

## New York Paid Family Leave for Staff Members

Beginning January 1, 2018, 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) to care for family members under certain circumstances. This leave is **not** for an employee's own illness or serious health condition.

### Eligibility:

Staff employees who work 20 hours or more per week and have been employed for at least 26 consecutive weeks. Staff employees who work less than 20 hours per week must have been employed for at least 175 days. Employees who do not work 26 continuous weeks or 175 days in a year may opt out of the benefit if they do not choose to pay the associated cost.

### Purpose of New York PFL:

- **Bonding with a Child:** The YU childbirth and pregnancy policy (<https://www.yu.edu/sites/default/files/inline-files/STAFFPregnancyandChildbirthPolicy.pdf>) is for the parent who gives birth or adopts or fosters a child. **PFL** can be used by either parent after the birth or placement takes place. A parent may take Paid Family Leave during the first 12 months immediately following the birth or placement of a child or Prior to the actual placement or adoption if absence from work is required for the placement. If both spouses work for YU, only one may take the leave to care for the same child. Proof of the birth or adoption will be required.
- **Caring for a family member with a Serious Health Condition:** which includes necessary physical 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 disability or qualifying military event.

### Benefit Amount:

Paid Family Leave is designed to phase in over four years, starting on January 1, 2018.

Year	Weeks Available	Max % of Employee Salary	Cap % of State Average Weekly Wage
1/1/2018	8	50%	50%
1/1/2019	10	55%	55%
1/1/2020	10	60%	60%
1/1/2021	12	67%	67%

Eligible employees may take the maximum benefit length in any given 52-week period. The 52-week clock starts on the first day the employee takes Paid Family Leave.

For example, in 2018, an employee who makes \$1,000 a week would receive a benefit of \$500 a week (50% of \$1,000). Another employee who makes \$2,000 a week would receive a benefit of \$652.96, because this employee is capped at one-half of New York State's Average Weekly Wage (NYSAWW) -- currently \$1,305.92. Half of that amount is the \$652.96.

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**, expected to begin on January 1, 2018. The cost of the premium will be established each year by New York State. The cost effective January 1, 2018 will be 0.126% of your weekly wage capped at the NYSAWW, currently \$1.65 per week. For those on the biweekly payroll the maximum deduction in 2018 will be \$3.30 per paycheck. For those on the semi-monthly payroll, the maximum deduction in 2018 will be \$3.58 per paycheck. 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 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 175 days 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 you may use accrued vacation leave to add to the benefit to obtain full pay. Please work with the Benefits Office to arrange to use your vacation accruals if you wish to exercise this option. Sick days may not be used for 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](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 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). For a parent who gives birth DBL and the YU Pregnancy and Childbirth Policy provides full pay for full time employees for the first 8 weeks during and after childbirth. The parent can then 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 you and your spouse both work for YU, no more than one employee can receive paid leave at the same time to care for the same family member, or to bond with a child. If you and your spouse have different employers, you are both eligible to take Paid Family Leave at the same time.

#### Filing a Claim

You are responsible for notifying Human Resources and your supervisor if you intend to claim Family Leave Insurance benefits. If your family leave is foreseeable, you must provide at least 30-days advance notice. 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, you must notify Human Resources as soon as practicable and you must still use the normal call-in procedures to notify your supervisor.

Leaves may be continuous or intermittent (in one-day increments), depending upon the employee's individual circumstance. If an employee works any part of a day, he or she is not eligible for NY PFL for that day. Employees are required to identify the dates for intermittent leave in their NY PFL request at least 30 days prior to the requested leave. If intermittent leave is not foreseeable, notice must be provided 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 his/her supervisor and Human Resources. Notice must include sufficient information about the qualifying event, the anticipated timing and duration of the leave, 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](mailto:benefits@yu.edu)). Once you have completed the employee section of the NY PFL Request, please submit the form to Benefits 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 daughter, 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, or domestic partner.

**Parent** means 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 an employee to cause injury to himself/herself or another or resulting from injury or sickness sustained in perpetration of an illegal act
2. On any day when an employee works part of the day for the Company
3. On any day in which the employee is entitled to receive from YU 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 an employee is subject to suspension or disqualification of accumulation of unemployment insurance benefit rights
6. Any disability due to act of war
7. Any family leave commencing before the employee becomes eligible for benefits
8. 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
9. When an employee is not employed or is on administrative leave from employment
10. For any period of family leave when notice and medical certification has not been filed

#### ***Review/approval process***

1. Within five 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).

2. 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.
3. 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 days.

### ***Incomplete Request/Certification***

The insurance carrier may deny a claim for PFL without prejudice within 18 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 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 days before the occurrence of a qualifying event, [the insurance carrier] will send payment to the employee within five 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 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.

### ***Job protection/No retaliation or discrimination***

Upon returning from NY PFL, an employee is entitled to reinstatement to his/her prior job position or to a comparable position with comparable pay, benefits, and other terms and conditions of employment. In addition, an employee may not be 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.