

PERSONNEL SERVICES BULLETINS (PSBs)

440-16

Subject: Paid Family Leave Benefits for Represented Employees, Managers and Original Jurisdiction Employees

Source: New York State Workers' Compensation Law, Article 9,
MPO 2024/1 and 2024/2

Supersedes: 440-16 issued March 8, 2024

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1. INTRODUCTION

Employees in titles represented by unions that have collectively bargained an agreement to opt into New York State Paid Family Leave Benefits will be eligible to take Paid Family Leave ("PFL"). PFL is an employee funded insurance policy that provides job-protected, paid time off to bond with either a newly born, adopted, or foster child, to care for a family member with a serious health condition, including preparation and recovery from surgery related to organ or tissue donation, or to assist loved ones when a family member is deployed in a foreign country on active military service. Each Collective Bargaining Unit has a specific effective date for this benefit. Please refer to the attachment "[List of Covered Unions](#)" for eligibility dates.

Pursuant to Mayor's Personnel Order ("MPO") 2024/1 and 2024/2, Managers and Original Jurisdiction ("OJ") employees are also eligible for PFL benefits. The effective date for Managers and OJs was May 5, 2024.

2. DEFINITIONS

"Family Leave" means any leave taken by an employee from work due to the following:

- (a) To participate in providing care, including physical or psychological care, for a family member of the employee made necessary by a serious health condition of the family member; or
- (b) To bond with the employee's child during the first twelve months after the child's birth, or the first twelve months after the placement of the child for adoption or foster care with the employee; or
- (c) Because of any qualifying exigency as interpreted under the Family and Medical Leave Act ("FMLA"), 29 U.S.C.S § 2612(a)(1)(e) and 29 C.F.R. § 825.126(a)(1)-(8); arising out of the fact that the spouse, domestic partner, child, or parent of the employee 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.

“Care” means physical, 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 (i.e., present at the same location as the family member requiring care during the majority of the leave requested). Travel that is necessary to secure medication, arrange care for the family member, or other such deviations determined to be reasonably related to providing care shall satisfy this definition.

“Child” means either a biological, adopted, foster child, or stepchild of the eligible employee or his/her domestic partner; legal ward of the employee; or a child for whom the employee stands in loco parentis (in the place of a parent). A child must either be under the age of 18 or incapable of self-care because of mental or physical disability.

“Siblings” means biological siblings, adopted siblings, step-siblings, and half-siblings.

“Domestic Partner” means domestic partner as defined in [Section 4 of the Workers’ Compensation Law](#).

“Family Member” means a child, sibling, parent, grandparent, grandchild, spouse, or domestic partner as defined herein.

“Eligible employee” means an employee who is represented by a participating union, a confidential employee in a title represented by a participating union, or , a full-time or part-time employee covered by the Pay Plan for Managerial Employees and Original Jurisdiction employees; and is either full-time, who works a regular schedule of 20 hours or more per week for 26 weeks; or part-time, who works a regular schedule of less than 20 hours per week for 175 days; which need not be consecutive.

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

“Grandchild” means a child of the employee's child.

“Grandparent” means a parent of the employee's parent.

“Serious health condition” means an illness, injury, impairment, or physical or mental condition, including transplantation preparation and recovery from surgery related to organ or tissue donation that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or supervision by a health care provider. Continuing supervision by a health care provider includes a period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective where the family member is under the continuing supervision of, but need not be receiving active treatment by, a health care provider.

“Health Care Provider” includes Physician, Physician Assistant, Chiropractor, Dentist, Physical Therapist, Nurse Practitioner, Registered Professional Nurse, Podiatrist, Optometrist, Psychologist, Clinical Social Worker, Occupational Therapist, Midwife, Mental Health Practitioner, Speech-language Pathologists, and Audiologists.

“Military Active Duty or Call to Active Duty Status” means, (1) in the case of a member of the Regular Armed Forces, deployment to a foreign country; (2) in the case of a member of the Reserve components of the Armed Forces, duty during deployment in a foreign country under a

call or order to active duty or notification of an impending call or order to active duty in support of a military operation defined as a contingency operation.

“Contingency Operation” is a military operation that is designated by the U.S. Secretary of Defense as an operation in which members of the Armed Forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force.

"Qualifying event" means the birth of a child(ren), the formal adoption of a child(ren) under the age of 18, the placement of a child(ren) under the age of 18 in foster care, or to care for a child incapable of self-care because of mental or physical disability; caring for a close relative with a serious health condition; or assisting loved ones when a family member is deployed in a foreign country on active military service. If the qualifying event is the placement of a child with an eligible employee for foster care, the eligible employee uses PFL during that qualifying event, and if such placement subsequently becomes an adoption of that same child by the same employee, the adoption will not be considered a qualifying event, and the eligible employee will not be entitled to additional PFL for the adoption.

“Average Weekly Wage” means, for the purpose of computing the PFL benefit, the amount determined by dividing either the total wages of the employee in the employment of his/her last covered employer for the eight weeks or portion thereof that the employee was in such employment immediately preceding and including his/her last day worked prior to the first day of PFL, or the total wages of the last eight weeks or portion thereof immediately preceding and excluding the week in which PFL began, whichever is the higher amount, by the number of weeks or portion thereof of such employment.

3. COVID-19 (expires July 31, 2025, by law)

A. COVID-19 Qualifying Event:

1. To provide care for the employee themselves or the employee’s minor child who is under a mandatory or precautionary order of quarantine or isolation due to COVID-19.
2. This benefit is only available when the City’s COVID-19 leave, if any, is exhausted.
3. This benefit is not available to you if you are able to work through remote access or other means.

B. How to Apply for Benefits:

1. For leave to care for the employee themselves or the employee’s child who is under a mandatory or precautionary order of quarantine or isolation order due to COVID-19:
 - a. If the employee is planning to request PFL to care for themselves or a dependent minor under a quarantine or isolation order due to COVID-19, make sure the health care provider completes the Health Care of a Family Member with Serious Health Condition (Form PFL-4) as soon as possible. This form is a required part of the request for PFL, so it must be submitted to the PFL insurance carrier within 30 days of the first date of the PFL.
 - b. Any other documentation supporting the reason for the leave (e.g., copy of a

quarantine or isolation order from the NYC Department of Education or NYC Department of Health and Mental Hygiene, COVID-19 positive test result, et cetera).

4. GENERAL PROVISIONS

A. Paid Family Leave Benefits

1. An eligible employee may be entitled to benefits for leave taken from work for the following qualifying events:
 - a. To participate in providing care, including physical or psychological care for a family member of the employee made necessary by a serious health condition of the family member.
 - b. For the employee to bond with the employee's child (for managers and Original Jurisdiction employees, please see Section D for more details):
 - i. During the first 12 months after the child's birth;
 - ii. During the first 12 months after the placement of the child for adoption or foster care; or
 - iii. Before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed.
 - c. Due to any qualifying exigency, pursuant to 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.
2. No employee shall be entitled to PFL benefits:
 - a. For any disability intentionally caused by the employee to another or resulting from the employee's illegal act.
 - b. For any day of family leave during which the employee performed work for the employer for remuneration or profit.
 - c. For any family leave commencing before the employee becomes eligible for PFL benefits.
 - d. For any disability of the employee.

B. Eligibility

1. Full-time employees who work a regular schedule of 20 hours or more per week are eligible for PFL after 26 consecutive weeks of employment, commencing with the employee's City Start date.
2. Part-time employees who work a regular schedule of less than 20 hours per week are eligible after working 175 days, which need not be consecutive, commencing with the employee's City Start date.

3. The annual period during which an employee is eligible for a defined number of weeks of Paid Family Leave, as set forth in subsection "C" below, is defined as a rolling 12-month period measured backward from the first date that the employee begins using PFL.
4. Once eligibility requirements are met, employees remain eligible until either employment is terminated with the City of New York or if the employee moves to a non-eligible title.
5. The PFL benefit is paid through a small payroll deduction. These rates are set annually, no later than September 1 of the preceding year, by the New York State Superintendent of Financial Services, pursuant to Workers' Compensation Law 209(3)(b) and Insurance Law § 4235(n)(1). Please refer to the Paid Family Leave website (<https://paidfamilyleave.ny.gov/cost>) for the latest information on employee contribution rates. The contributions are deducted from employees' after-tax wages. An employee who does not expect to work for the City for the minimum amount of time required for eligibility may opt out of Paid Family Leave by completing a PFL waiver. The agency must confirm that the employee will be hired for less than the minimum amount of time required for eligibility. A waiver of PFL benefits may be granted when:
 - a. An employee whose work schedule is 20 hours or more per week, will not work for 26 consecutive weeks; or
 - b. An employee whose work schedule is less than 20 hours per week will not work 175 days in a 52-consecutive week period.
6. Health insurance must be maintained for an employee on PFL on the same terms as if the employee had continued to work. If the employee contributes to the cost of their health insurance, the employee must continue to pay his/her portion of the premium cost while on PFL.

C. Computation of Benefits

1. Employees taking PFL will receive **67% of their average weekly wage (AWW)**, up to a cap of 67% of the Statewide AWW, which is updated annually.

D. Other Conditions

1. Leave under the Family and Medical Leave Act (FMLA) shall run concurrently with Paid Family Leave (PFL) if the employee is eligible for FMLA leave for the same reason for which PFL leave is taken. If the employee is eligible for both PFL and FMLA, the agency should inform the employee at the time of the initial request.
2. For Managers and Original Jurisdiction employees who are eligible for both Paid Parental Leave("PPL") and Leave under the Family and Medical Leave Act, PFL shall run concurrently with PPL and FMLA. The agency should inform the employee at the time of the initial request. Filing for PFL, where eligible, is a requirement of filing for PPL. Employees will receive payment under PPL only, which provides for the full salary while on PPL.
3. When an employee requests leave for a PFL qualifying purpose but does not request to use PFL leave, it is the agency's responsibility to designate such leave as PFL leave.

4. If leave to bond with the employee's child is interrupted or ceased as a result of the child(ren) no longer being under the care of the eligible employee, the eligible employee must immediately notify the human resources department of their agency and end their PFL benefits.
5. An employee may not simultaneously receive pay from accrued leave balances and PFL benefits. If an employee receives pay from accrued leave balances for leave qualifying for Paid Family Leave, the leave taken will count towards the PFL entitlement.
6. An employee who uses accrued leave balances during the Paid Family Leave period will accrue annual and sick leave during the PFL period in accordance with the applicable leave regulations. An employee will not be credited with the annual and sick leave time accrued while on Paid Family Leave until the employee returns from PFL.
7. If an employee chooses not to use applicable leave balances during the PFL period, and therefore, is on unpaid leave, the employee will not accrue any annual and sick leave balances during that period in accordance with the applicable leave regulations.
8. PFL can be taken intermittently in full day increments only. Any changes to the employee's work schedule must be pre-verified by the employee's agency.
9. Any changes to an employee's Return to Work date must be pre-verified by the employee's agency.

E. Restoration

An employee who returns from PFL must be restored to his or her previous position or to an equivalent position. An equivalent position is a position in the same civil service title which has the same pay, benefits and working conditions, including the same worksite or a geographically proximate worksite. A geographically proximate worksite is one that does not involve a significant increase in commuting distance or time. If the employee is denied restoration or other benefits, the agency must be able to show that the employee would not have continued to be employed or received the benefits had they been continuously employed during the leave period.

5. PROCEDURES

A. How to Apply for Benefits

1. There are four basic steps for an employee to request Paid Family Leave:
 - a. When the PFL is foreseeable, an employee must give his/her agency at least 30 calendar days' notice before the leave begins. Otherwise, the employee must notify the agency as soon as possible. This requirement may be waived at the discretion of the agency-head.
 - b. Next, the employee requests the PFL form package from their agency's human resources (HR) department and completes the Request for Paid Family Leave (Form PFL-1).

Managers and Original Jurisdiction employees who are eligible for Paid Parental Leave (PPL) pursuant to [Personnel Services Bulletin 420-5](#) must complete both HC-0007 Request for Leave under Paid Parental Leave and PFL-1 (see below).

- c. The agency must fill out their section of the form within three (3) business days and send it to the insurance carrier for processing. The employer should provide the employee a copy of the form for their records.
 - d. The insurance carrier must pay or deny the employee's request within 18 calendar days of receiving the completed request.
2. Required Supporting Documentation: When requesting PFL, the employee will need to file a Request for Paid Family Leave form as well as documentation in support of the PFL request. The specific documentation required varies based on the type of leave, as outlined below:
- a. For the Birth of a Child:
 - i. The birth mother will need the following documentation:
 - Birth certificate; or
 - Documentation of pregnancy or birth from a health care provider, including the mother's name and due/birth dates.
 - ii. A second parent will need the following documentation:
 - Birth certificate, or if not available, a voluntary acknowledgement of paternity or court order of filiation; or
 - A copy of documentation of pregnancy or birth from a health care provider, including the mother's name and due/birth dates; and a second document verifying the parent's relationship with the birth mother or child.
 - b. For Foster Care:
 - i. Letter of placement issued by county or city department of social services or local voluntary agency.
 - ii. If second parent is not named in documentation, a copy of that documentation plus a second document verifying relationship to the parent named in the foster care placement.
 - c. For Adoption:
 - i. Legal evidence of adoption process.
 - ii. If second parent is not named in legal documents, the second parent must provide a copy of the legal evidence of adoption process and a second document verifying the relationship to the parent named in the document.
 - d. For Leave to Care for a Serious Medical Condition:

If the employee is planning to request PFL to care for a family member with a serious health condition, make sure the family member's health care provider completes the Health Care of a Family Member with Serious Health Condition (Form PFL-4) as soon as possible. This form is a required part of the request for

Paid Family Leave, so it must be submitted to the PFL insurance carrier within 30 days of the first date of the PFL.

e. For Military-related Leave:

- i. US Department of Labor Military Family Leave Certification (a.k.a. Federal Military Leave Form).
- ii. Copy of Military Duty Papers.
- iii. Other documentation supporting the reason for the leave (e.g., copy of meeting notice or other meeting documentation, ceremony details, rest and recuperation orders, et cetera).

Please contact the insurance carrier directly to either request additional information or pose any questions regarding PFL. Their contact information is listed on the bottom of the Paid Family Leave Application Process Steps (PFL-1 Instructions under PFL Forms listed below).

B. Returning from PFL Early, Extending PFL, and Termination of PFL

1. If an employee would like to return from PFL earlier than initially requested or extend the PFL, the employee must send the request to the agency's HR for verification. Once verification is obtained, the employee must notify the insurance carrier of the change in schedule. The insurance carrier will then contact the agency to verify the information.
2. If employment is terminated with the City of New York or the employee moves to a non-eligible title, the agency must notify the insurance carrier that benefits are to be terminated.

C. Dispute Resolution

1. Informal Resolution. The employee and insurance carrier shall make every effort to informally resolve a denial of PFL benefits.
2. Arbitration. In the event an informal resolution is unsuccessful, any party may seek a formal resolution through arbitration. Any claim-related dispute, including eligibility, benefit rate, and duration of family leave, is subject to arbitration pursuant to procedures promulgated or approved by the New York State Chair of the Workers' Compensation Board. Awards are made in writing and are final and binding on the parties in the case subject to Article 75 of the Civil Practice Law and Rules.

D. Overpayment to the Employee from the Carrier

The employee is responsible for any overpayment made from the insurance carrier to the employee.

E. Protection from Discrimination and Retaliation

The employer is strictly prohibited from discriminating or retaliating against an employee for requesting or taking Paid Family Leave.

PFL Forms:

[PFL-1 Instructions](#)

[Absolve Portal Login Instructions](#)

[PFL-1 Bond with a Newborn, a Newly Adopted, or Foster Child](#)

[PFL-1 Assist Families in Connection with a Military Deployment](#)

[PFL-1 Care for a Family Member with a Serious Health Condition](#)

[Agency Handoff Document](#)

[PFL Waiver](#)

[List of Covered Unions](#)

[PFL Employee Fact Sheet](#)

[City of NY PFL Presentation](#)

[City of NY PFL Employee Flyer](#)

[Paid Family Leave](#)

[PFL Liaison List](#)

[NYC PFL Policy](#)

[PFL Statement of Rights](#)

PFL Forms for Managers and OJs:

[HC-0007 Request for Paid Parental Leave Form](#)

[PFL-1 Bond with a Newborn, a Newly Adopted, or Foster Child](#) (for Managers and OJs)

Louis A. Molina
Commissioner

Inquiries: Contact Citywide Personnel Policy at cpp@dcas.nyc.gov