



New York Paid Family Leave Claims

Frequently asked questions

The New York Paid Family Leave Law went into effect January 1, 2018. Here are Guardian's answers to the questions we most commonly receive from employees regarding claims/leave requests. If you need additional information, you should contact the New York State Paid Family Leave Helpline at (844) 337-6303 or visit the State of New York's Paid Family Leave website at ny.gov/paidfamilyleave.

What is Paid Family Leave (PFL) and how can it be used?

Paid Family Leave is a program instituted for employees who work in the State of New York. It provides eligible employees job-protected, paid time off so that an employee can:

- **Bond** with a newly born, adopted or fostered child;
- **Care** for a family member with a serious health condition; or
- **Assist** loved ones when a family member is deployed abroad on active military service.

Paid Family Leave can only be taken in full day increments (unlike FMLA) and can be taken on a "continuous" or "intermittent" basis.

How are PFL benefits calculated?

Benefits are calculated using an employee's Average Weekly Wage (AWW) for the last 8 weeks prior to the start of the leave / last date worked. This includes overtime, tips, bonuses and commissions — before any deductions are made by the employer. The PFL benefit percentages and maximums phase in over four years based on the below table.

Effective Date	% of Employee's AWW	Max Benefit Based NY State Average Weekly Wage (NYSAWW)*
1/1/2018	50%	\$652.96
1/1/2019	55%	\$746.41
1/1/2020	60%	\$840.70
1/1/2021	67%	\$971.61



How many weeks of PFL benefits am I eligible for?

Similar to the phased-in approach to the increasing benefit percentages, the PFL maximum durations are also being phased-in based on the following table. However, prior DBL or PFL usage may be factored into calculating current claim durations to ensure that an individual does not exceed a combined total of 26 weeks in a 52-week period.

Effective Date	Maximum PFL Duration
1/1/2018	8 weeks in a 52 week period
1/1/2019	10 weeks in a 52 week period
1/1/2020	10 weeks in a 52 week period
1/1/2021	12 weeks in a 52 week period

How do I file a PFL claim?

To file a claim for PFL, an employee should first obtain a Guardian NY PFL Claim Form / Packet. This packet can be obtained by accessing guardiananytime.com, clicking on "Forms" at the top of the page and using "PFL" in the keyword section. You can also contact our Customer Response Unit at 1-800-268-2525 to obtain a PFL Claim packet. Once the necessary portions of the packet

are “fully” completed, they can be submitted using the following methods:

- **Mail to:** Guardian PFL Claims, P.O. Box 981576, El Paso, TX 79998-1576
- **Fax to:** 1-610-807-2950
- Email (upload) by selecting “Contact Us (Secure)” on guardiananytime.com, then selecting “Secure Channel” on the right-hand side of the screen. This method is for submitting information only, not for inquiries.
- **Email to:** Paid_Family_Leave@glic.com. This method is for submitting information only, not for inquiries.

Where can I obtain the necessary Guardian PFL forms?

While the State of New York has published their own version of the Paid Family Leave claim form, we request that employees and employers use the Guardian version of the PFL claim form to ensure a more complete claim submission. Claim forms can be obtained at guardiananytime.com. Select “Forms” at the top of the page and then type “PFL” in the keyword field. Claim forms can also be requested by contacting our Customer Response Unit at 1-800-268-2525.

When should I file my claim, and how much notice do I need to provide regarding my leave?

We understand that everyone wants their PFL claim decisions to be made quickly, so we encourage employees to submit their claims as close to the date they are planning to take their leave as possible (i.e. within 2 weeks of the actual leave). Claims that are submitted too far in advance of an upcoming leave event will require that much of the information be re-verified when the actual leave date occurs. An employee is required to give their employer 30 days notice for any foreseeable leave event; however, that does not mean that an employee should file their PFL claim 30 days in advance. When a leave event is not foreseeable, an employee should provide their employer with notice of the leave as soon as practicable.

How long after taking leave do I have to submit a claim?

An employee can submit a PFL claim prior to, or within 30 days after the start of the leave. But, the employee must notify their employer at least 30 days before the leave is scheduled to start, if it’s foreseeable. Otherwise, they must notify their employer as soon as practicable.

Can my claim be denied if I don’t provide my employer with at least 30 days notice before a foreseeable leave?

Yes. Lost productivity and coverage for an absent employee is a real issue for all employers. As a result,

advance notice of an upcoming leave allows an employer the lead time that is needed to ensure coverage of any job duties and minimize any gaps in service.

What happens if a claim is submitted to Guardian in advance of the leave beginning?

While we do not encourage early claim submissions, we understand an employee’s desire to do so. Guardian will review the claim once received, but we will be unable to make a final decision on the claim until the actual leave has started. We also understand that an employee is required to provide their employer with 30 days advance notice of any foreseeable Paid Family Leave request; however, this does not mean that the actual PFL claim needs to be filed at that time. If a claim has been filed in advance of the actual leave dates, we ask that the employee notify us immediately upon the start of their leave so that we can verify any information that was supplied on the early submission.

When employees submit their leave request ahead of time, will Guardian be following up with the employer to ask for updated payroll information, or will they use the payroll information provided on the claim form?

This would depend on the amount of time between the submission of the claim and the actual leave start date, as well as the method of compensation. If the claim was submitted more than 30 days in advance, we would contact the employer to verify earnings. Typically, for hourly employees, if the claim is filed more than two weeks in advance of the actual leave dates, we would likely contact the employer to confirm the earnings through the date last worked. If the employee is salaried, and we have no reason to suspect that there has been any change to the earnings, and the claim was submitted less than 30 days in advance of the leave start date, we would likely use the amount that was provided on the initial claim submission.

What type of claim documentation/certification do I need to submit?

An employee needs to follow a few simple steps to submit a PFL claim.

Prior to filing a PFL claim, an employee must provide 30-days advance notice to their employer for any foreseeable leave. If that’s not possible, notice must be given as soon as possible. The PFL claim form includes both an employee (PFL-1 part A) and employer (PFL-1 part B) section, as well as sections that are specific to the type of leave being requested (Bonding, Caregiver, or Military Exigency). The employer will need to complete PFL-1 part B and return it to the employee within three business days. The employee must then complete Part A

of the PFL-1 form and submit their fully completed claim packet (including forms, certifications, and supporting documents) to Guardian no later than 30 days after the leave has begun.

What happens if the PFL form submitted is incomplete?

Any incomplete claim submission has the potential to delay a decision (payment) being made on the claim. Guardian will be reviewing each claim in accordance with state requirements and requesting any needed information. Once that information is obtained, Guardian then has up to 18 calendar days to make a claim decision. Submitting a fully completed claim form, as well as supplying the necessary leave form and supporting certifications will help to expedite our ability to make a claims decision.

What needs to be done when my PFL leave days are intermittent?

Intermittent claims often require an increased level of communication. The claim submission process is the same as any other type of PFL claim submission; however, each intermittent leave day that is requested by an employee often needs to be verified with their employer. Because of this, we will typically supply an employee with a leave request form which should be completed after a leave is taken, and which is then signed by their employer and submitted to Guardian.

If taking intermittent leave and I include one day a week on the claim form and I want to make it two days a week, do I need to submit a new claim form?

An employee wouldn't need to supply an entirely new claim form in most situations, but they may need to supply us with an updated certification form, in the event the original certification did not support a leave of more than one day a week. An employee can contact Guardian, if unsure how to proceed.

What should I expect after I file my PFL claim?

If all sections of the PFL claim form are fully completed by all parties, and all required supplemental forms / documentation are supplied, the claim process will flow more smoothly than if the claim is lacking any information. If information is lacking, a Guardian representative will initiate the requests for the missing information within five business days. If the missing information is received, or if the initial claim submission was complete, a decision should be made within 18 calendar days of receipt of all required information. If your claim is approved and payable, payment will typically be released one to two business days following that decision.

Am I provided any notice of when my claim has been received, and approved or denied?

Guardian provides an employee with a written confirmation of receipt of their Paid Family Leave Claim. This is typically mailed out within two business days of receipt. We ask that an employee allow ample time to receive this communication before contacting us to confirm receipt of claim. Following review of a claim, an employee will be provided with one of three communications. First, would be an approval letter advising of the favorable decision made on the claim. Second, would be a denial, stating why the claim was denied, as well as how to go about appealing that determination. Lastly, would be a request for information, should we need additional information to make a claim determination. Requests for information are typically made within five business days following receipt of the claim. These requests could also occur while the claim is active, should we need additional information to consider an extension of benefits.

What if my PFL claim is denied?

An employee has 30 days from the beginning of their leave to submit their PFL claim. If the employee does not supply documentation to support a leave request within this timeframe, the claim may be denied.

If an employee's claim is denied for any reason, they can request a review by neutral arbitration. The employee would be advised of this process when notified of the claim denial.

When do PFL benefits commence?

PFL benefits commence as of the first day of leave, unlike NY DBL which has a 7-day waiting period. However, PFL benefits could be delayed or denied if an employee has not provided their employer with 30 days notice of a foreseeable leave event.

If my leave begins in one calendar year and then extends into the next calendar year, do I receive the current year benefit amount or the benefit amount in the new year?

All claims initiated in a current year will continue to be paid based on the current year benefit provisions for the duration of the claim, even if the claim extends into the following year. For example, if a leave is initiated in December 2018 for 8 weeks, and extends into 2019, the 2018 benefit provisions will apply for the duration of the 8-week claim.

What if I continue to receive pay from my employer during a PFL leave?

If an employee continues to receive 100% of their income while on PFL, the employee cannot also collect

PFL benefit payments until those income payments cease. The employer, on the other hand, can seek reimbursement by requesting that the PFL benefits be paid directly to them. Employers should indicate this request for reimbursement on the employer portion of the PFL-1 claim form. The dates for which reimbursement is made to an employer will count toward an employee's PFL maximum duration (reducing the number of days). If an employee receives less than 100% of their income while claiming PFL, the employee can only collect PFL benefits to the extent that the combined total does not exceed 100% of their income.

What if I am currently on Disability (DBL), and want to switch to PFL (Bonding)?

This scenario only applies to Maternity claims. Should an employee wish to transition from DBL to PFL following the birth of a child, we ask that Guardian be notified prior to the date the employee would be eligible to make that transition (i.e. child's date of birth). Delay or late notification could result in a disruption of benefits during the DBL to PFL transition.

When can I take bonding time?

For birth, the leave can only be taken after the birth and is not available for prenatal conditions. A parent may take Paid Family Leave during the first 12 months following the birth, adoption, or fostering of a child. A parent may also take leave as needed related to adoption and foster care placement obligations (i.e. attending counseling sessions, travel to another country to complete an adoption, consult with doctors and attorneys representing the birth parent, appear in court, etc.).

Can PFL be used for my own serious health condition?

No, PFL benefits are not paid for one's own serious health condition. However, with regard to maternity claims, an individual could use PFL following the birth of a child (Bonding), as opposed to DBL, even though they may technically be considered disabled during the post partum recovery period.

What qualifies as a "serious health condition" for a family member?

A serious health condition is defined as an illness, injury, impairment, or physical, or mental condition requiring:

- **inpatient care** in a hospital, hospice, or inpatient/outpatient residential health facility; or
- **continuing treatment** or supervision by a health care provider.

For what qualifies as "continuing treatment or continuing supervision", see the definition of Serious Health

Condition at 12 NYCRR 355.9.

Some examples of non-serious health conditions under Paid Family Leave are conditions such as the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc.

Who is considered a "family member" for a leave related to a serious health condition?

- spouse
- domestic partner (including same and different gender couples; legal registration not required)
- child / stepchild and anyone for whom you have legal custody
- parent / stepparent
- parent-in-law
- grandparent
- grandchild
- 'in loco parentis', meaning a parent for a child even if you are not legally or biologically related to the child

How does PFL work for Military leave requests?

PFL can be used for assistance when a spouse, child, domestic partner or parent is deployed abroad on active military service. Covered events may include:

- Short-notice military deployment
- Military events; related activities
- Service member's rest, recuperation or counseling
- Post-deployment activities
- Making financial/legal arrangements
- Child care arrangements for military member's child

How long do I need to work for an employer before I am eligible to take PFL?

Most employees who work in New York State for private employers are eligible to take Paid Family Leave. Public employers may choose to offer Paid Family Leave.

- **Full-time:** Employees who work a regular schedule of 20 or more hours per week are eligible after 26 consecutive weeks of employment.
- **Part-time:** Employees who work a regular schedule of less than 20 hours per week are eligible after working 175 days, which do not need to be consecutive.

If an employee changes jobs, they must re-satisfy the above requirements with their new employer. Time worked at a previous employer does not count.

What if I have more than one job / employer?

An employee who is covered for NYPFL at two jobs will pay deductions at both and can take PFL benefits from both jobs concurrently, but the employee cannot take PFL from both jobs at separate times to exceed the PFL benefit period cap each year. For example, the employee may take eight weeks and collect their full PFL benefit payment from both employers at the same time, or the employee may choose to take PFL with only one of the jobs while working at the other, but the employee cannot take PFL with one employer for eight weeks and then with the other for an additional eight weeks.

Is my job protected and do my benefits continue while I am on PFL?

Yes, PFL coverage also offers job protection which ensures that an employee can return to the same or comparable job with the same or comparable wages and benefits. An employee may also keep their health insurance benefits while on PFL, but if they contribute to the cost of those benefits, they must continue to pay their portion while on leave. An employer is not allowed to discriminate or retaliate against an employee for taking PFL.

Does PFL run at the same time as FMLA?

Yes, NY Paid Family Leave can be taken by employees who are eligible for time off under the provisions of the FMLA. NY PFL must run concurrently with an employee's FMLA leave when the reason qualifies under both PFL and FMLA, unless an employer chooses to permit otherwise.

Is the PFL benefit taxable?

Yes. Pursuant to the Department of Tax Notice No. N-17-12, Paid Family Leave benefits are taxable non-wage income, which should be included in federal gross income for tax reporting purposes. However, taxes will not automatically be withheld from benefits. Other questions related to the taxability of Paid Family Leave benefits

should be referred to the NYS Department of Taxation and Finance and the IRS. PFL benefits paid to an employee in excess of \$600 will be recorded by Guardian at year end on a 1099 Misc for tax reporting purposes.

Can my NY PFL benefits be direct deposited?

Yes, they can. Employees can download a Direct Pay Enrollment and Authorization form at guardiananytime.com. Click on "Forms" located on the top of the screen and in the Keyword field enter "Direct Pay PFL" and click search. An employee can also call our Customer Response Unit at 1-800-268-2525 and request the form. Processing of a new Direct Deposit request can take up to 10 days after we receive the completed Direct Pay Enrollment and Authorization Form.

How should I contact Guardian?

An employee may contact Guardian using the following methods:

- **Web:** Email by selecting "Contact Us (Secure)" on guardiananytime.com, then selecting "Secure Channel" on the right-hand side of the screen. This method is for submitting information only, not for inquiries.
- **Email:** Paid_Family_Leave@glic.com (used for submission of non-secure information only — not inquiries)
- **Phone:** 1-800-268-2525, Monday – Friday, 8:00 am to 8:00 pm EST
- **Fax:** 1-610-807-2950

Employees who need further assistance can also contact the New York State Paid Family Leave Helpline directly at 1-844-337-6303.

The Guardian Life Insurance Company of America
New York, NY

guardianlife.com

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* The New York State Department of Labor annually publishes the New York State Average Weekly Wage by March 31 of each year, which will be the basis for determining the maximum benefit payable for the subsequent calendar year. https://labor.ny.gov/stats/avg_wkly_wage.shtm. The information is a general overview of New York's Disability Benefits Law and Paid Family Leave Law and is not intended to serve, nor should it be used, as legal advice. Planholders are advised to consult with appropriate legal and tax counsel to determine the impact on their business and their compliance responsibilities. In the event of any conflict between the information presented here and the relevant insurance policy and NY Law and Regulations, the policy and NY Law and Regulations shall control. Guardian, its subsidiaries, agents and employees do not provide tax, legal, or accounting advice. Consult your tax, legal, or accounting professional regarding your individual situation. Links to external sites are provided for your convenience in locating related information and services. Guardian, its subsidiaries, agents and employees expressly disclaim any responsibility for an ado not maintain, control, recommend, or endorse third-party sites, organizations, products, or services and make no representation as to the completeness, suitability, or quality thereof.