

SEARCH FOR CHANGE INC
POLICY ON NEW YORK STATE PAID FAMILY LEAVE LAW

I. NEW YORK STATE PAID FAMILY LEAVE

Eligibility Requirements

Employees who have a regular work schedule of 20 or more hours per week and have been employed at least 26 consecutive weeks prior to the date paid family leave (“PFL”) begins (or who have a regular work schedule of less than 20 hours per week and have worked at least 175 days prior to the date PFL begins) are eligible for PFL. Paid time off can be counted toward an employee’s eligibility determination. Employees are eligible for PFL regardless of citizenship and/or immigration status. An employee has the option to file a waiver of PFL and therefore not be subject to deductions when his or her regular employment is: (i) 20 or more hours per week but the employee will not work 26 consecutive weeks; or (ii) less than 20 hours per week and the employee will not work 175 days in a 52 consecutive week period.

Entitlement

PFL is available to eligible employees for up to eight (8) weeks (*increases to ten (10) weeks on or after January 1, 2019 and up to twelve (12) weeks on or after January 1, 2021*) within any 52 consecutive week period: (a) to participate in providing care, including physical or psychological care, for the employee’s family member (child, stepchild spouse, domestic partner, parent, stepparent, parent-in-law, grandchild or grandparent) with a serious health condition; or (b) to bond with the employee’s child during the first twelve months after the child’s birth, adoption or foster care placement; or (c) for qualifying exigencies, as interpreted by the Family and Medical Leave Act (FMLA), arising out of the fact that the employee’s spouse, domestic partner, child, or parent is on active duty (or has been notified of an impending call or order to active duty) in the armed forces of the United States. The 52 consecutive week period is determined retroactively with respect to each day for which PFL benefits are currently being claimed.

PFL benefits are financed through employee contributions via payroll deductions. The weekly monetary benefit will be 50% of the employee’s average weekly wage or 50% of the state average weekly wage, whichever is less (*increases to 55% on or after January 1, 2019, 60% on or after January 1, 2020 and 67% or after January 1, 2021*).

The Agency and an employee may agree to allow the employee to supplement/substitute PFL benefits up to their full salary with paid time off, to the maximum extent permitted by applicable law. An employee is not required to supplement or substitute PFL benefits with paid time off.

An employee who is eligible for both statutory short-term disability benefits and PFL during the same period of 52 consecutive calendar weeks may not receive more than 26 total weeks of disability and PFL benefits during that period of time. Statutory short-term disability benefits and PFL benefits may not be used concurrently. If an employee is unable to work and qualifies for workers’ compensation benefits, the employee may not use PFL benefits at the same time the employee is receiving workers’ compensation benefits. An employee receiving reduced earnings may be eligible for PFL.

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Definition of a Serious Health Condition

A serious health condition is an illness, injury, impairment, or physical or mental condition that involves: (a) inpatient care in a hospital, hospice or residential health care facility; or (b) continuing treatment or continuing supervision by a health care provider.

Use of Leave

An employee does not need to use this leave entitlement in one block. Leave can be taken intermittently in daily increments. Leave taken on an intermittent basis will not result in a reduction of the total amount of leave to which an employee is entitled beyond the amount of leave actually taken.

The Agency will only allow one employee at a time to receive PFL to bond with the same child or care for the same family member.

Employee Responsibilities

An employee must provide thirty (30) days' advance notice before the date leave is to begin if the qualifying event is foreseeable. When thirty (30) days' notice is not practicable for reasons such as lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, the employee must provide notice as soon as practicable and generally must comply with the Agency's normal call-in procedures. Failure by the employee to provide (30) days' advance notice of a foreseeable event may result in partial denial of the employee's benefits for a period of up to thirty (30) days from the date notice is provided.

Employees must provide sufficient information to make the Agency aware of the qualifying event and the anticipated timing and duration of the leave. Employees must specifically identify the type of family leave requested. Employees also must provide medical certifications and periodic recertification or other supporting documentation or certifications supporting the need for leave. An employee requesting paid family leave must submit a completed Request for Paid Family Leave or PFL-1 form and additional certification form(s) as follows to Arch Insurance: (1) Bonding Certification: PFL-2 Form plus documentation; (2) Health Care Provider Certification: PFL-4 Form plus Personal Health Information (PHI) Release (PFL-3 Form); or (3) Military Qualifying Event: PFL-5 Form plus documentation. To obtain the PFL claim forms, employees must contact Arch Insurance or Human Resources.

To submit a request for PFL, employees must populate the employee's portion of Arch Insurance PFL-1 Form, and submit it to the Agency's Human Resources Department. The Agency will populate its section of the form, and will return it to employees within 3 business days. If the Agency fails to respond, employees may submit all materials directly to Arch Insurance. Depending on the type of PFL leave employees are seeking, employees will be required to complete additional PFL forms. Employees must submit the completed PFL forms to Arch Insurance before or within 30 days after the start of their leave. Arch Insurance must pay or deny leave requests within 18 calendar days of receiving an employee's completed forms.

Benefits and Job Protection

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POLICY ON NEW YORK STATE PAID FAMILY LEAVE LAW

During any PFL taken pursuant to this policy, the Agency will maintain coverage under any existing group health insurance benefits plan as if the employee had continued to work. The employee must make arrangements with Human Resources prior to taking leave to pay their portion of any applicable health insurance premiums each month.

The Agency's obligation to maintain health insurance coverage ceases if an employee's premium payment is more than 30 days late. If an employee's payment is more than 15 days late, the Agency will send a letter notifying the employee that coverage will be dropped on a specified date unless the co-payment is received before that date.

Any employee who exercises his or her right to PFL will receive job protection. This means that upon the expiration of that leave, the employee will be entitled to be restored to the position held by the employee when the leave commenced, or to a comparable position with comparable benefits, pay, and other terms and conditions of employment. The taking of leave covered by PFL will not result in the loss of any employment benefit accrued prior to the date on which the leave commenced.

Leave Concurrent with FMLA

The Agency will require an employee who is entitled to leave under both the FMLA and PFL, to take PFL concurrently with any leave taken pursuant to the FMLA. When the total hours taken for FMLA in less than full-day increments reaches the number of hours in an employee's usual workday, the Agency may deduct one (1) day of PFL from an employee's annual available PFL.

Questions and/or Complaints about PFL

If you have questions regarding this PFL policy, please contact Human Resources 914-428-5600 x9244. For additional information concerning leave entitlements and obligations that might arise when PFL is either not available or exhausted, please consult the Agency's other leave policies or contact Human Resources 914-428-5600 x9244. The Agency is committed to complying with the PFL and shall interpret and apply this policy in a manner consistent with the PFL. Employees who disagree with a denial of their claim for PFL may submit their dispute to arbitration. Employees will be provided information with information about how to request arbitration.

Employees are protected from discrimination and retaliation for requesting or taking PFL. If employees believe their rights have been violated and/or denied job restoration as a result of requesting and/or taking PFL, they must send the Director of Human Resources a formal request for job reinstatement using the *Formal Request For Reinstatement Regarding Paid Family Leave (Form PFL-DC-119)*, which can be found in the forms section of <https://www.ny.gov/PaidFamilyLeave>. Employees must file the completed form with the Agency and send a copy to: Paid Family Leave, P.O. Box 9030, Endicott, NY 13761-9030. If the Agency does not comply with an employee's request for reinstatement within 30 days, the employee may file a PFL discrimination complaint with the Workers' Compensation Board using the *Paid Family Leave Discrimination Complaint (Form PFL-DC-120)*, which is also available on the New York Paid Family Leave website. Once an employee's complaint is received, the Board will assemble the employee's case and schedule a preliminary hearing in front of a Workers' Compensation Law Judge.

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