



## **New York State Paid Family Leave (PFL) An Overview**

**Updated for 2023**

# What Is PFL?

---

New York Paid Family Leave went into effect January 1, 2018, and is an addition to New York's Disability Benefits Law ("DBL").

---

Private employers with at least one employee will be required to provide PFL coverage to its eligible employees.

---

PFL provides wage replacement and job security to eligible employees for three leave types.

---

Employers are required to cover all eligible employees, but the benefit is 100% employee funded through payroll deductions.

# Types Of Leave Covered Under PFL

**Bonding** with an employee's child during the first year after birth, or during the first year after placement of an adopted or foster child. An employee may apply for family leave before the actual placement for adoption or foster care. Examples of valid reasons for leave in this scenario: to attend counseling sessions, court appearances, attorney consultations or travel to another country to complete an adoption.

**Caring for a close family member with a serious health condition.** Caring for a close family member with a serious health condition. A close family member of the employee includes their spouse, domestic partner, child, parent, grandparent, grandchild, or sibling (*for any claim with a leave date 1/1/2023 or after*). A "serious health condition" is an illness, injury impairment, or physical or mental condition that involves either (a) inpatient care or (b) continuing treatment or continuing supervision by a health care provider.

**A qualifying military event** when a spouse, child, domestic partner or parent of the employee is on active duty or has been notified of an impending call or order of active duty.

# What Are The Benefits?

The PFL benefit schedule was phased in over a four-year period (2018 - 2021) as follows:

Year	Maximum Weeks	Maximum % of Employee Weekly Wage	Capped at this % of the NYS Average Weekly Wage ("NYS AWW")	Maximum Weekly Benefit Payout Amount
01-01-2018	8	50%	50%	\$652.96
01-01-2019	10	55%	55%	\$746.41
01-01-2020	10	60%	60%	\$840.70
01-01-2021	12	67%	67%	\$971.61

\*NYS AWW for 2018 was \$1,305.92; for 2019 is \$1,357.11; for 2020 is \$1,401.17; for 2021 is \$1,450.17

# How Is The Benefit Calculated In 2023?

The benefit is determined by calculating 67% of the average of the 8 weeks gross salary prior to the last day worked before the date of leave. In 2023 the benefit can not be more than 67% of the New York State average weekly wage (for 2022 the NYS AWW is \$1,688.19) -67% of this amount is the maximum allowable PFL benefit of \$1,131.08.

<b>Example 1:</b>	
Sum of 8 weeks gross salary prior to leave date:	\$15,000
Employee average weekly wage:	$\$15,000/8 = \$1,875$
67% of employee average weekly wage:	$\$1,875 \times 0.67 = \$1,256.25$
PFL maximum:	\$1,131.08
<b>The weekly PFL benefit would be:</b>	<b>\$1,131.08</b>

  

<b>Example 2:</b>	
Sum of 8 weeks gross salary prior to leave date:	\$2,500
Employee average weekly wage:	$\$2,500/8 = \$312.50$
67% of employee average weekly wage:	$\$312.50 \times 0.67 = \$209.38$
PFL maximum:	\$1,131.08
<b>The weekly PFL benefit would be:</b>	<b>\$209.38</b>

# What Is The Cost?

## To The Employer

- The benefit is employee funded through payroll deduction.
- Although not required, the employer has the option of funding part or all of the PFL premium.
- The 2023 premium rate and maximum employee contribution, as set by the New York Department of Financial Services (“NYDFS”), is 0.455% of an employee’s annual wage up to and not to exceed annualized wages\*, based upon the statewide average weekly wage of \$1,688.19. This means, the most an employee will pay in 2023 is: \$399.43  $((\$1,688.19 \times 52) \times (0.00455))$ .
- The employer may begin withholding funds as of the first day of each new calendar year.

## To The Employee

- Employees will have a post-tax deductions withheld from their gross wages in order to fund this benefit.
- The deduction is determined by an employee’s gross wages.
- This is not an optional benefit. Eligible employees are required to have this deduction taken from their pay.
- Payroll deductions may begin as of the first day of each new year.

\*Maximum annualized covered wages for 2023 is: \$87,786.

# Eligibility Requirements

## Full Time

- Defined as an employee whose regular work week is 20 hours or more.
- Must have worked at least 26 consecutive weeks.

## Part Time

- Defined as an employee whose regular work week is less than 20 hours.
- Must have worked 175 days within a 52-consecutive week period.

# Employer Obligations

- Employers must provide written guidance to employees concerning all of the employees' rights and obligations under PFL, including how to file a claim.
- Employers are responsible for deducting contributions to cover the cost of PFL and using those contributions to fund the premium for PFL.
- Any surplus contribution that exceeds the premium must be promptly refunded to employees.
- Employers MUST provide PFL coverage for eligible employees and may be subject to penalties for noncompliance.
- Every covered employer must display/post a notice regarding PFL in a format prescribed by the Workers' Compensation Board ("WCB"). It must be displayed where all employees/applicants can clearly see it.
- Covered employers must reinstate employees to their position, or to a comparable position and maintain the employees' existing health benefits while on paid family leave. The employees must continue to pay their share of health insurance premiums.
- Employers may terminate health insurance coverage for employees who are more than 30 days late in paying the premium, provided they mail a notice of the termination to the employees at least 15 days before the health insurance coverage will be terminated.

# What Standard Security Life Insurance Company Of NY Will Provide To You

## Notices

- Once released by the WCB, Standard Security will provide the required posting notice to all policyholders.
- PFL coverage will be a rider to the existing DBL policy. Standard Security will send this rider to all policyholders once available.
- All employers will receive a redesigned bill to include both DBL and PFL.

## Forms

- The State has released the claim forms for all PFL leave types. The forms are available on our website for download, with detailed instructions.
- Also available are claims filing requirement charts to assist with the claims filing process.
- Upon request, the claim forms can be sent by email or mail.

# Claim Filing Requirements:

## Bonding

A complete claim package must be filed by the employee within (30) days of the date of leave or it can be denied for late filing.

Type of Leave/ Who is Filing	Forms to be Completed and Filed with Carrier	Certification Required *In Addition to Claim Forms
<b>Bonding With Child Birth Mother Filing</b>	PFL 1 (REQUEST FOR PAID FAMILY LEAVE) A. EMPLOYEE COMPLETES EMPLOYER B. COMPLETES  PFL 2 (BONDING CERTIFICATION) EMPLOYEE COMPLETES	(1) INFANT’S BIRTH CERTIFICATE; OR (2) IF A BIRTH CERTIFICATE IS UNAVAILABLE, DOCUMENTATION OF PREGNANCY OR BIRTH FROM A HEALTH CARE PROVIDER THAT INCLUDES THE MOTHER’S NAME AND THE CHILD’S DUE OR BIRTH DATE.
<b>Bonding With Child Other Parent Filing</b>	PFL 1 (REQUEST FOR PAID FAMILY LEAVE) A. EMPLOYEE COMPLETES EMPLOYER B. COMPLETES  PFL 2 (BONDING CERTIFICATION) EMPLOYEE COMPLETES	(1) IF AVAILABLE, A BIRTH CERTIFICATE THAT NAMES THE PARENT REQUESTING LEAVE; (2) IF PARENT IS NOT NAMED ON THE BIRTH CERTIFICATE, A VOLUNTARY ACKNOWLEDGMENT OF PATERNITY OR COURT ORDER OF FILIATION; (3) IF THE DOCUMENTS IN (1) OR (2) ARE NOT AVAILABLE, THEN THE EMPLOYEE MUST PROVIDE (A) A COPY OF DOCUMENTATION OF PREGNANCY OR BIRTH FROM A HEALTH CARE PROVIDER THAT INCLUDES THE MOTHER’S NAME AND THE CHILD’S DUE OR BIRTH DATE, AND (B) A SECOND DOCUMENT VERIFYING THE PARENT’S RELATIONSHIP WITH THE BIRTH MOTHER (I.E., MARRIAGE CERTIFICATE, CIVIL UNION DOCUMENTS, OR DOMESTIC PARTNER DOCUMENTS).  (4) IF THE DOCUMENTS IN (B) ABOVE ARE NOT AVAILABLE, A PARENT MAY SUBMIT OTHER DOCUMENTARY EVIDENCE OF PARENTAL RELATIONSHIP FOR EVALUATION ON A CASE-BY-CASE BASIS.

# Claim Filing Requirements: Bonding Cont.

A complete claim package must be filed by the employee within (30) days of the date of leave or it can be denied for late filing.

Type of Leave/ Who is Filing	Forms to be Completed and Filed with Carrier	Certification Required *In Addition to Claim Forms
<b>Bonding With Child Birth Mother Filing</b>	<p>PFL 1 (REQUEST FOR PAID FAMILY LEAVE)</p> <ul style="list-style-type: none"> <li>A. EMPLOYEE COMPLETES</li> <li>B. EMPLOYER COMPLETES</li> </ul> <p>PFL 2 (BONDING CERTIFICATION) EMPLOYEE COMPLETES</p>	<ul style="list-style-type: none"> <li>(1) LETTER OF FOSTER CARE PLACEMENT ISSUED BY COUNTY OR CITY DEPARTMENT OF SOCIAL SERVICES OR LOCAL VOLUNTEER AGENCY.</li> <li>(2) IF THE EMPLOYEE IS NOT NAMED IN THE PLACEMENT DOCUMENT, THE EMPLOYEE SHOULD SUBMIT: (A) A COPY OF THE DOCUMENT DEMONSTRATING PLACEMENT, AND (B) A SECOND DOCUMENT VERIFYING THE RELATIONSHIP TO THE PARENT NAMED IN THE DOCUMENT (I.E., MARRIAGE CERTIFICATE, CIVIL UNION DOCUMENTS, OR DOMESTIC PARTNERSHIP DOCUMENTS).</li> </ul>
<b>Bonding With Child Other Parent Filing</b>	<p>PFL 1 (REQUEST FOR PAID FAMILY LEAVE)</p> <ul style="list-style-type: none"> <li>A. EMPLOYEE COMPLETES</li> <li>B. EMPLOYER COMPLETES</li> </ul> <p>PFL 2 (BONDING CERTIFICATION) EMPLOYEE COMPLETES</p>	<ul style="list-style-type: none"> <li>(1) COURT DOCUMENT INDICATING THAT ADOPTION IS IN PROCESS OR IS BEING FINALIZED, OR</li> <li>(2) FOR LEAVE TAKEN PRIOR TO ADOPTION, A DOCUMENT DEMONSTRATING THAT THE ADOPTION PROCESS IS UNDERWAY, INCLUDING BUT NOT LIMITED TO, A SIGNED STATEMENT FROM AN ATTORNEY, ADOPTION AGENCY, OR ADOPTION-RELATED SOCIAL SERVICE PROVIDER THAT THE EMPLOYEE IS IN THE PROCESS OF ADOPTING A CHILD.</li> <li>(3) IF THE SECOND PARENT IS NOT NAMED IN THE DOCUMENTS REFERENCED IN (1) AND (2) ABOVE, THE EMPLOYEE MUST PROVIDE: (A) A COPY OF THE DOCUMENT DEMONSTRATING ADOPTION, AND (B) A SECOND DOCUMENT VERIFYING THE RELATIONSHIP TO THE PARENT NAMED IN THE DOCUMENT (I.E., MARRIAGE CERTIFICATE, CIVIL UNION DOCUMENTS, OR DOMESTIC PARTNERSHIP DOCUMENTS).</li> </ul>

# Claim Filing Requirements:

## Care for a Family Member with Serious Health Condition

A complete claim package must be filed by the employee within (30) days of the date of leave or it can be denied for late filing.

Type of Leave	Forms to be Completed and Filed with Carrier	Certification Required *In Addition to Claim Forms
<p><b>Family Member Care</b></p>	<p><b>PFL 1</b> (REQUEST FOR PAID FAMILY LEAVE)</p> <p>A. EMPLOYEE COMPLETES B. EMPLOYER COMPLETES</p> <p><b>PFL 3</b> (RELEASE OF PERSONAL HEALTH INFORMATION)</p> <p>*THIS FORM ALLOWS THE HEALTH CARE PROVIDER TO COMPLETE PFL 4 AND RELEASE IT TO THE EMPLOYEE SEEKING PFL BENEFITS. THE HEALTH CARE PROVIDER WILL RETAIN THIS FORM; DO NOT SEND TO THE INSURANCE CARRIER.</p> <p><b>PFL 4</b> (HEALTH CARE PROVIDER CERTIFICATION FOR CARE OF FAMILY MEMBER WITH SERIOUS HEALTH CONDITION)</p> <p>HEALTH CARE PROVIDER COMPLETES</p>	<p>FULLY COMPLETED FORM PFL 4 IS THE CERTIFICATION FOR THIS LEAVE</p>

# Claim Filing Requirements:

## Qualifying Military Event

A complete claim package must be filed by the employee within (30) days of the date of leave or it can be denied for late filing.

Type of Leave	Forms to be Completed and Filed with Carrier	Certification Required *In Addition to Claim Forms
<p><b>Military Qualifying Event of Employee’s Spouse, Domestic Partner, Child or Parent</b></p>	<p><b>PFL 1</b> (REQUEST FOR PAID FAMILY LEAVE)</p> <p>A. EMPLOYEE COMPLETES EMPLOYER B. COMPLETES</p> <p><b>PFL 5</b> (MILITARY QUALIFYING EVENT)</p> <p>EMPLOYEE COMPLETES</p>	<p>COPY OF THE MILITARY MEMBER’S ACTIVE-DUTY ORDERS, OR LETTER OF IMPENDING CALL TO COVERED DUTY, OR DOCUMENTATION OF MILITARY LEAVE SIGNED BY THE APPROVING AUTHORITY FOR MILITARY MEMBER’S REST AND RECUPERATION</p> <p>SEE FORM PFL 5 – INSTRUCTIONS FOR ADDITIONAL INFORMATION</p>

# Additional Information

- PFL can be taken intermittently in full day increments or full weeks.
- An employee cannot collect DBL and PFL at the same time.
- PFL maximum benefit duration was 12 weeks for 2022 and will remain the same in 2023.
- DBL and PFL benefits combined cannot exceed 26 weeks during a period of 52 consecutive calendar weeks.
- If an employee is not working and collecting benefits for workers' compensation, volunteer firefighters' benefits or volunteer ambulance workers' benefits, the employee may not collect PFL benefits.
- Immigration and citizenship status has no impact on PFL eligibility.
- PFL is available after the birth of a child. It is not available for prenatal conditions.
- PFL may not be used for an employee's own serious health condition or qualifying military event.

# Additional Information (Cont.)

- Job reinstatement to former or comparable job is guaranteed.
- Employer MUST complete and return PFL-1B (employers section of the claim form) to the employee within 3 business days.
- There is no waiting period.
- Once the carrier receives a completed request for PFL with the necessary certification, the carrier has 18 days to pay or deny a PFL claim.
- An employer may designate PFL and FMLA leave to run concurrently.
- Employers can allow employees to use accrued but unused paid time off while out on PFL so the employee can receive their full salary. The employer can ask for reimbursement from the carrier at the PFL benefit rate.
- An eligible employee may be provided the option to file a waiver of family leave benefits (which would exempt him or her from payroll contributions) if: (1) his or her regular employment schedule is 20 hours or more per work, but he or she will not work 26 consecutive weeks (*e.g.* seasonal workers), or (2) his or her regular employment schedule is less than 20 hours per week and he or she will not work 175 days in a 52 consecutive week period.



The summary is for information purposes only and does not constitute legal advice. Please consult with a professional for legal advice and counsel.