

New York Paid Family Leave

Questions and answers

What is New York Paid Family Leave (NY PFL)?

The NY PFL program provides eligible employees paid time off to:

- Bond with a new child within 12 months of birth or placement via adoption or foster care
- Care for a seriously ill family member¹
- Assist when a domestic partner, spouse, parent, or child is called into active military service

¹ A family member includes children, stepchildren, spouses, parents, stepparents, parents-in-law, siblings, grandparents, grandchildren, and domestic partners.

When did NY PFL start?

The program launched on January 1, 2018.

Which employers are subject to the law?

Private sector: NY PFL applies to all private sector employers with employees who work in the state and are subject to New York Disability Benefit Law (NY DBL), regardless of company size or location.

Public sector: New York considers public employees those who work for the state, political subdivisions of the state, a public authority, or other governmental agency or instrumentality thereof. Public employers aren't required to provide NY PFL benefits to their employees under the state's regulations. Public employers that wish to provide disability benefits and NY PFL coverage must email the NYS Workers' Compensation Board at PAU@wcb.ny.gov stating they plan to provide PFL to employees. Public employers who don't currently provide disability benefits must complete the state's Application for Voluntary Coverage.

Who is eligible?

Full-time employees are covered after 26 consecutive weeks of employment, and part-time employees are covered after working 175 days. Full-time status is defined as working 20 or more hours per week; below that amount is considered part time. Previous time with a different employer doesn't count toward eligibility.

For couples filing under married status, each employee is entitled to the benefit independently of one another; they don't have to share the NY PFL entitlement. However, if both employees work for the same employer, the employer has discretion to limit both employees from being on leave for the same reason at the same time (for example, both employees taking PFL to bond with their new child at the same time).

How's this program funded?

NY PFL benefits are intended to be funded entirely through employee payroll deductions. However, employers may contribute to or fully cover the NY PFL cost on behalf of employees. The state determines the community rate for coverage on an annual basis. All carriers and the State Insurance Fund are required to charge the same rate for their fully insured NY PFL coverage. Additionally, the New York Department of Labor issues the state average weekly wage (SAWW) annually, which directly impacts the maximum annual payroll deduction.

In 2024, the following limits apply:

- Contribution rate is 0.373%.
- SAWW is \$1,718.15.
- Annualized SAWW is \$89,343.80.
- Annual premium cap is \$333.25.

Note: In 2024, employees earning more than the SAWW will contribute 0.373% of their gross wages each pay period until they reach the maximum of \$333.25.

What are the benefits to the employee?

The program provides up to 67% of employee wages and a maximum duration of 12 weeks.



Can an employee waive coverage?

Yes. Employees can file a waiver through their employer under one of the following circumstances:

- Employee isn't expected to work a regular schedule of 20 or more hours per week for at least 26 consecutive weeks
- Employees not expected to work a regular schedule of less than 20 hours per week for 175 workdays (not necessarily consecutive days) within a 52-week period

If a waiver is signed, payroll deductions won't be withheld from the employee's paycheck. The employer must keep a copy of the fully executed waiver on file for as long as the employee remains employed by the company. If the employee becomes eligible for coverage, the waiver is revoked, and premium payments must begin as soon as the employee is notified. This includes taking retroactive deductions for the period the employee was covered by the waiver back to the date of hire.

Does NY PFL provide intermittent leave?

Yes. Under NY PFL regulations, intermittent leave is permitted in one-day increments based on the employee's normal work schedule. These are full-day increments during which the employee didn't work at all. Any day the employee works and receives pay isn't considered a day of leave.

Does NY PFL provide job protection?

Yes. An employee's job is protected during a covered leave and there's no waiting period for benefits. Health coverage must continue during a paid leave. Employees must notify their employer 30 days before a foreseeable leave or as early as practicable for an unforeseen leave. Proof of a need for leave is required.

How does NY PFL impact other leave plans?

State disability coverage: Private sector employers are required to offer both NY PFL and NY DBL. In most cases, insurance carriers are required to offer one plan that administers both coverages.

Employees may not use NY PFL and NY DBL concurrently. However, each absence type can be taken one after the other. For example, an employee who delivers a baby may qualify for NY DBL coverage for the six- to eight-week recovery period and also be eligible for NY PFL benefits following the birth to bond with the baby. While the two benefits cannot be taken concurrently, the employee has the option to forgo the disability benefit entirely, and take NY PFL for bonding, or to use the disability benefit and subsequently use the NY PFL benefit.

The NY DBL benefit provides 26 weeks in a 52-week period of coverage. The NY PFL benefit duration depends on the year in which the claim began. These two benefits share a maximum benefit duration of 26 weeks within a 52-week period.

FMLA: NY PFL isn't part of the federally mandated Family and Medical Leave Act (FMLA), it's a separate entitlement with different eligibility rules and employer requirements. If an employee's leave is also eligible for federal FMLA, it'll run concurrently with NY PFL.

Company leave programs: An organization's family leave and maternity or paternity benefits don't replace the mandated NY PFL benefit. An employer may be eligible to receive reimbursement for periods when an employee is receiving benefits from a company-paid leave program and is also eligible for NY PFL benefits.

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