

New York Paid Family Leave for Staff Members

Eligible employees in New York State may be entitled to job-protected leave and a certain amount of compensation and benefits continuation through New York's Paid Family Leave (PFL) for the purposes set forth below. This leave is **not** for an employee's own illness or serious health condition.

Eligibility:

All staff employees who work 20 hours or more per week are eligible for PFL after 26 consecutive weeks of employment. Employees who work a regular schedule of less than 20 hours per week are eligible for PFL after 175 workdays, which do not need to be consecutive, in a 52-consecutive-week period. Once an employee is eligible, there is no waiting period for PFL benefits. If two spouses work for the University, only one employee **at a time** is eligible for PFL to bond with the same child or care for the same family member, but each employee is eligible for their own amount of PFL at different times.

Purpose of New York PFL:

- Bonding with a Child: is for the parent to bond with their child the first year after birth, adoption, or foster placement (including time before the actual adoption or placement of a child if an absence from work is required for the adoption or foster placement to proceed).
- Caring for a family member with a Serious Health Condition: which includes, but is not limited to, necessary physical or psychological care, emotional support, visitation, assistance in treatment, transportation, arranging for a change in care, assistance with essential daily-living matters, and personal attendant services. The employee must be in close and continuing proximity to the care recipient. This means present at the same location as the family member during the majority of the employment period from which leave has been taken, as well as travel necessitated for the purpose of securing medication or to arrange care for the family member, or other such deviations determined to be reasonably related to providing care. A serious health condition is an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility; or continuing treatment or continuing supervision by a health care provider. Proof of such condition will be required.
- Active Duty Deployment: For a military exigency due to any qualifying exigency pursuant to the Family and Medical Leave Act (FMLA), arising out of active duty or an impending call or order to active duty in the Armed Forces of the United States for the spouse, domestic partner, child, or parent of the employee. Paid Family Leave cannot be used for one's own qualifying military event.

Benefit Amount:

Employees will be eligible to take up to 12 weeks of PFL in any 52-consecutive week period. The 52-week clock starts on the first day the employee takes Paid Family Leave. Benefits will be

paid at the rate of 67% of the employee's average weekly wage, but not more than 67% of the state average weekly wage.

For example, in 2023, the NY State Average Weekly Wage is \$1,688.19, which means that the maximum weekly benefit an employee may receive is \$1,131.08 (not more than 67% of the state average weekly wage).

Cost:

The benefit is funded through an insurance plan administered by the University's Short Term Disability Insurance Provider. The premium will be **fully paid by staff employees through payroll deductions**. The cost of the premium will be established each year by New York State. These premiums will change whenever New York State changes its NYSAWW or changes the premium rate.

1199 Union members should consult the union to determine the funding of this benefit through the union's benefit trust.

Waivers of NY PFL Coverage:

In most cases, employees are not allowed to waive coverage in the NY PFL program. The only exception is if (1) an employee's schedule is 20 hours or more per week but the employee is not expected to work 26 consecutive weeks in a 52-consecutive-week period or (2) the employee's schedule is fewer than 20 hours per week and the employee is not expected to work a total of 175 workdays in a 52 consecutive-week period. If an employee meets either of those conditions, the employee will be provided with the option to waive NY PFL benefits and thereby become exempt from the obligation to incur payroll deductions. However, if the employee subsequently meets these thresholds, the employee will be required to make the premium contributions/payroll deductions and back premiums will be collected.

Coordination with other paid leaves:

Employees may not use NY PFL while they are collecting worker's compensation or NY Disability benefits. Employees do not have to use vacation before using Paid Family Leave. However, an employee may use accrued vacation leave to add to the benefit to obtain full pay. The employee should work with the University's Benefits Office to arrange to use their vacation accruals if they wish to exercise this option. Sick days may not be used for Paid Family Leaves with the exception of benefits under the New York City Earned Sick Time Act:

https://www.yu.edu/sites/default/files/legacy//uploadedFiles/Offices_and_Services/HR/Working_at_YU/policies/NYCEarnedSickTimeActPolicy.pdf

PFL runs concurrently with FMLA. If approved FMLA is taken that is eligible for NY PFL but the employee does not file a request for NY PFL benefits, the FMLA leave period will still count against the employee's maximum NY PFL duration.

Coordination with NY Statutory Disability Benefits (DBL): An employee may not collect DBL and PFL at the same time, though an employee may take PFL at the end of a period of disability

(e.g., after DBL leave for childbirth). A parent who gives birth may first take the pay provided by DBL and the University's Pregnancy and Childbirth Policy, and then the parent can use PFL to bond with the child.

Maximum Leave Amount: There is a combined maximum for both DBL and PFL of 26 weeks during any 52-consecutive-week period.

Employees who are married: If an employee and their spouse both work for the University, no more than one employee can receive PFL at the same time to care for the same family member, or to bond with the same child. But, each employee may each take their PFL at different times. If the employee and their spouse have different employers, they are both eligible to take Paid Family Leave at the same time.

Filing a Claim:

The employee is responsible for notifying the University's Office of Human Resources and their supervisor if they intend to claim PFL Insurance benefits. If PFL is foreseeable, the employee must provide at least 30-days advance notice to Human Resources and their supervisor. If notice for foreseeable leave is not provided 30 days in advance, the leave may be denied for up to 30 days after the notice is provided. If the event was not foreseeable, the employee must notify Human Resources as soon as practicable and must still use the normal call-in procedures to notify their supervisor.

Leaves may be continuous or intermittent (in daily or weekly increments), depending upon the employee's individual circumstance. PFL may only be taken in shorter increments if (1) it is used for a covered purpose under both PFL and FMLA, (2) such leave is taken concurrently with leave under the FMLA, and (3) the intermittent leave is granted. Employees are required to identify the dates for intermittent leave in their NY PFL request to Human Resources and their supervisor at least 30 days prior to the requested leave. If intermittent leave is not foreseeable, notice must be provided to Human Resources as soon as practicable and employees should use the normal call in procedures to notify their supervisor.

Making a claim involves 1) providing notice, and 2) completing a formal claim form.

Notice: Employees must notify both their supervisor and Human Resources as described above. Notice must include sufficient information about the qualifying event, the anticipated timing and duration of the leave, and the type of family leave being requested (i.e., bonding, care for family member, or military exigency).

Claim Forms and certification/documentation forms to support the need for NY PFL are available in the Benefits Office (646-592-4340 or benefits@yu.edu). Once the employee has completed the employee section of the NY PFL Request, please submit the form to the Benefits Office for completion and assistance in submitting the claim to the insurer.

Employees must submit the following certification and/or documentation to support Requests for NY PFL for the following reasons:

- *Care for a family member:* submit a medical certification from the family member's health care provider.
- *Birth or placement of a child:* submit proof of the birth or placement for adoption or fostering.
- *Military exigency leave:* submit a copy of the family member's military orders and other documentation regarding the reasons for the leave.

1199 Union members will have to make a claim through their union benefit plan and should consult with the union to determine how to submit their claims and documents.

Eligible Family Members

Child means a biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or the person to whom the employee stands in loco parentis (i.e., in the place of).

Family member means a child, parent, grandparent, grandchild, spouse, domestic partner, or sibling.

Parent means a biological, foster, or adoptive parent, a parent in law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.

Other Definitions in the Regulations

Disqualification of Eligibility

Employees are disqualified from eligibility and no NY PFL benefits will be paid for the following:

1. Any disability caused by willful intention of the employee to cause injury to himself/herself or another;
2. On any day when the employee works part of the day for the University;
3. On any day in which the employee is entitled to receive from the University remuneration in an amount equal to or greater than the statutory NY PFL benefits;
4. On any day in which the employee is receiving sick pay;
5. Any period when the employee is subject to suspension or disqualification of accumulation of unemployment insurance benefit rights;
6. Any family leave commencing before the employee becomes eligible for benefits;

7. During periods when the employee receives total disability payments pursuant to a claim for workers' compensation, volunteer firefighters' benefits, or volunteer ambulance workers' benefits, unless it is partial disability or reduced earnings;
8. When the employee is not employed or is on administrative leave from employment; or
9. For any period of family leave when notice and medical certification has not been filed.

Review/approval process

Within five business days of receipt of a request, the insurance carrier will provide the employee with the following:

- a. An acknowledgment of receipt of the Request;
- b. A claim identification number;
- c. A list of required information that is missing from either the Request or the Certification;
- d. Information on how to properly complete the Request; and
- e. Information regarding arbitration (see discussion below).

When a PFL claim is denied without prejudice because it is incomplete, the employee must refile within 30 days of the first day of leave. If the employee does not refile the completed request for PFL, together with the necessary certifications or proof of claim documentation, within 30 days of the first day of leave, the insurance carrier may deny the claim.

Once the insurance carrier receives the completed request for PFL, together with the necessary certifications or proof of claim documentation, the insurance carrier must pay or deny the claim within 18 calendar days.

Incomplete Request/Certification

The insurance carrier may deny a claim for PFL without prejudice within 18 calendar days if the claim is incomplete; or the certification or proof of claim documentation is insufficient. The insurance carrier will notify the employee of each piece of required missing information. Once the insurance carrier receives the completed request for PFL, together with the necessary certifications or proof of claim documentation, the insurance carrier must pay or deny the claim within 18 calendar days.

Advance Request for PFL for Foreseeable Qualifying Events

Employees may file a Request for NY PFL in advance of a foreseeable qualifying event (Advance Request). If such an Advance Request is filed, the following procedures will apply:

1. Within five business days of receipt of an Advance Request, the insurance carrier will provide the employee with:
 - a. Notice that the claim is pending;
 - b. A list of the required missing information;
 - c. Instructions for how to submit the missing information; and
 - d. Contact information.
2. Once the insurance carrier receives a completed Request, the insurance carrier will provide the employee a confirmation of receipt of the completed claim within three business days.
3. If a completed request for PFL is received more than 18 calendar days before the occurrence of a qualifying event, the insurance carrier will send payment to the employee within five business days following the qualifying event.

Denial of NY PFL Benefits

The insurance carrier may deny a Request for NY PFL for, among others, the following reasons:

1. The employee has not been employed for a sufficient length of time to be eligible for benefits;
2. The family member that the employee is seeking leave to care for is not a covered family member;
3. The amount of leave requested exceeds the statutory maximum benefit period for family leave or disability benefits under the NY PFL;
4. The amount of family leave requested exceeds the statutory maximum or the family leave needed as stated in the medical certification of the employee, or the qualifying event was foreseeable and the employee failed to provide the employer with sufficient notice. In such a case, the insurer may issue a partial denial of any excess leave or a partial denial for the 30 days when the qualifying event was foreseeable and the employee failed to provide the employer with notice;
5. The employee requesting leave is the perpetrator of domestic violence or child abuse against the care recipient; or
6. The claim was not made in a timely manner.

If the insurance carrier denies a request for PFL for reasons other than the claim is incomplete or the certification or proof of claim documentation is insufficient, the employee may not refile.

Health insurance

The NY PFL law requires employers to continue existing health insurance benefits while an employee is on NY PFL according to the same conditions prescribed by the FMLA. Employees must pay their portion of the health insurance premium, and employers may terminate coverage if an employee fails to do so. If an employee chooses not to retain health plan coverage while on PFL or the coverage lapses due to non-payment of premiums, upon the employee's return from PFL, the employee shall be reinstated into the health plan on the same terms the employee had prior to taking leave. (Other benefits will be governed in accordance with the terms of each benefit plan.)

Job protection/No retaliation or discrimination

Upon returning from NY PFL, an employee is entitled to reinstatement to their prior job position or to a comparable position with comparable pay, benefits, and other terms and conditions of employment, consistent with applicable law. In addition, an employee may not be discriminated against, disciplined or retaliated against for requesting NY PFL or for absences that are covered under the NY PFL law.

Disputes

Any disputes relating to NY PFL are required to be arbitrated in accordance with procedures established by the New York Worker's Compensation Board (WCB). Further information and contact information for the WCB can be found at: <http://www.wcb.ny.gov/content/main/Contact.jsp>. Requests for arbitration must be submitted to the WCB within 26 weeks of the denial of the request for NY PFL.

Summary Only

This is intended only to be a summary of the requirements of the NY PFL. Additional requirements and benefits relating to NY PFL may be set forth in the NY PFL law. If there is a conflict between this document and the NY PFL law, the terms of the NY PFL law will govern.