Each employee's total remuneration is the amount prior to any deductions, including deductions for the premiums for New York's Paid Family Leave program. This amount is subject to contributions up to the annual wage base.

Are benefits paid to an employee under the Paid Family Leave program considered remuneration that must be reported by an employer?

No. Paid Family Leave benefits received by an employee are not considered remuneration for UI reporting purposes and are not subject to contributions. They are, however, reportable as income for IRS and NYS tax purposes.

If an employer chooses to hire a temporary employee to replace a regular employee while they are on Paid Family Leave, could the temporary employee file for unemployment insurance benefits once the regular employee returns to work?

Yes. The temporary employee would have to meet the normal eligibility requirements under the New York State Unemployment Insurance Law.

Is an employer responsible for the costs of unemployment insurance benefits paid to a former temporary employee once the regular employee returns to work?

If the former temporary employee was found to be eligible to collect unemployment benefits, the employer's unemployment insurance account would be charged as the last employer in the claim for the first 7 weeks of benefits. The employer may also be charged in the future if the former temporary employee files a subsequent claim for benefits. An employer's unemployment insurance account is subject to the same charging rules for temporary employees as for other employees.

If an employee chooses not to return to work after using the Paid Family Leave program, would the employee be eligible to collect unemployment insurance benefits?

An employee who chooses not to return to work may file a claim for unemployment insurance benefits but would be subject to the normal eligibility requirements under the New York State Unemployment Insurance Law. In general, claimants must be ready, willing, and able to accept work in a job for which they are qualified. If the employee had a right to return to work on a definite date, the employee could be disqualified unless the employee otherwise has good cause for not returning to work.

Is an employer's unemployment insurance account chargeable for unemployment insurance benefits paid to a former employee who chose not to return to work after using the Paid Family Leave program?

If the former employee was found to be eligible to collect unemployment benefits, the employer's unemployment insurance account would be chargeable as the last employer in the claim for the first 7 weeks of benefits and may be chargeable as a base period employer if the former employee files a subsequent claim for benefits.

Would an employer's experience rate increase in the next year if an employee uses the Paid Family Leave program?

An employer's experience rate will not necessarily increase. There are various factors that can impact an experience rate, such as overall benefits paid to former employees and whether contributions are paid timely.

Will an employer have to pay contributions for temporary workers?

Yes. Employers must pay contributions for each temporary employee up to the wage base, which is \$10,900 for wages paid in 2017.

Public Employer

As a public employer, are you required to provide Paid Family Leave benefits?

No. As a public employer, you may opt to provide Paid Family Leave benefits for your employees; it is not

required. The processes are different, depending on whether or not you currently provide Disability Benefits. See below.

If a public employer currently provides Disability Benefits, what is the process?

A public employer may opt to have only Disability Benefits, only Paid Family Leave benefits, both, or neither. However, if a public employer currently provides Disability Benefits, it must follow these steps:

- If you haven't already done so, email the Workers' Compensation Board at PAU@wcb.ny.gov stating whether or not you plan to provide Paid Family Leave to employees in 2018.
- Notify your disability benefits insurance carrier (if you do not self-insure) of your decision.
- Notify your employees of your decision. If you have employees who are not represented by a union, you may opt in for Paid Family Leave on their behalf. If you have employees who are represented by a union, their participation is subject to collective bargaining. If you wish to provide Paid Family Leave to such employees, you should engage their union(s) to negotiate the terms of their participation.

If you are not opting in to Paid Family Leave:

- If you haven't already done so, email the Workers' Compensation Board at PAU@wcb.ny.gov stating that you do not plan to provide Paid Family Leave to employees in 2018.
- Notify your disability benefits insurance carrier (if you do not self-insure) of your decision.
- Notify your employees, or if they are represented by a union, you should advise any union(s) representing your employees of this decision.
- Even if you choose not to opt in by December 1, you may choose to do so at a later date.

Important: For most private employers, Paid Family Leave will be added to their existing disability insurance policies. If you are an employer who currently carries disability insurance, your insurer may **automatically** add Paid Family Leave coverage to your 2018 disability policy. However, as a public employer, you are not required to add Paid Family Leave insurance to your existing policy; you must **actively elect to opt in**.

What is the process for employers who do not currently provide Disability Benefits?

If you decide to opt in to Paid Family Leave:

- Complete the opt in application available [here](#). You may do so at any time.
- Completed applications should be submitted to the Plans Acceptance Unit by email at PAU@wcb.ny.gov.
- If you have employees that are represented by a union, their participation is subject to negotiation.

If you are not opting in to Paid Family Leave:

- No action is required.
- You can apply to provide voluntary Paid Family Leave coverage at any time by following the procedure above.

When would you have to begin offering Paid Family Leave benefits?

If you opted into providing PFL for 2018 in 2017, coverage will begin January 1, 2018. Otherwise, a public employer does not need to begin providing the Paid Family Leave benefit on January 1, 2018; you may implement the benefit at a future date.

Do you have to notify employees about deductions?

Public employers must notify the New York State Workers' Compensation Board, and all employees who will make contributions, 90 days before the first Paid Family Leave employee deduction is made.

How can public employers obtain insurance coverage?

If and when you decide to opt in, Paid Family Leave insurance coverage may be secured by:

- providing Paid Family Leave benefits through an existing disability benefits policy,
- obtaining a Paid Family Leave-only insurance policy, or
- self-insuring for Paid Family Leave.

Public employers that offer disability benefits through an insurance policy **may not** self-insure for Paid Family Leave.

Coverage must be maintained for at least **one year** and may only be canceled after providing **12 months'** notice to all affected unrepresented employees and to the Workers' Compensation Board.

For a list of approved insurers offering Paid Family Leave policies, visit the [Paid Family Leave section of the Department of Financial Services website](#).

Is a public employer required to negotiate with a union over Paid Family Leave or may the employer choose on its own to opt in for those employees covered by a union?

A public employer may not opt-in for employees represented by a union without collectively bargaining with the union to provide Paid Family Leave.

How do public employers work with labor unions on Paid Family Leave?

A labor union may negotiate with a public employer for Paid Family Leave benefits at least as favorable as those mandated by statute. Such negotiated programs may not permit eligible employees to opt out of Paid Family Leave, but the collective bargaining agreement may provide other rules that differ from the Paid Family Leave regulations. Where the agreement does not provide a different rule, the Paid Family Leave law and regulations will apply. Paid Family Leave benefit plans that have been incorporated into a collective bargaining agreement must be submitted to the Workers' Compensation Board for approval to ensure that the terms are at least as favorable as the PFL statute requires. Plans can be submitted by emailing the Plans Acceptance Unit at PAU@wcb.ny.gov.

Self-Employed Individuals (including sole-proprietors and independent contractors):

If you are a self-employed individual with employees, are you required to get Paid Family Leave coverage?

Self-employed persons **with employees** must obtain Paid Family Leave coverage for their employees, but are exempt from Paid Family Leave for themselves.

To voluntarily obtain coverage for disability benefits and PFL benefits for yourself, you must formally opt in

by submitting voluntary coverage forms (available [here](#)) to the Workers' Compensation Board. You must opt in for both disability and Paid Family Leave benefits or neither. After opting in, you should purchase PFL coverage from an insurance carrier. For a list of insurers offering Paid Family Leave policies, visit the [PFL section of the Department of Financial Services website](#).

If you are a self-employed individual with no employees, are you required to get Paid Family Leave coverage?

No, you are exempt from Paid Family Leave. You can choose to voluntarily obtain coverage for disability benefits and Paid Family Leave benefits for yourself. In this case, no application of voluntary coverage is required; you only need to purchase coverage from an insurance carrier. You must obtain coverage for both disability and Paid Family Leave benefits or neither. For a list of insurers offering Paid Family Leave policies, visit the [PFL section of the Department of Financial Services website](#).

When can a self-employed person get a policy?

If you are self-employed, you must obtain a policy before January 1, 2018, or within the first 26 weeks after starting your business to avoid a waiting period. After this time period, a policy may be issued but benefits are not payable until after a two-year waiting period. The claim eligibility period of 26 weeks for employees working more than 20 hours a week, or 175 days for employees working less than 20 hours a week, would run during the waiting period.

What if a self-employed person doesn't purchase a policy by January 1, 2018?

If you don't obtain a policy before January 1, 2018, or within the first 26 weeks after starting your business, there will be a two-year waiting period before you can receive any benefits.

What are the benefits for a self-employed person based on?

Wage benefits for Paid Family Leave are based on a percentage of an employee's average weekly wage, capped at the same percentage of the State Average Weekly Wage. As a self-employed person, your average weekly wage is calculated by dividing your total earnings over the previous 52 weeks by 52.

Are there any special claim filing requirements for a self-employed person?

You must give the insurance carrier 30 days' notice in advance of a foreseeable leave event.

Can a self-employed person cancel their policy after getting one?

Yes, you may cancel your policy. Make sure to respond to any correspondence from the Workers' Compensation Board inquiring about the status of your coverage. It may be necessary to explain you are self-employed and have no other employees.

Can a self-employed person who cancels his/her disability and Paid Family Leave policy get another policy?

Yes, but an insurance carrier may require a satisfactory explanation of why the previous policy was cancelled in addition to the waiting period.

Health Care Provider

What is the health care provider's role in Paid Family Leave?

As a health care provider, you can play a critical role in:

- Educating your patients and their families about New York State Paid Family Leave.
- Determining if a patient has a serious health condition and is in need of family care and helping them receive the support they need.

- Providing the required certification or documentation to patients and family members who request Paid Family Leave for either bonding with a new child or caring for a family member with a serious health condition.

Which health care providers can certify leave?

The following licensed health care providers may complete necessary documentation for Paid Family Leave within their scope of practice:

- Physician
- Physician Assistant
- Chiropractor
- Dentist
- Physical Therapist
- Nurse Practitioner
- Registered Professional Nurse
- Podiatrist
- Optometrist
- Psychologist
- Clinical Social Worker
- Occupational Therapist
- Midwife
- Mental Health Practitioner

What is the health care provider's role in the request process for bonding leave?

If the birth mother is unable to obtain a birth certificate, or the birth certificate will not be available in time to request Paid Family Leave, you can provide the birth mother with a letter certifying the birth of a newborn or a letter certifying the birth mothers' pregnancy, which the mother can use as supporting documentation for her bonding leave request.

What needs to be included in the letter certifying the birth of a newborn or the mother's pregnancy?

The letter must include the mother's name; the expected due date for the child's birth or the actual date of the child's birth; your name, address, phone number, and medical credentials (information on letterhead is often sufficient).

What is the health care provider's role in the request process for family care?

You will be asked to provide certification or documentation to patients and their family member(s) who request Paid Family Leave. The steps below outline the request process and your role in it:

1. Your patient completes the *Release of Personal Health Information under the Paid Family Leave Law (Form PFL-3)* and submits it to you. Your patient also submits the *Health Care Provider Certification For Care of Family Member With Serious Health Condition (Form PFL-4)* to you.
2. Keep a copy of *Form PFL-3* for your records. Complete your portion of the *Health Care Provider Certification of Care (Form PFL-4)* and return it to your patient or their authorized representative.

3. Your patient then gives *Form PFL-4* to their family member, the employee requesting leave.
4. The employee requesting leave sends the completed *Health Care Provider Certification For Care Of Family Member With Serious Health Condition (Form PFL-4)* and supporting documentation to their employer's insurance carrier.

Who is covered under Paid Family Leave for family care?

Employees can request Paid Family Leave to care for the following family members with a serious health condition: your spouse, domestic partner, child, stepchild, parent, parent-in-law, stepparent, grandparent, or grandchild. Siblings are not covered.

What is a serious health condition?

A serious health condition is defined as an illness, injury, impairment, or physical, or mental condition requiring:

- **inpatient care** in a hospital, hospice, or inpatient/outpatient residential health facility; or
- **continuing treatment** or supervision by a health care provider.

Continuing treatment or supervision means one of the following reasons listed with some examples:

REASON	EXAMPLES
Chronic serious health condition that continues over an extended period of time, requires periodic treatment visits, and may cause episodic periods of incapacity	Asthma, diabetes, epilepsy, psychosis, schizophrenia, bipolar disorder, or post-traumatic stress disorder (PTSD)
Long-term or permanent period of treatment that may not be effective and the family member is under continuing supervision	Alzheimer's disease, severe stroke, or terminal stage of a disease
Treatment or recovery from restorative surgery after an accident or other injury, or a condition that would likely result in a period of incapacity of more than three consecutive full days in the absence of treatment	Cancer (chemotherapy and radiation), severe arthritis (physical therapy), or kidney disease (dialysis)
A period of more than three consecutive full days involving treatment two or more times by a health care provider or treatment on at least one occasion followed by continuing treatment under supervision	A course of prescription medication as a regimen of continuing treatment

What is the health care provider's responsibility in completing certification for family care?

Licensed health care providers:

- Determine whether a patient has a serious health condition that fulfills the requirements under Paid Family Leave.
- Confirm that a request for Paid Family Leave is medically justified. You will be asked to provide certification of the patient's medical condition and need for a caregiver.
- Protect the well-being of patients.
- Submit additional medical records concerning your patient's serious health condition if a request for leave is denied by the insurer and the patient's family member requests arbitration.

Can a health care provider outside of the state or country complete medical certification for a patient?

Yes. If you're a health care provider outside of New York, including outside the United States, who is certifying that an employee's request for Paid Family Leave is medically justified, you must have a valid license in the state or country where you practice. You will need to provide a copy of your license from the state or country where you are licensed, your license number, and a description of their medical specialty.

What needs to be included in a medical certification for family care?

The certification must include:

- Your name, address, telephone number, email address, license number and state of license, type of health care provider, and specialty.
- Timeframe (approximately when the patient's serious health condition began and the expected duration).
- Certification of the patient's serious health condition, including the appropriate ICD-10 codes (requested, but not required).
- The estimated duration and frequency of care the patient requires from the family member, including whether the care will be continuing or intermittent.

Can a health care provider refuse to provide medical certification when the patient is a victim of domestic violence?

Yes, you can refuse to provide certification for family care when the employee requesting leave is the perpetrator of domestic violence or child abuse against your patient. For example, if your patient has disclosed to you that injuries were the result of domestic violence perpetrated by the family member who is the employee requesting leave, you may refuse to complete certification for that family member to care for your patient.

Unions

How does Paid Family Leave impact union members?

- **Private sector:** All private sector union employees are covered for Paid Family Leave. Your employer must secure Paid Family Leave insurance unless your union decides to provide the insurance. If your

union provides the insurance, the benefit must be at least as favorable as what is required by the law.

- **Public sector:** Public sector union employees are not covered for Paid Family Leave unless your employer chooses to offer it. This will be negotiated. The insurance benefit must be at least as favorable as what is required by the law.

Does Paid Family Leave limit the ability of unions to negotiate other leave benefits?

No. Paid Family Leave does not limit the existing right of employers and unions to negotiate and provide leave benefits unrelated to Paid Family Leave insurance that would address the need of employees to balance work and family responsibilities; such unrelated leave benefits are not statutory Paid Family Leave policies.

Is a private employer required to negotiate with a union over Paid Family Leave?

Private employers are required to provide Paid Family Leave coverage to all of their eligible employees. The employer and union may negotiate how the benefits will be provided.

Is a public employer required to negotiate with a union over Paid Family Leave?

Yes. While public employers are required to negotiate Paid Family Leave for union-represented employees, the parties are not required to reach an agreement under which benefits are provided.

What aspects of Paid Family Leave are negotiable?

Issues	Can this be negotiated in a CBA?
Eligibility acquired through union membership or some other measure rather than employment with a single employer	Yes
Employees who are eligible under the statute may waive coverage if the employee will not use the benefit	No
Coverage agreed to through the collective bargaining process provides fewer weeks or less weekly/daily benefits than the statute	No
Coverage agreed to through the collective bargaining process provides more weeks or greater weekly/daily benefits than the statute	Yes
CBA may provide that employees do not have to pay a weekly contribution	Yes
CBA may require that employees pay more than maximum weekly contribution	Only if approved by the Workers' Compensation Board

Negotiated pre-existing paid leave benefits are not an insurance product that would be subject to review by the Workers' Compensation Board.

Complaints & Disputes

What if your Paid Family Leave request is denied?

If your Paid Family Leave request is denied, you may request to have the denial reviewed by a neutral arbitrator. Your insurance carrier (or employer, if self-insured) will provide you with the reason for denial and information about requesting arbitration.

What if you are discriminated against for requesting or taking Paid Family Leave?

If your employer terminates your employment, reduces your pay and/or benefits, or disciplines you in any way as a result of you requesting or taking Paid Family Leave:

First, you should request that your employer reinstate you. To request reinstatement:

1. Complete the *Paid Family Leave Discrimination/Retaliation Step 1: Request for Reinstatement Form* (Form [PFL-DC-119](#)).
2. File the completed Form [PFL-DC-119](#) with your employer.
3. Send a copy to: **Paid Family Leave, PO Box 9030, Endicott, NY 13761-9030.**

Your employer has 30 calendar days to respond to the request.

If your employer does not comply with your request for reinstatement within 30 calendar days, you have the right to a hearing with the Workers' Compensation Board.

To request a hearing, file a discrimination/retaliation complaint:

1. Complete the *Paid Family Leave Discrimination/Retaliation Step 2: Complaint Form* ([PFL-DC-120](#)).
2. File the completed Form-[PFL-DC-120](#) with your employer.
3. Send a copy to: **Paid Family Leave, PO Box 9030, Endicott, NY 13761-9030.**

The Board will assemble your case and reach out to you to schedule a hearing within 45 calendar days.

NOTE: *To file a complaint, you must have first requested reinstatement as described above.*

An administrative law judge may order an employer to reinstate you, pay any lost wages, pay attorney's fees, and pay up to \$500 in penalties.

What if your employer deducts more than they should?

If you believe there is an error with your current payroll deduction, raise the issue with your employer. If your employer fails to address the issue, you may file a complaint by calling the Paid Family Leave Helpline at (844) 337-6303 or by completing an online form.