

Frequently Asked Questions About New York Paid Family Leave

PFL Basics

1. Is Paid Family Leave a job protected leave?

Yes, PFL is a job protected leave time status.

2. Is PFL available to be used one time per year?

PFL can be used multiple times in a 52-week period, to a maximum of the full PFL entitlement.

3. Are Campus Administrators obligated to inform employees of PFL like they are FMLA?

Yes, Campus Administrators will have a Notice to Employees that should be provided to employees.

4. Are the weeks available to employees split between the parents such as with FMLA if they both work for the same employer?

No, each employee is entitled to their own bank of leave. Parents who both work for SUNY do not have the split PFL time.

5. Most part-time academics work full time elsewhere (not state agency), are they able to receive full PFL from both employers?

Yes, assuming the employee's part-time employment with both employers qualifies them for NYS PFL benefits, employees can receive PFL benefits from multiple employers.

6. Are siblings included for caring for a family member?

Yes, siblings are now a qualified family member relationship starting 1/1/2023.

7. Can you clarify what will happen when VRWS gets suspended after 28 consecutive days? Can the employee no longer has a VRWS once a certain amount of time passes?

Employees will not lose VRWS time, but their participation in the program ends when they are not actively at work. They can apply to reestablish their participation once they return to work.

8. Does PFL interrupt tenure clock?

The tenure stop clock language (for applicable UUP represented staff) for the birth/adoption/foster care of a child is an entitlement if the employee requests it. An employee's continuous PFL leave of absence (without a concurrent request to stop the tenure clock) is treated as an "unpaid" leave which under The SUNY Board of Trustees Policies service credit language, is not counted toward tenure.

Calculating Time and Benefits

1. How are days counted for part-time employees? Example: Employee works 2 full days and 1 half day per week.

In this scenario you would report 3 days for part-time Professionals.

2. Do we count 4 full pay periods prior to the beginning of PFL or actual 8 calendar weeks? i.e. how to count prior 8 weeks if PFL begins on a Monday?

Look at the four full pay periods (8 weeks total) prior to leave beginning. These may not be consecutive pay periods.

3. Does the intermittent leave pay for normal hours of work for flex shift employees?

PFL benefits are based on number of days worked rather than hours worked. The PFL calculation will be averaged based on the 8 weeks look back period provided on the claim form.

4. How are daily rates calculated for intermittent leaves?

The Standard will look at the average pay and the average number of days worked over the last full 8 weeks (4 pay periods) worked.

5. If we have an employee working 12-hour days, do they get compensated 8 or 12 hours from The Standard?

PFL calculations are based on the average pay over the average number of days worked. The actual number of hours worked does not factor into the calculation.

Non-Obligation Periods:

1. How do you count 12 weeks of PFL when period of non-obligation (i.e., FT faculty between semesters) falls within 12 weeks?

When work obligation ends and they are no longer working, the PFL claim will end as well. If an employee comes back to work at a future date, they can re-file a PFL claim and use their remaining time subject to the Eligibility Section of the policy.

2. When determining eligibility, how do we account for non-obligation periods that occur within the first 26 weeks of employment?

The non-obligation period will not count towards 26 weeks, but the count will start again when they come back to work. The non-obligation period cannot last more than 26 weeks in order for the total time to count towards eligibility.

3. What if non-obligation occurs just prior to PFL? Do we count the salary paid during that non-obligation? or we only count prior 8 weeks when employee was paid AND working?

PFL reporting should only include weeks where the employee is both paid and working. Non-obligation periods where an employee is not working should not be included in calculations.

Payroll Transactions and Premiums

1. How should or will employees be paid during the 18 to 30 days approval period? Should a transaction be completed taking off payroll?

Campus Administrators do not need to wait for payment to process a payroll transaction. A PayServ transaction should be completed if an employee requests PFL.

2. Regarding intermittent leave transactions in SUNY HR – Every single day that will be taken as a PFL will have to be entered into SUNYHR? For example, if the person takes one day a week for 12 weeks, the campus will have to enter in the separate transactions for each of these days?

Transactions can be entered all at once if dates are known in advance. However, a new transaction will need to take place if dates change.

3. How will retro premiums be collected?

Campuses will be responsible for calculating missed premiums and should contact SUNY System Admin Benefits team for the collection of retro premiums.

4. Will we have to reconcile reports and have possible overpayments?

Campus Administrators will not need to reconcile reports for overpayments, however if a discrepancy is found, please notify The Standard.

Waiver of Benefits

1. What is the deadline to submit waiver of PFL benefits?

Premium deductions begin on date of hire. An employee may submit the waiver at any time but will not be eligible for any reimbursement of deductions taken prior to the waiver submission. There is no deadline to submit waiver of PFL benefits. PFL waiver is available to employees who will not meet eligibility requirements.

2. We have hundreds of adjunct faculty with no set work schedule. Do we send them a waiver?

Campus Administrators may provide a waiver to whomever they feel may be eligible to apply for a waiver. Along with the waiver form, please provide the SUNY-specific instructions and eligibility criteria so that employees can determine on their own if they would like to complete the waiver request. Upon receipt of the completed form, campuses will need to verify eligibility before processing the waiver.

3. Are employees that live outside NY State eligible for waiver?

For PFL, where an employee lives is not relevant. The employees work state is what determines potential eligibility. The same waiver process for employees who live in NY State should be followed for those who do not.

4. For a brand new employee, do we enter waiver until eligibility is met and then we enter a transaction to begin taking the deduction? In other words, will deduction begin automatically, or it doesn't begin until we start it?

The deduction will begin automatically for PFL. You should not enter a waiver for an employee unless the waiver paperwork is completed and returned to you, and you have verified that the employee is eligible to receive the waiver.

5. If someone hands in a waiver after they have already had a PFL deduction taken, is the person due a refund, or does the waiver only take effect on a prospective basis?

The waiver will take effect only on a prospective basis – no refunding will occur unless due to delays by the state in processing the waiver.

6. Can an employee who was currently eligible for PFL in one position, who then moved to another position (per diem for example) apply for a PFL waiver? No, this employee would remain eligible for NY PFL. Once eligibility is met/attained for NY PFL, then eligibility continues unless there is a separation from employment for at least 26 weeks.

Eligibility

1. How is eligibility established?

After 26 weeks or 175 days of work.

2. For Academics who teach, does the eligibility requirement mean two classes regardless of how many credits per class?

Yes, the requirement is two classes, regardless of number of credits.

3. Is the 175 days in one year?

This does not need to be within one calendar year. <https://www.cs.ny.gov/pfl/faq/>

4. Will all Executive Branch M/C employees have access to Paid Family Leave?

Yes. All Executive Branch M/C employees in Bargaining Units 06, 18, 46, 66, and 98 will have access to the Paid Family Leave benefit.

However, if an employee does not expect to work for their employer for the minimum amount of time required for eligibility for Paid Family Leave — the employee does not expect to work a regular schedule of 20 or more hours per week for 26 consecutive weeks or does not expect to work a regular schedule of less than 20 hours per week for 175 days, which do not need to be consecutive, in a 52-week period — the employee may opt out of Paid Family Leave. Please contact your state agency's human resources office for additional information.

5. After coming off PFL, does the EE need to re-establish eligibility – 26 weeks or 175 days – before they are eligible again?

Employees do not need to reestablish eligibility when they return to work so long as they meet the eligibility provisions in the eligibility section of the policy.

6. If a UUP non-teaching employee is hired as a per diem, (no set number of days working each week), but is working enough to hit the 175 days, would the employee be eligible for PFL?

Yes, an employee would qualify for PFL even if they do not have a set number of days.

7. What if employees work online? Example: Adjunct faculty who live outside of the NYS (and outside the US) who never physically come to NY State. Are they eligible for PFL?

Yes, as long as they are an employee of SUNY and other eligibility requirements are met. The employee does not need to physically be in New York, or the United States, to be eligible for PFL.

8. What is the “look back” for determining eligibility? Just current annual service or total state service, or other?

It would not be based only on current annual service, but total service with SUNY as long as there has not been a period of separation of greater than 26 weeks.

9. If an EE comes from another state agency, does that time also count for eligibility purposes?

No, only UUP and MC13 groups are currently covered by The Standard so transfer from another state agency would not count towards eligibility at this time.

10. How does retirement service credit work for PFL time?

Retirement contributions are not made, and service credits are not accrued during any period of LWOP, including PFL.

Claims

1. What forms should be utilized to submit claims?

The Standard’s forms can be used:

- Bonding Packet - State University of New York
https://www.standard.com/eforms/sny19378_430237.pdf
- Care of Family Member Packet - State University of New York
https://www.standard.com/eforms/sny19379_430237.pdf
- Assist Family Members - Military Qualifying Event Packet - State University of New York
https://www.standard.com/eforms/sny19380_430237.pdf

2. Regarding Care for a Parent: Does either parent mean it could be used by both parents simultaneously?

Yes, both parents can use PFL time concurrently.

3. Can PFL be taken effective the first date of birth of a child (for the mother of the child)?

Yes, if the employee is not taking another paid leave.

4. Can someone take PFL in 2023 for bonding with a child for which they took FMLA in 2022?

Yes, an employee can use PFL in 2023 for bonding with a child even if they've used FMLA time for the same child in 2022. All time must be used within 52 weeks of the birth or adoption of the child.

5. Is the Employer notified if an Employee’s claim is denied?

Yes, Campus Administrators will receive a weekly report showing claims status. A notification will also be sent if a claim is approved or denied.

6. Can you provide examples of reasons for denials?

PFL denials do not happen often. Examples of a reason for a PFL Claim denial include:

- Employee does not meet eligibility.
- Family relationship is not a covered relationship (such as Aunt/Uncle).
- Employee has already used their full PFL entitlement.

7. Who are authorized health care providers?

Authorized health care providers are the party responsible for the direct care of the recipient (patient). Examples of health care providers include Medical Doctor (MD), Doctor of Osteopathy (DO), Doctor of Podiatric Medicine (DPM), Doctor of Chiropractic Medicine (DC), Dentist (DDS/DDM), Physician's Assistant (PA), Nurse Practitioner (NP), Licensed Psychologist or Licensed Social Worker (LMSW/LCSW).

8. Which Employee ID Number should be provided on the claim form?

The Employee ID used on the PFL claim form should be NY State ID that begins with the letter N.

9. If an employee takes 12 weeks of FMLA, exhausts it, then chooses to take PFL. Is this allowed? (providing it's a PFL/FMLA qualifying event).

If the leave qualifies under both PFL and FMLA, and are opting to not use their time Accruals, the PFL and FMLA time should be used concurrently. Employees can also choose to use FMLA and Accrual time concurrently, and may be able to use PFL time after FMLA has been exhausted. Under no circumstance can an employee use PFL and Accruals at same time.

10. If an employee works for two different employers and is paying into PFL with both, are they entitled to the max pay with individual employer or just the total state max?

Yes, an employee can file under multiple employers. If an employee chooses to do this, it would have to be for the same condition and same period of time. Additional guidance will be provided for multi-campus appointments.

11. How do we know if the leave dates given to The Standard are the same given to SUNY?

Campus Administrators will receive a weekly report with dates noted.

12. Is the benefit available based on the qualifying event or the time the leave is taken? Example: If someone has a child in 2022 and takes PFL for the first time in 2022, but then finishes their available 12 weeks in 2023, do they get the 2023 benefits in 2023 or the 2022 benefits?

The 12 weeks of PFL time must be used within 52 weeks of the qualifying event. If the PFL time goes into the following calendar year, the benefits and time allowed will remain the same due to the date the leave began.

13. If an employee is charging leave accruals for a day that qualifies for PFL, they will not have that day charged against their PFL entitlement, but will that absence be a job protected leave day?

Leave accruals and PFL cannot be used at the same time. The accruals leave may be job protected if it also qualifies for FMLA.

14. A UUP employee has a baby in February 2022. She takes seven months of NYS unpaid childcare leave, and for the first 12 weeks of this leave, she also charges accruals for 12 weeks, during her 12 weeks of FMLA leave (all during/within the seven-month NYS childcare leave). When the seven-month leave is over (four months later), can she then elect to take 12 weeks of PFL to bond with her child?

Yes, she would be able to take this leave after exhausting other programs. NY PFL is a separate entitlement from the FMLA so the exhaustion of FMLA does not impact availability of PFL.

15. Are NY PFL Benefits Taxable?

We strongly suggest employees contact their tax advisor for any tax advice. NY PFL benefits are considered taxable. The Standard mails 1099-M forms to employees who received NY PFL benefit payments during the year, these are typically mailed by the deadline of January 31st each year for the prior calendar year. Employees can request copies of these 1099-M forms from The Standard if these have not been received or were lost.

Continuing Health Insurance

1. Will NYSHIP coverage remain while employee is out on PFL? Will the employee continue to pay their share of the premiums?

Yes, NYSHIP coverage is continued while an employee is on PFL. Premiums will be collected as a direct payment or via the employee paycheck, depending on the length of the leave (i.e., intermittent leave).

2. Is there a NYBEAS (department of civil services Benefit Administration System for Health Insurance) code made available to continue Employee-only premium rates while on PFL?

Yes. Please reference NY HBA Memo 18-01 for more information on these codes.

3. Will PFL employees with NYSHIP coverage receive invoices from EBD.

If an employee is on intermittent leave and is also receiving a paycheck that is large enough to take the health insurance deduction, it will be taken for that pay period. If the employee is only receiving PFL benefits for that pay period, they will be direct billed for their portion of the premiums.