

New York DBL and PFL Employer Resource Guide



The Standard Life Insurance Company of New York is committed to helping you navigate NY Disability Benefits Law and NY Paid Family Leave. Please retain this resource guide as it contains important links. The most updated version of this guide can be found [here](#).



This is a brief summary of benefits and responsibilities under your group policy. If there is any discrepancy between this material and the group policy or plan document, the group policy or plan document will govern.

- [General Information](#)
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General Information

The state of New York requires employers to provide disability benefits coverage to employees for an off-the-job injury or illness. The Disability Benefits Law, or DBL, provides weekly cash benefits to replace, in part, wages lost due to injuries or illnesses that do not arise out of or in the course of employment. Medical care is the responsibility of the employee and is not paid for by the employer or insurance carrier. Paid family leave, or PFL, coverage is typically a rider on an employer's DBL insurance policy.

We offer several informational flyers to help employers and employees with a general understanding of DBL and PFL benefits available under your private plan administered by The Standard Life Insurance Company of New York.

For DBL, please see [Understanding DBL Benefits](#), [Private Plans for DBL](#) and [DBL Maternity FAQs](#).

For PFL, please see [What Employers Need to Know About PFL](#), [PFL Basics for Employees](#) (also in [Spanish](#)) and [PFL for Sibling Care](#). Estimate a weekly PFL benefit amount using our [Benefit Calculator](#).

The [Statutory and Paid Leave Reference Guide](#) and our [Interactive Map](#) both provide a general nationwide summary of PFML and other statutory benefits.

Employer Responsibilities

- Provide coverage
 - There must be no lapse in coverage, even when switching insurers
 - Provide a waiver to employees who qualify for one (see section on opting out/waivers)
- Post employee notices
- Calculate, collect and remit employee payroll contributions
- Complete employer's portion of claim forms

Provide coverage

New York State employers' duty to provide coverage

Virtually all employers in New York must provide DBL and PFL benefits coverage for their employees. An employer who has had one or more employees in New York employment on each of at least 30 days in any calendar year is a "covered employer". They are then subject to DBL beginning after the expiration of four weeks following the 30th day of such employment. These 30 days of employment need not be consecutive days but must be workdays of employment in one calendar year. If payroll is reported to the state under a Tax ID that doesn't have a registered DBL policy in place, the employer could be fined.

Additionally, an employer who by operation of law becomes successor to a covered employer, or who acquires by purchase or otherwise the trade or business of a covered employer, immediately becomes a covered employer.

A public employer, defined as the state of New York, any political subdivision of the state of New York, a public authority or any government agency or instrumentality, is excluded from mandatory coverage, but may voluntarily opt into New York paid family leave coverage with [Voluntary Coverage No Employee Contribution PFL-135](#) or [Voluntary Coverage With Employee Contribution PFL-136](#) at any time. Paid family leave coverage for non-represented employees can be determined by the public employer. A labor union may collectively bargain with a public employer to provide paid family leave benefits to represented employees. For more detail, visit the [NY Public Employer Page](#).

Out-of-state employers' duty to provide coverage

New York DBL and PFL is required if an out-of-state business employs one or more workers whose work is localized in New York on each of at least 30 days in a calendar year.

An employee's service is considered localized in New York if:

- It is entirely performed within New York, or
- The employee sometimes works outside New York, but the out-of-state work is incidental, temporary or transitory in nature or consists of isolated transactions outside the state

An employee's service that is not localized in any one location might still count as employment if:

- The employee's base of operations is in New York, or
- There is no base of operations in any state where some of the service is performed, but the place where the service is directed or controlled is in New York, or
- The base of operations or place from which the employee's service is directed or controlled isn't in any state where the service is performed, but the employee lives in New York

Many businesses whose only locations are outside New York have employees working for them who live in New York. These employees, who are NY residents, commute to work to their employer's out-of-state business locations. Out-of-state employers having employees that just live in New York and commute to work at a company location outside New York are not required to carry New York DBL and PFL benefits insurance.

The state of New York has published additional information regarding specific coverage requirements for DBL and PFL insurance, including some types of employers that are not required to provide coverage. Businesses who are unsure whether they are required to obtain NY DBL and PFL coverage can contact the Bureau of Compliance at 866.298.7830.

Eligible employees

DBL

- Full-time employees who work four consecutive weeks of covered employment are eligible for benefits.
- Part-time employees who work 25 days with a covered employer (need not be consecutive or within same year) are eligible.
- Domestic or personal employees who work 40 or more hours per week for one covered employer are eligible.
- Employees who change jobs from one covered employer to another covered employer are eligible from the first day on the new job.
- Unemployed individuals
 - If the employee has been unemployed for less than four weeks, disability insurance benefits are provided by the last employer's disability coverage and the seven-day waiting period applies.
 - If the employee has been unemployed for more than four weeks and is collecting unemployment insurance benefits, the Workers' Compensation Board Special Fund for Disability will provide disability benefits and no waiting period is required.

PFL

- 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 in a 52-week period, which do not need to be consecutive.
- Employees with irregular schedules should look at their average schedule to determine if they work, on average, fewer than 20 hours per week.
- Domestic or personal employees who work 20 or more hours per week for one employer.
- Citizenship and/or immigration status is not a factor in employee eligibility.
- Once employees meet the eligibility requirements for PFL, they remain eligible for that employer until employment is terminated. If employees start a new job, they must work long enough with their new employer to meet the eligibility requirement.

The use of scheduled vacation time; the use of personal, sick or other time away from work that has been approved by the employer; or any other period where the employee is away from work but is still considered to be an employee by the employer is counted as consecutive weeks or consecutive work weeks, or days worked, as long as the contributions to the cost of family leave benefits have been paid during these periods of time. However, periods of DBL do not count as consecutive weeks or days worked for determining eligibility for PFL.

Once employees meet the eligibility requirements for PFL, they remain eligible for that employer until employment is terminated. If employees start a new job, they must work long enough with their new employer to meet the eligibility requirement.

DBL and PFL exemptions

Coverage is not required for the following employees; however, covered employers with excluded classes of employees can extend DBL/PFL coverage to those classes on a voluntary basis. Voluntary coverage is not on the individual level but must be extended to at least an entire class of employees.

- A minor child of the employer
- Ministers, priests, rabbis, members of religious orders, sextons or Christian Science readers
- Individuals that volunteer their services for nonprofit organizations and receive no compensation
 - Compensation includes stipends, room and board and other “perks” that have monetary value (stipends used solely to offset expenses incurred while performing activities for the nonprofit are not counted as stipends)
- An executive officer of an incorporated religious, charitable or educational institution
- Persons engaged in a professional or teaching capacity in or for a religious, charitable or educational institution (Section 501(c)(3) under the IRS tax code)
- Persons receiving rehabilitation services in a sheltered workshop operated by such institutions under a certificate issued by the U.S. Department of Labor
- Persons receiving aid from a religious or charitable institution, who perform work in return for such aid
- Golf caddies
- Daytime students in elementary or secondary school, who work part-time during the school year or their regular vacation period.
- A corporation owned by one or two persons, with those individuals owning all of the stock and holding all offices of the corporation (each individual must hold an office and own at least one share of stock)
 - Other than the corporate officer(s), there are no employees, day labor, leased employees, borrowed employees, part-time employees, other stockholders, unpaid volunteers (including family members) or subcontractors; however, DBL and PFL coverage is required if the corporation has more than two corporate officers or more than two shareholders, or where the one or two corporate officers do not own all the shares of stock
- Partnerships, LLCs and LLPs that do not have employees (members and partners are not considered employees for the purposes of obtaining disability benefits insurance but may elect to voluntarily cover themselves)
- A sole proprietor who does not have employees; however, a sole proprietor may voluntarily cover themselves under a DBL and PFL policy
- Sole proprietorships, regular partnerships, individual trustees, individual receivers and legal representatives may be eligible for spousal exemptions from the coverage requirements under DBL and PFL mandates
 - This election is final and binding on the spouse named in the notice until revoked by the employer (to exclude a spouse from DBL and PFL coverage, the employer must notify both the board and their carrier with an updated [Notice of Election to Voluntarily Exclude Spouse from Coverage DB-212.5](#))
- Employees who are receiving, or entitled to receive, old age insurance benefits under Title II of the Social Security Act must file an [Employee’s Statement of Exempt Status DB130](#) with the employer and the chair of the Worker’s Compensation Board

Waivers

It is the employer’s responsibility to identify employees who will not meet the minimum eligibility requirements for PFL and offer these employees a waiver. Coverage can only be waived if the employee will not meet the minimum time worked requirements for PFL. In other words, if the employee regularly works less than 20 hours per week and will not work 175 days in a year, OR if the employee regularly works 20 or more hours per week but won’t be in employment for 26 consecutive weeks.

If an employee meets the criteria above, the employer must provide the employee with form: [Employee Opt-Out of Paid Family Leave Benefits \(PFL-Waiver\)](#).

- If an employee waives coverage, they will not make contributions and will not be eligible for PFL benefits.
- The employer must keep a copy of all completed waivers on file.
- If an employee's schedule changes such that they will meet the minimum requirements for eligibility, the waiver will automatically be revoked. Employees can voluntarily revoke a waiver at any time.
- If a waiver is revoked (either automatically or by the employee) an employer may begin taking payroll deductions and may retroactively collect deductions from the date the waiver was signed.

Employee notices

DBL:

- The Standard will provide a customized [DBL Notice of Compliance DB-120](#) (link is sample only). Once received, the employer must post this notice and “maintain it conspicuously” at their place/ places of business. This form will also be provided in Spanish upon request.
- The employer must provide a [DBL Statement of Rights DB-271S](#) to the employee within five days after the employee is absent due to disability for more than seven consecutive days (or within five days after the employer learns the seven-day absence is due to a disability, whichever is later). This form is also available in [Spanish](#).
- Employers are responsible for giving an [Employer ID card DB-125](#) to any employee who is leaving the employer's employment. This form provides instruction to the newly unemployed individual about how to apply for benefits.

PFL:

- The Standard will provide a customized [PFL Notice of Compliance PFL-120](#) (link is sample only). Once received, the employer must post this notice and “maintain it conspicuously” at their place/ places of business. This form will also be provided in Spanish upon request.
- The employer must provide employees a [PFL Statement of Rights PFL-271S](#), which may be included in an employee handbook or provided separately. This form is also available in [Spanish](#).

Contributions

Calculate, collect and remit employee payroll contributions

- DBL and PFL contributions are deducted from employees' after-tax wages.
- An employer may collect employee premium contributions for PFL while an employee is receiving PFL benefits; however, an employer may not collect employee premium contributions for PFL if an employee is taking DBL leave and has not yet become eligible for PFL benefits.
- Learn how to [calculate NY PFL premium contributions for an individual](#).
- Premiums will be self-administered. Employers will provide The Standard with aggregate figures for number of lives, volume and premium in accordance with the selected billing mode. The most common billing type is quarterly in arrears, but The Standard offers multiple billing options.
- Report employee contributions on tax Form W-2 using Box 14 – State Disability Insurance taxes withheld.

Wages

New York State [fully defines wages at 12 CRR-NY 357.1](#). In summary, wages include salaries, commissions, bonuses and the reasonable monetary value of board, rent, housing, lodging or similar.

Tips or gratuities received by an employee in the course of his employment from a person other than his employer are included as wages if the employee works at a job in which tips and gratuities generally make up part of the employee's pay.

Wages do not include severance payments that the employer is not legally required to make. Nor do wages include the amount paid to, or on behalf of, any employee for insurance or annuities, or into a fund to provide for any such payment, on account of retirement, sickness or accident disability, or medical and hospitalization expenses in connection with sickness disability, accident disability or death.

Claims

For a DBL claim, employees should file a [New York State Disability Claim DB-450](#) (also available in Spanish) as soon as they believe they will be absent from work beyond seven calendar days, or within 30 days of becoming disabled. Employees can report a claim up to four weeks in advance of a planned absence. If the employee was injured in a no-fault motor vehicle accident or the injury is result of negligence/wrongdoing of a third party, the employee should file a [Claimant's Statement of No Fault or Personal Injury DB-450.1](#).

For a PFL claim, employees should file a claim as soon as they believe they will be absent from work for a qualifying need. PFL requires at least 30 days' advance notice of intention to use family leave for foreseeable leave. Unforeseeable leave requires notice as soon as practicable. Employees can report a claim up to four weeks in advance of a planned absence. Claim forms are available on the [forms page at Standard.com](#).

See this FAQ for [more information on filing a claim](#).

Intermittent leave

Intermittent leave is not permitted for DBL.

PFL may be taken intermittently or continuously. If taken intermittently, PFL may be taken in full-day increments only — hourly or partial day increments are not permitted. During an intermittent PFL leave, if no leave is taken for three months, the intermittent PFL claim will close automatically, and a new claim will need to be completed and submitted before taking additional leave.

Employer reimbursement for fully insured group policies

DBL can be paid as a full or partial period of reimbursement claim to the employer at their request, as long as this is communicated to The Standard at the start of the leave. The Standard cannot make retroactive reimbursement payments once a claim has been processed. This is only available if the employer is continuing wages for the employee through salary continuation, paid time off or sick time. This request is made on the employer statement by completing question six, and checks are made payable and mailed to the employer.

PFL can be paid as a full or partial period of reimbursement claim to the employer at their request, as long as this is communicated to The Standard at the start of the leave. The Standard cannot make retroactive reimbursement payments once a claim has been processed. If the employer will be requesting reimbursement, the employer must indicate on the Request for Paid Family Leave (Form PFL-1, Part B, Question 10) that they are paying the employee their full wages and requesting reimbursement from the insurance carrier. If the employer fails to select "yes" for requesting reimbursement from the insurance carrier, the employer will waive the right to reimbursement.

Once a leave has been approved

Job protection

DBL does not provide job protection; however, another leave that provides job protection such as FMLA or certain state laws may run concurrently with DBL.

Under PFL, employees must be provided job protection and the ability to return to the same job or a comparable one with comparable employment benefits upon returning from taking PFL.

Continuation of health benefits

Continuation of health benefits is not required by law for DBL.

An employee taking PFL must be allowed to keep their health insurance while on leave. If the employee regularly contributes to the cost of their health insurance, they must continue to pay their portion of the premium while on leave.

Continued accrual of leave

Accruing paid time off while on PFL depends on the employer's policy. Employers should clarify for their employees whether they allow employees to continue to accrue leave while out on PFL. Employer policies around continued accrual of leave should be applied equally across the entire employee population.

Supplemental or topping off

DBL is not payable if an employee is working or receiving salary continuation. If an employer continues an employee's salary while on DBL, it would be considered advancing the employee's disability benefit and an employer has the right to request reimbursement for the DBL payment due. If an employee is paid regular salary and the employer does not request reimbursement, then the DBL claim is not payable, and it would be denied.

DBL is under the authority of the Workers' Compensation Law, and as such, vacation and severance pay are not considered remuneration. Therefore, an employee may receive DBL benefits simultaneously with vacation or severance pay. Notably, if the remuneration paid to a disabled employee is vacation pay, it is not considered an advance of the DBL payment, and the employer cannot request reimbursement.

If an employer chooses to allow it, employees can receive PFL payments and be paid other income from their employer to receive a total of 100% of wages; however, an employee cannot receive more than their full wages while receiving PFL benefits.

An employer cannot require employees to exhaust their accumulated PTO before letting them utilize PFL leave (unless it's an approved FMLA leave). If an employer chooses to allow employees to supplement PFL with accrued paid time, this policy should be applied equally across the entire employee population.

Use of accrued paid time off to supplement PFL would be covered by the same rights and protections afforded to employees under the Paid Family Leave Law, including the right to keep health insurance and the right to be reinstated to the same job (or a comparable one) when the employee returns from leave.

Concurrency

- FMLA will apply concurrently with DBL or PFL if applicable. Employees of employers without Absence Management Services through The Standard must apply for FMLA separately.
- NY Domestic Violence Leave can apply concurrently with DBL if applicable.
- Social Security Retirement benefits can be collected concurrently with DBL.
- Social Security Disability benefits cannot be collected concurrently with DBL. If an employee who is receiving Social Security Disability benefits also files a claim for DBL (or vice versa), the employee will receive the larger of the two benefits, but not both. Generally, this means DBL will no longer pay.
- DBL and PFL cannot be collected concurrently.
- New York State Paid Sick Leave cannot be collected concurrently with PFL.
- Unemployment benefits cannot be collected concurrently with DBL or PFL.
- Workers' Compensation benefits for a total disability cannot be collected concurrently with PFL. If an employee is on a reduced earnings schedule due to Workers' Compensation, they may be eligible for PFL.

Spouses

Although an employer cannot prohibit an employee and their spouse from taking PFL at different times, if two spouses work for the same employer, the employer is permitted to set company policy on whether those two employees are allowed take PFL at the same time for the same qualifying event. Whether the employer allows two employees to take PFL at the same time for the same qualifying event or not, the policy should be applied equally across the entire employee population.

Claim when coverage terminates

In cases when employers move from one private plan to another, or from a private plan to the state plan, benefits awarded to an employee are generally continued by the plan that initially awarded the benefits for the full duration of the employee's approved leave.

If an employee has an open intermittent claim at the time coverage switches, the employee will continue with the original carrier or state plan until the claim is exhausted, or until the employee has a three-month gap in leave. Intermittent PFL claims close automatically if no leave is taken for three months, and a new claim would need to be completed and submitted before taking additional leave. The new claim would be submitted to the new carrier or state plan.

Private Plan Maintenance

Certificate of insurance coverage

Upon request, The Standard will provide a customized [Certificate of Insurance Coverage Under DBL and PFL Law DB-120.1](#) (link is sample only). All businesses covered by DBL and PFL insurance and applying for a permit, license or contract from a government entity in NY will need this certificate as proof that the business is covered by a New York DBL and PFL benefits insurance policy.

Annual updates

Effective January 1 of each year, New York State makes adjustments in State Average Weekly Wage, or SAWW, and PFL rates. PFL notices are updated and distributed to employers by the end of December each year, while DBL notices are updated and distributed with your policy renewal.

When changing state requirements result in policy updates, The Standard will provide a policy endorsement bringing employer coverage into alignment with updated state law. Updated notices and any required policy endorsements will be finalized and mailed to employers by the end of December each year.

Employer FEIN

Each business that is a legal entity (e.g., sole proprietorship, partnership, corporation, etc.) has its own, unique Federal Employer Identification Number, or FEIN, assigned to it.

Employers must notify The Standard of FEIN(s) when:

- Obtaining or modifying DBL and PFL benefits coverage
- Changing their legal entity type
- Adding new legal entities to their business operations

When an employer purchases coverage from The Standard, we will electronically file all provided FEINs with the board. This process is automated for default coverage; however, the board will review any policy with enhancements or customizations to ensure the benefit is “at least as favorable” as statutory benefits and will notify The Standard of its determination.

Making changes to your approved private plan

If you would like to add enhanced benefits to your DBL or PFL coverage, contact The Standard. We will discuss options with you and file all required notifications of enhanced benefits with the Workers’ Compensation Board. The board will review the coverage updates to ensure the benefit remains “at least as favorable” as statutory benefits and will notify The Standard of its determination.

Terminating your private plan

If you need to terminate your private plan, please contact The Standard and we will notify the state on your behalf.

Learn More

Learn more about:

- [NY Guide to Taxation of Employee Disability Benefits \(DBL, STD and LTD\)](#), [Taxation of PFL and PFML Benefits](#) and [Taxation of Income Replacement Benefits](#)
- Why [STD coverage combined with DBL](#) is an integral part of protecting employee income

If you have additional questions that aren't covered here, please contact your account manager or call our customer service number at 866.756.8116, Monday through Friday, 8 a.m. – 8p.m. Eastern Standard Time.



This material is provided for informational purposes only and is subject to change based on legislative and regulatory developments. This material should not be relied upon for tax, legal or other professional advice. We recommend you consult with your professional advisor.

All coverage is subject to the terms and conditions of the group policy or plan document. If there is any discrepancy between this material and the group policy or plan document, the group policy or plan documents will govern. NY PFL and DBL is underwritten by The Standard Life Insurance Company of New York and is provided under policy form numbers: GPNY0500-DBL-P and GPNY0500-DBL-P/RPFL/2024

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