

CIGNA WEB MEETING

August 17, 2017

Cigna Group Insurance®

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NEW YORK PAID FAMILY LEAVE

What you need to know

Together, all the way.®

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PRESENTERS



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Cigna Legal Counsel



Kim Rudeen
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AGENDA



- Paid Family Leave (PFL) – General overview
- New York PFL – Are you ready?
- New York PFL – Understanding the law
- New York PFL – Preparing for change
- New York PFL – What Cigna can do for you
- Appendix



PAID FAMILY LEAVE (PFL)

GENERAL OVERVIEW



ADDITIONAL FINANCIAL PROTECTION



**INCREASED
RETURN-TO-WORK**

**INCREASED
EMPLOYEE
PRODUCTIVITY**

**THE
POTENTIAL
BENEFITS
OF PFL**

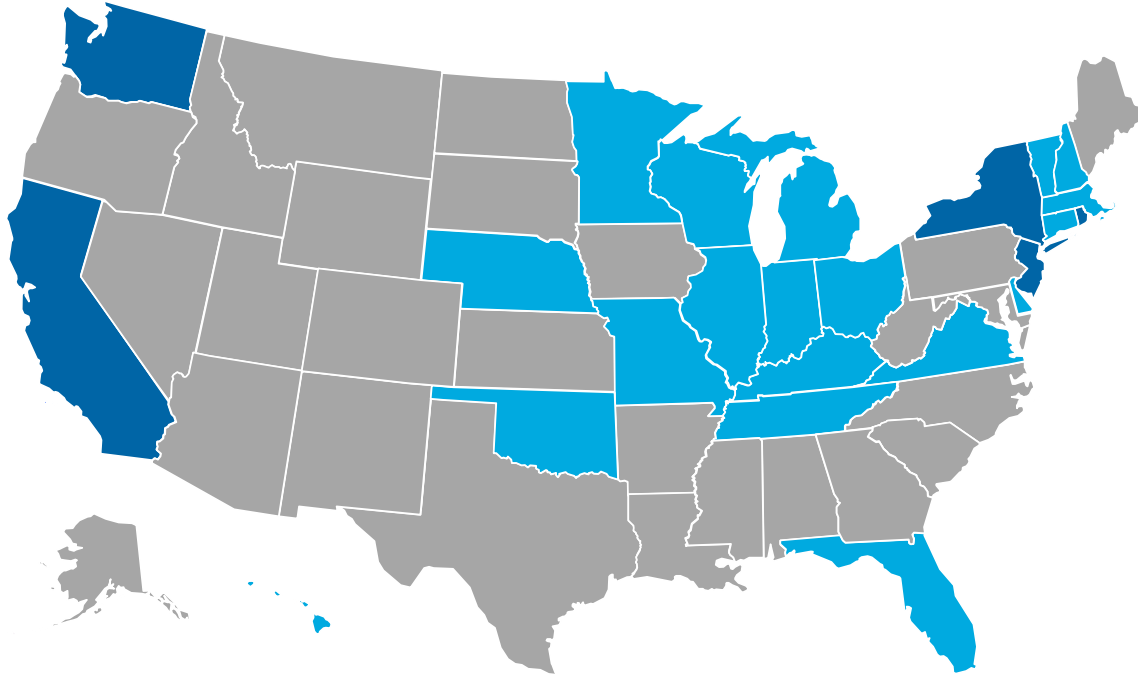
**TALENT
COMPETITION
AND RETENTION**

**INCREASED
EMPLOYEE
SATISFACTION**

**PFL provides leave
and payment to
employees so they
can care for a
loved one.**



STATE PFL LAWS



CURRENT LAWS

- California
- New Jersey
- Rhode Island
- New York
- Washington
- Washington, D.C.

PENDING BILLS

- Connecticut
- Delaware
- Florida
- Hawaii
- Illinois
- Indiana
- Kentucky
- Massachusetts
- Michigan
- Minnesota
- Missouri
- Nebraska
- New Hampshire
- Ohio
- Oklahoma
- Tennessee
- Vermont
- Virginia
- Wisconsin

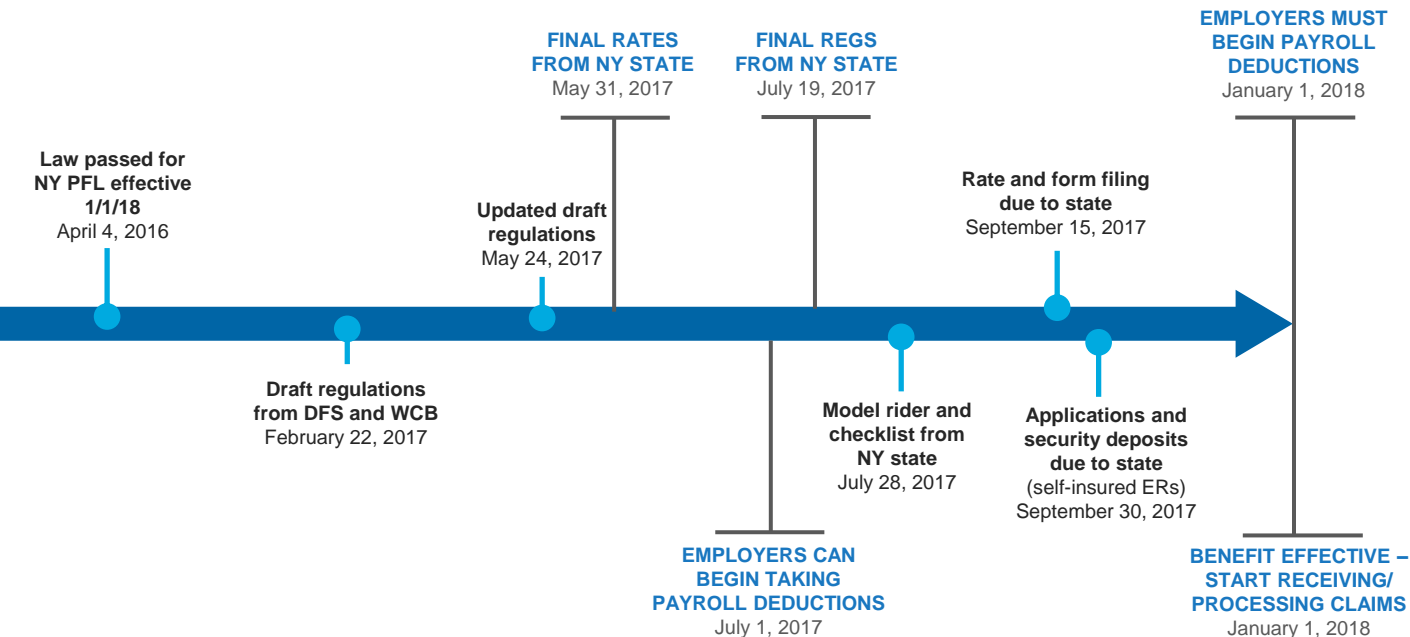


NEW YORK PFL

ARE YOU READY?



COMPRESSED NY PFL TIMELINE



OUTSTANDING ITEMS

- Claim forms and certifications
- Arbitration process
- Waiver of benefits forms
- Worksite poster



NEW YORK PFL

UNDERSTANDING THE LAW



NEW YORK PFL BASICS



New York PFL

Begins January 1, 2018

Provides income, job protection and continuation of health benefits for employees out on leave for:

- Caring for a family member's serious health condition
- Bonding with a child
- Activities relating to the employee's spouse, domestic partner, child, or parent's active military duty (or impending call to active duty)

Family members include:

- Spouse/domestic partner
- Child*
- Parent
- Parent-in-law
- Grandparent
- Grandchild

**Although effective 1/1/18 the NY PFL will provide leave for bonding with children born/placed in 2017*



FUNDING PFL



Can I collect an employee contribution for PFL even though coverage is not yet available?

Yes. An employer is permitted, but not required, to collect the weekly employee contribution starting July 1, 2017, for PFL coverage effective January 1, 2018.

What will the premium be?

0.126% of your employee's capped weekly wages. New York PFL is community-rated. The Superintendent of the Department of Financial Services has determined that the maximum employee contribution shall equal the premium rate.

How much can I collect?

0.126% of an employee's weekly wage capped at 0.126% of the annualized New York State Average Weekly Wage of \$1,305.92 (\$1.65).

Can I pay the premium myself and save my employees the cost?

Sure.



PFL TAXABILITY



Will PFL cash benefits be subject to income taxes?

Are the employee contributions a pre-tax or post-tax deduction?

Neither New York State nor the IRS has issued guidance addressing insured PFL. That notwithstanding, at this time, we assume that the contribution will be based on an employee's gross income, but will be deducted from their post-tax net income. We expect that PFL benefits will not be subject to state income taxes, but that it will be subject to federal income taxes.



WHO'S ELIGIBLE FOR NEW YORK PFL?



EMPLOYERS
who



Have had at least one employee working in the state of New York for at least 30 days within one year

EMPLOYEES
who



Work in the state of New York

Meet work schedule requirements

Employee eligibility is based on employee work schedule

20 or more hours/week

Employees scheduled at least 20 hours a week – eligible after **26 weeks** of employment.

Less than 20 hours/week

Employees scheduled less than 20 hours a week – eligible after **175 days** of work.



WHAT COUNTS AS EMPLOYED TIME?



**Employed
time**

- ✓ Scheduled vacation
- ✓ Personal or sick time approved by employer
- ✓ Other time where employee is away from work but still an employee – as long as employee PFL contributions continue

**Not
employed
time**

- × Time out on New York Disability Benefits Law (DBL) leave



NEW YORK PFL BENEFITS AND HOW THEY WORK



Leave benefits and durations gradually increase as the program matures

Effective date	Benefit % of employee's average weekly wage	Maximum benefits duration
1/1/18	50%	8 weeks
1/1/19	55%	10 weeks
1/1/20	60%	10 weeks
1/1/21+	67%	12 weeks

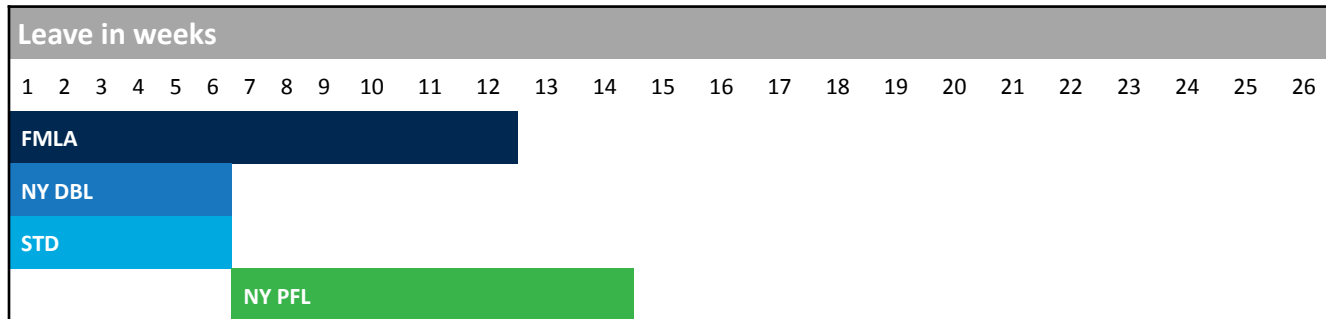
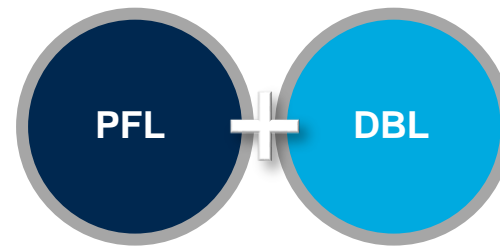
Benefits are capped at the same percentage of the statewide average weekly wage each year (\$1,305.92 currently).*

- NO WAITING PERIOD
- JOB PROTECTION
- MAINTENANCE OF HEALTH BENEFITS
- BENEFITS CAN BE PAYABLE IN ONE-DAY INCREMENTS FOR DAILY LEAVE



*2016 New York state average weekly wage is \$1,305.92. New York State Department of Labor, Labor Statistics. March 2017. Confidential, unpublished property of Cigna. Do not duplicate or distribute. Use and distribution limited solely to authorized personnel. © 2017 Cigna

INTERPLAY WITH NEW YORK PFL + DBL



PFL + DBL can't exceed 26 weeks during the same year

Employees can't receive both PFL and DBL benefits at the same time

PFL and DBL can both be taken during the post-partum period – but not at the same time



SUBSTITUTION OF PAID LEAVE AND CONCURRENT FMLA USAGE



- Employer can offer employees the option to charge their NY PFL time to unused PTO to receive their full salary
- FMLA may run concurrently with NY PFL
- If employee declines NY PFL payments while using FMLA – the leave may still be counted against the employee’s PFL benefit
- If employee takes FMLA in less than full-day increments and they’re paid for at least part of the day, that is not a PFL day as PFL must be taken in one-day increments



PFL CLAIM PROCESS



Employee responsibilities

Gives notice of leave by:

- Completing PFL-1 form or requesting PFL in manner that employer/carrier designates
- Otherwise notifying employer/carrier of need for PFL leave



Employer/carrier responsibilities

- Immediately acknowledges employee leave request
- Employer completes their section of PFL-1 form and returns to employee within **three business days**
- Carrier reviews claim information – if incomplete, provides employee with missing needed information within **five business days**



Claim is complete

- Employee submits completed leave information to employer/carrier with applicable certifications/proofs



PROOF OF PFL CLAIM



- Medical certification from a health care provider may be required for PFL taken to care for a family member
- Certifications for qualifying military exigency may take the form of a copy of active duty orders or similar documentation
- Proof of eligibility for bonding may include birth certificates, adoption papers and letters of foster placement
- Proof is due within 30 days after commencement of leave

NO PROOF. NO BENEFITS.



ACCEPTING OR DENYING PFL CLAIMS



Once a PFL request is completed, the claim must be paid or denied within **18 days**

- If claim was pre-filed more than 18 days in advance – it must be paid **within five days** of the qualifying event
- Denials for incomplete claim package or insufficient certification are without prejudice and an employee has **30 days** to refile
- Failure of the employer to complete or submit information is not a valid basis for a carrier denial
- Denial reasons must be clearly specified
- Payment can be made by debit card, direct deposit, check or other like manner as wages



HOW TO CALCULATE WEEKLY LEAVE BENEFIT



Average weekly wage (AWW)

Based on the higher of:

- Total wages of last eight weeks **including** week of first day of leave ÷ eight weeks
- Total wages of the last eight weeks **excluding** week of first day of leave ÷ eight weeks

Joe's continuous PFL leave

Joe's total wages in the last eight weeks:

- Including the week of his first day of PFL: \$6,393.60
- Excluding the week of his first day of PFL: \$6,566.40

Average weekly wage: **\$820.80**

$$\$6,566.40 / 8 \text{ weeks} = \$820.80$$

Total weekly benefit: **\$410.40**

$$50\% \text{ of } \$820.80 \text{ (AWW)} = \$410.40$$

Total leave benefit: **\$3,283.20**

$$\$410.40 \times 8 \text{ weeks} = \$3,283.20$$



HOW TO CALCULATE DAILY LEAVE BENEFIT



Daily leave entitlement and daily benefit

Daily leave entitlement

Based on the average number of days worked per week during the same eight weeks used in calculating the AWW

Daily cash benefit

Based on average weekly wage \div average number of days over the same period

Joe's intermittent PFL leave

During the last eight weeks of work (excluding the first day of PFL), Joe worked an average of 5.125 days/week

Daily leave entitlement: 41 days

$5.125 \text{ days a week} \times 8 \text{ weeks} = 41 \text{ days}$

Daily cash benefit: \$80.08

$50\% \text{ of } \$820.80 / 5.125 = \80.08

Total leave benefit: \$3,283.20

$\$80.08 \text{ per day} \times 41 \text{ days} = \$3,283.20$



NEW YORK PFL

PREPARING FOR CHANGE

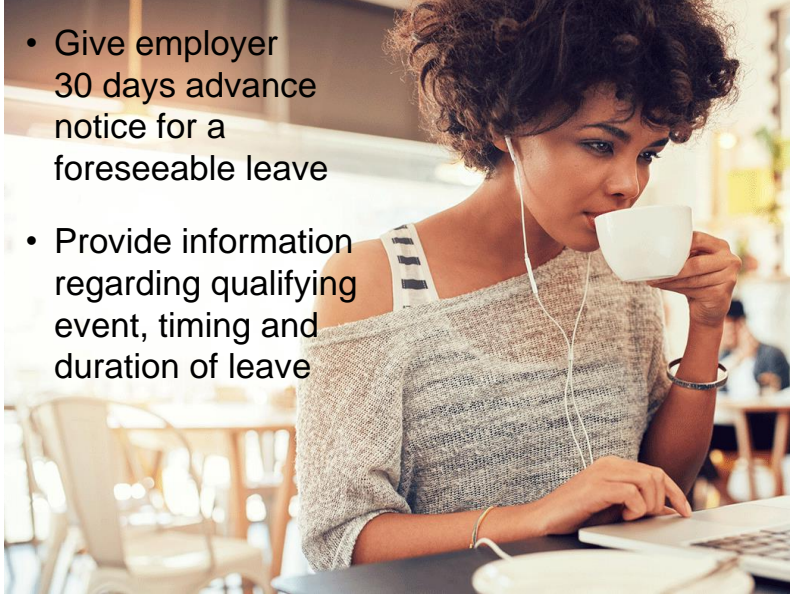


PFL NOTICE OBLIGATIONS



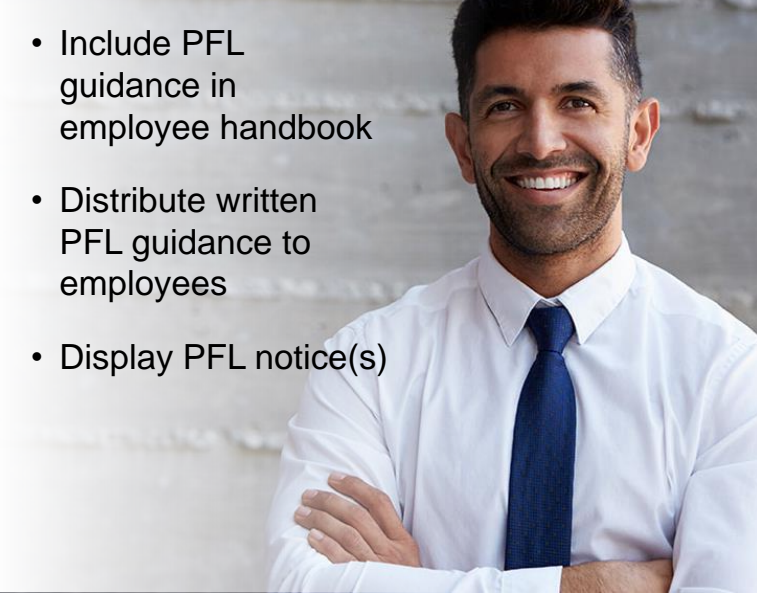
EMPLOYEE obligations

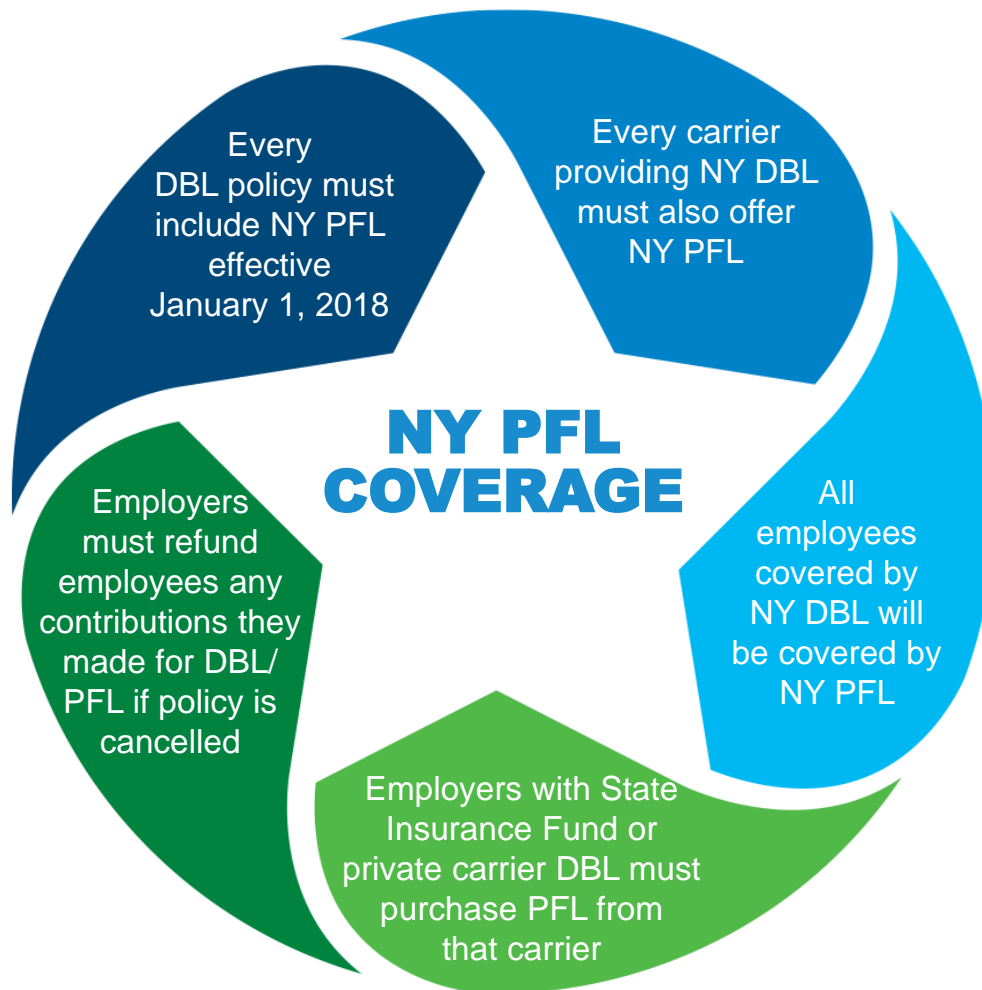
- Give employer 30 days advance notice for a foreseeable leave
- Provide information regarding qualifying event, timing and duration of leave



EMPLOYER obligations

- Include PFL guidance in employee handbook
- Distribute written PFL guidance to employees
- Display PFL notice(s)





NY PFL COVERAGE

Every
DBL policy must
include NY PFL
effective
January 1, 2018

Every carrier
providing NY DBL
must also offer
NY PFL

All
employees
covered by
NY DBL will
be covered by
NY PFL

Employers with State
Insurance Fund or
private carrier DBL must
purchase PFL from
that carrier

Employers
must refund
employees any
contributions they
made for DBL/
PFL if policy is
cancelled





Do I have to go through with PFL?

Yes.

And if I don't?

- You'll be guilty of a misdemeanor and penalties will apply, which can include, but are not limited to:
 - Fines between \$100 and \$500 for a first offense, \$250 to \$2,500 for subsequent offenses
 - Penalties up to 0.5% of weekly payroll for the period of failure plus an additional penalty up to \$500
 - Imprisonment of one year
- Where the employer is a corporation, the president, secretary, treasurer or officers exercising corresponding functions, shall each be liable



NEW YORK PFL

WHAT CIGNA CAN DO FOR YOU



LEAVE COORDINATION AND COMPLIANCE

Every absence needs attention.



CREATING A BOND



Almost 90%
OF PFL CLAIMS FILED IN
CALIFORNIA WERE FOR BONDING¹

MEN WHO TAKE
two or more weeks
OF LEAVE ARE MORE
INVOLVED IN CHILD REARING²

62% OF FEMALES AND **38%** OF MALES
FILED CLAIMS IN CALIFORNIA FOR BONDING IN 2017³

1. National Partnership for Women & Families. "First Impressions Comparing State Paid Family Leave Programs in Their First Years." February 2015.

2. Huerta, M. et al. OECD Social, Employment and Migration Working Papers No. 140. "Fathers' Leave, Fathers' Involvement and Child Development. Accessed August 2017.

3. State of California Employment Development Department. "PFL Program Statistics." July 2017.

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CARING FOR OTHERS



Provides an opportunity to engage with loved ones

66%
of caregivers are in the U.S. are female¹

The typical caregiver in the U.S. is a **49** year old, **married, employed female** who cares for her **mother**²

20% of U.S. caregivers feel caregiving has made their health worse³
21% of U.S. female caregivers had mammograms less often⁴

1. The National Alliance for Caregiving and AARP. "Caregiving in the U.S. National Alliance for Caregiving." February 2015.

2. AARP, "Valuing the Invaluable." January 2015.

3. AARP, "2015 Report – Caregiving in the U.S." June 2015.

4. National Alliance for Caregiving & Evercare. "Evercare Study of Caregivers in Decline: A Close-up Look at the Health Risks of Caring for a Loved One." February 2015.



WHAT YOU NEED TO DO NOW



Identify

Identify employees working in New York and determine who is/isn't eligible for New York PFL

Review

Review and update employee handbooks

Update

Update FMLA and other leave of absence processes to include proper coordination with New York PFL to help ensure compliance

Prepare

Prepare for deductions to begin





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APPENDIX



WE CAN ADMINISTER ALL LEAVE TYPES



	New York Paid Family Leave (PFL)	Family and Medical Leave Act (FMLA)	New York Disability Benefit Law (DBL)
Covered employer size	One or more employees working in New York	50 or more U.S. employees working in a 75 mile radius	One or more employees working in New York
Employment sector	Private (public opt-in)	Public and private	Private
Employee eligibility	20 or more weekly work hours: After 26 weeks Less than 20 weekly work hours: After 175 days	After 12 months service with employer and 1,250 hours in 12 months preceding leave	Full-time and part-time: After four consecutive weeks of employment
Covers employee health condition?	No	Yes	Yes
Pay/benefits	Paid % of average weekly wage	Unpaid	Paid % of weekly wage
Weekly max benefit	Stated % of statewide average weekly wage*	N/A	\$170
Job protection	Yes	Yes	No
Continuation of health insurance	Yes	Yes	No



*2016 New York state average weekly wage is \$1,305.92. New York State Department of Labor, Labor Statistics.

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LEAVE EXCLUSIONS UNDER PFL



- Injury or sickness that was caused by employee's willful intention or illegal act
- Employee was paid for work during the same working hours for a different employer
- Employee was otherwise entitled to payment or maintenance in an amount equal to or greater than the PFL benefit
- Employee was subject to suspension or disqualification of accumulation of unemployment insurance benefit rights
- Employee was covered by a collective bargaining agreement (CBA) with equal or better PFL benefits
- Another employee taking PFL to care for the same family member (employer discretion)





New York PFL employee waiver

- Employee can file a waiver if they work:
 - 20+ hours/week but not 26 weeks
 - Less than 20 hours/week but not 175 days
- Waiver automatically revokes within eight weeks of any change in schedule where employee works more than 26 weeks/175 days
- If waiver is revoked, employee must make contributions including retroactive amounts from date of hire

WHO'S EXCLUDED FROM PFL?



CERTAIN MEMBERS OF EMPLOYER'S IMMEDIATE FAMILY

- Spouse
- Minor children

RELIGIOUS LEADERS

- Duly ordained, commissioned or licensed minister, priest, rabbi, sexton

RELIGIOUS, CHARITABLE OR EDUCATIONAL INSTITUTION

- Professionals
- Teachers
- Volunteers

INDIVIDUALS COVERED BY:

- Independent Livery Disability Benefits Fund
- Black Car Operator's Fund
- New York Jockey Injury Fund



PFL REPORTING

Workers' Compensation Board (WCB) may request quarterly reports



Information may include:

- Number of PFL claims received
- Number of family leave benefit weeks used by employees
- Type of benefits used by employees
- Genders and ages of employees using the benefits
- Employer size and zip code
- Benefit rates
- Number of benefit denials and the reason for such denials
- Number of arbitration requests received and the results

