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# New York Paid Family Leave

## Questions & Answers

As a leading New York State Disability insurance carrier, we are proactively examining potential customer impact of the recently passed New York Paid Family Leave (PFL). As a member of the Life Insurance Carriers of New York (LICONY), we are working collaboratively with other DBL insurance carriers, the New York Workers' Compensation Board and the State Insurance Fund (SIF) to better understand our role under the new regulation.

### WHAT IS THE IMPACT OF NY PAID FAMILY LEAVE?

Effective January 1, 2018, New York is mandating PFL for all employees working in New York State. PFL is job-protected paid leave to:

- bond with a newborn, adopted or foster care child during the first 12 months;
- care for a seriously ill family member; or
- address important needs related to a family member's military service.

PFL is not available for an employee's own serious health condition.

### ARE NY EMPLOYERS REQUIRED TO PROVIDE THIS BENEFIT?

Yes. All private-sector employers employing workers in New York State must provide the benefit. Public-sector employers are not obligated to provide this benefit; however, they can opt in.

### WHO IS ELIGIBLE?

An employee must be employed full-time for 26 weeks or part time for 175 days to be eligible for a PFL Benefit.

PFL benefits will be available to employees regardless of the number of employees a business employs. Any employer covered by the New York Workers' Compensation Law will have to permit eligible employees to take PFL and will have to deduct contributions from their employees' pay to fund Paid Leave benefits. Participation is not optional for employees.

### WHAT'S THE BENEFIT?

By 2021 PFL will be available for a maximum of 12 weeks during any 52-week calendar period. The total amount of PFL available will be combined with any DBL benefits received by the employee. The two benefits when combined cannot exceed 26 weeks during any 52 consecutive calendar weeks.

In the below schedule, "Average Weekly Wages" (State AWW) are capped at a maximum of \$1,296.48 and are determined by the benefit rate(s) listed. If the employee's actual average wages are less than \$1,296.48, then AWW will be the employee's actual average weekly wages.

Based on the implementation dates in the current regulation, and in any 52-week calendar period, benefits will be paid as follows:

- Jan 1, 2018: up to 8 weeks / 50% of employee AWW, not to exceed 50% of Statewide AWW
- Jan 1, 2019: up to 10 weeks / 55% of employee AWW, not to exceed 55% of Statewide AWW
- Jan 1, 2020: up to 10 weeks / 60% of employee AWW, not to exceed 60% of Statewide AWW
- Jan 1 each succeeding year: up to 12 weeks / 67% of employee AWW, not to exceed 67% of Statewide AWW

The New York has the authority to delay any of these increases.



## LEAVE ENTITLEMENT

NY PFL entitles eligible employees to a paid leave of absence and requires that employers reinstate employees to their position or a comparable position upon return from the leave. PFL is available to employees regardless of employer size, and so the law enacts new family leave obligations upon employers in New York not covered by the federal Family and Medical Leave Act (“FMLA”). FMLA coverage requires an employer have 50 or more employees within a 75-mile radius and that employees be employed by the employer for 12 months and have worked for at least 1,250 hours within the previous 12-month period to be eligible for leave. NY PFL requires employees must be employed full-time for 26 weeks or part time for 175 days to be eligible for a PFL Benefit.

Note: An employee who contributes to the cost of health insurance must continue to pay his or her portion of premium cost while out on Paid Family Leave.

## HOW IT IS FUNDED?

The PFL benefit will be entirely funded by employee contribution through payroll deduction. On June 1, 2017, and annually thereafter on September 1, New York will set the maximum employee contribution. The amount of this deduction has not yet been issued. No employer is required to fund any portion of the PFL benefit.

## WHAT ABOUT THE DBL BENEFIT?

The legislation does not increase DBL’s \$170/week maximum benefit.

## WHAT CAN EMPLOYERS DO NOW?

Employers can begin to prepare for their payroll function to add another deduction for family leave benefits and consult experienced employment counsel to amend their paid time off, leaves of absence and family and medical leave policies to comply with the new law. Employers can start, but are not required, to collect the weekly employee contribution on July 1, 2017.

PFL represents a major change in the law concerning family leave for New York employers. The Chair of the Workers’ Compensation Board recently published interpretive regulations which provide employers with clarification.

## HOW WILL I OBTAIN THIS COVERAGE?

All Carriers and the State Insurance Fund (SIF) who provide DBL benefits will also provide PFL benefits at the same time for employer compliance purposes.

**Rules regarding Paid Family Leave have not yet been finalized. Please note the answers provided are based on the proposed rules and may be subject to change.**

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