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# Paid Family Leave

Presentation for  
Association of Legal Administrators  
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# **Paid Family Leave**

## **Agenda**

- **Basics**
- **Benefits**
- **Premium**
- **Eligibility**
- **Employer Responsibilities**
- **Tips**



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# Basics

- Mandatory benefit beginning January 1, 2018
- Will be added as a rider to your Short Term Disability (DBL) policy
  - Unless you self fund or are exempt
- Provides paid time off to employees for certain situations
  - Provides job protection for employees out on paid leave, similar to unpaid leave under FMLA, but regardless of size of employer



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# Basics

- 30 day advance notice required for “foreseeable” leave, otherwise as soon as practicable.
- Employee may **NOT** take DBL and PFL at the same time. They must be taken in sequence and duration may not exceed 26 weeks in a consecutive 52 week period.
- Employer may not require employees to exhaust their PTO prior to approving PFL



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# Basics

PFL may be used for 3 main categories  
of Qualifying Events:

- Care for a family member with a Qualifying Health Condition
- To bond with a child after birth, adoption, or to welcome a child into foster care
- To cope with a military exigency leave event



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# Basics

## □ Care for a family member

- Spouse
- Domestic Partner
- Child
- Parent\*
- Grandparent
- Grandchild

\*Definition of parent includes: Biological, foster, or adoptive parent, a legal guardian as well as step parents and in-laws



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# Basics

- Qualifying Types of Care
  - Physical care
  - Emotional support
  - Visitation
  - Assistance
  - Transportation
  - Arranging for a change in care
  - Assistance with essential daily living matters
  - Personal attendant services
  - Traveling to pick up medication



# Basics

- **Serious Health Condition**
  - Person receiving care is unable to work, attend school, perform regular daily activities, or is otherwise incapacitated for at least four consecutive days with either:
    - At least two physicians treatments, or;
    - One physician treatment and a physician supervised regimen thereafter
- **Not covered by PFL**
  - Routine examinations
  - Common cold, flu, ear aches, upset stomach, minor ulcers, headaches (other than migraine)





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# Basics

## Bonding with a Child

- Entitlement to PFL expires at the end of the consecutive 52-week period beginning on the date of the birth (for Dads too).
- For adoptions, employee may take PFL prior to the actual placement of the child if the absence is required as part of the process, i.e., counseling, court appearance, attorney or physician visits, travel to another country



# Benefits

Over a 4 year period, beginning January 1, 2018, the weekly benefit for PFL will increase in both percentage and duration as follows:

Effective Date	Weekly Maximum Benefit Amount	Maximum Benefit Duration
1/1/18	50% of average weekly wage	8 weeks
1/1/19	55% of average weekly wage	10 weeks
1/1/20	60% of average weekly wage	10 weeks
1/1/21	67% of average weekly wage	12 weeks



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# Benefits

- Benefits may be taken in weekly or daily increments (whole day increments only)
- Employees may take paid leave for multiple PFL events in a consecutive 52 week period as long as the overall leave does not exceed the maximum length of leave they may take
- The benefit amount in effect at the beginning of the leave remains in effect for the entire leave event, even if leave spans a new calendar year
- Benefits are paid by the carrier within 18 days of filing a completed claim form



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# Benefits

- 50% of Average Weekly Wage (AWW) up to a maximum weekly benefit of \$653 (2018)
- Weekly Leave calculation is straight forward
- Intermittent Leave calculation may be complicated
  - Due to time constraints, we can discuss off-line or at another time
- Concurrent Employees – employees working for more than one employer
  - May take leave from one or both employers
  - If taking leave from both employers for the same PFL event, must be taken at the same time
  - Payments may not exceed 50% of the employee's average weekly wage (AWW) at that job, capped at of 50% of the NYSAWW of \$1,305.92



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# Premium

- PFL rate is set by NY State and may be adjusted annually
  - Rates should be announced by September 1<sup>st</sup> of each year for the upcoming year
- 2018 rate is 0.126% of employee's weekly wage
  - Weekly wage capped at \$1,305.92 for premium and benefit purposes
  - This translates to \$67,907.84 per year
  - Yields a maximum employee contribution of \$1.65 per week
  - Equates to \$85.56 maximum employee contribution per year



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# Premium

- Withholding
  - You may choose to pay the premium for your employees, or you may deduct it from their salary
  - You may begin deductions as of July 1, 2017
    - If you are billed annually in advance, you may decide you want to do this.
    - If you are billed quarterly in arrears, this may not be a good idea.
    - Employers are not required to refund payroll deductions if an employee leaves between July 1, 2017 and January 1, 2018
  - You may not retroactively collect payroll deductions
  - Once annual maximum employee contribution is reached, deductions must stop



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# Premium

- PFL and DBL will typically be billed together
- Employers may seek reimbursement for PFL, like DBL, while employee is out on salary continuation
- You may receive DBL and PFL employee contributions from employees taking leave
- You may NOT collect PFL contributions from an employee who is not yet eligible for PFL while the employee is on DBL



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# Eligibility

- Who is eligible?
  - Full Time Employees; persons working 20+ hours per week, employed at least 26 weeks at your business
  - Part Time Employees; completed at least 175 work days for you
  - Personal or Domestic Employees; work at least 40 hours per week (if they work 30 or more days in a CY for you)
    - Chauffeurs, nannies, home health aides, nurses, babysitters, maids, etc.
- **Owners/shareholders of Partnerships, LLCs, PLLCs, Sole Props with employees are excluded**
  - **May be covered on a voluntary basis**
  - **If they do not elect voluntary coverage on Jan 1, 2018 and elect at a later time, they will be subject to a two year wait period before being eligible for PFL benefits**





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# Employer Responsibilities

- You must add PFL to your written guidance for Employees, i.e., your handbook
- Display and keep a printed notice (to be furnished by NY State later this year)
- Allow employees to take leave as of Jan 1, 2018
- Work with payroll providers to calculate deductions as of Jan 1, 2018



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# Employer Responsibilities

- Health Insurance
  - Employees covered under the Firm's health insurance remain covered while on PFL and continue to pay only their normal contributions, i.e., the amount they paid prior to their PFL
  - Employees must pay their portion of the premium directly to the employer
  - If employee is more than 30 days late paying their portion of the premium:
    - You may send written notice at least 15 days prior to ending their coverage
    - If payment is not received within the 15 day period, you may terminate their coverage
  - If employee chooses not to keep coverage during their leave (or you cancel it), they must be reinstated upon their return from PFL as they were covered prior to their leave
  - If you change plans during their PFL, the employee is entitled to the new plan as if they were not on leave



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# Tips

- If two members of the same family work for the same employer, both may take PFL
  - It is up to the employer if they may take PFL at the same time
- Employees may request PFL for a child born in 2017, however;
  - If the child was born fewer than 8 weeks into 2017, the employee will only qualify for leave between Jan 1, 2018 and the end of the 52 week period.
- Recipients of Old Age SS benefits may opt out of DBL and PFL
- DBL is taken for one's OWN injury or sickness, whereas PFL is taken for someone else's "needs".
- Post partum depression is considered a pregnancy related complication and is covered by DBL



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