

## What Employers Need to Know: New York Paid Family Leave



This program provides job-protected, wage replacement to employees when time is needed to bond with a child, care for a close relative with a serious health condition, or help relieve family pressures when someone is called to active military service.

In 2023, the maximum weekly payout is \$1,131.08 (67% of the state average weekly wage). Employees may take the maximum benefit weeks in any given 52-week period. The 52-week clock starts on the first day the employee takes Paid Family Leave.

Paid Family Leave coverage is included under the Arch Disability policy and added by a rider. The premium for Paid Family Leave is fully funded by employees through payroll deductions. You will see a separate line item on your Arch invoice for Paid Family Leave payments.

The employee contribution rate is set by New York State each year. The weekly 2023 employee contribution rate for Paid Family Leave is 0.455% of the employee’s average weekly wage capped at the annualized New York State average weekly wage of \$87,785. This equals an annual 2023 maximum contribution of \$399.43 per employee.

### Calculating Employee Contributions

Employees Making <u>Less</u> Than \$87,785 Annually	Employees Making <u>More</u> Than \$87,785 Annually
<p>Weekly Contribution = Weekly Wage X 0.00455</p> <p><b>Example</b> Weekly Wage: \$400/week <math>\\$400 \times 0.00455 = \\$1.82</math></p>	<p>Weekly Contribution = Weekly Wage X 0.00455</p> <p><b>Example</b> Weekly Wage: \$1,600/week <math>\\$1,600 \times 0.00455 = \\$7.28</math> Contributions capped at the 2023 annual maximum of \$399.43</p>

Please notify your payroll provider to cap annual Paid Family Leave contributions at \$399.43 per employee annually.

## Paid Family Leave Guidelines

### Participation

All eligible employees covered under the NYS Disability policy must participate in Paid Family Leave as long as they meet the following criteria:

- **Full-Time Employees** Scheduled to work 20 or more hours per week and will work 26 consecutive weeks.
- **Part-Time Employees** A regular work schedule of less than 20 hours per week are eligible after 175 days worked.
- All new eligible employees must make PFL contributions from first day of employment.
- Employees who live in another state, but work in New York are required to participate in New York Paid Family Leave and are eligible for benefits.

## Family Leave Waiver

In limited circumstances, employees whose regular work schedules are temporary or seasonal may opt out of Paid Family Leave and file a waiver. These employees will not be eligible for PFL benefits and will not be required to make contributions. If an employee's status changes and they now meet the eligibility criteria, their waiver will be revoked and they will be required to make contributions, including any retroactive amounts due from date of hire (not to exceed the annual

## Eligibility for PFL Benefits

Employees must meet the minimum qualification to be eligible to file for NY Paid Family Leave

- **Full-time employees** must have worked at least 26 consecutive weeks at their current employer.
- **Part-time employees** must have worked at least 175 days since the hire date.
- **New employees** must meet the above qualifications before they can file for benefits.

## Paying Your Premium

Paid Family Leave is billed on the same invoice as NY DBL. Instructions to complete the PFL portion of the invoice can be found on the invoice and at the Arch Insurance website ([www.archinsurance.com/disability](http://www.archinsurance.com/disability)).

## Taxation

The following information was extracted from a New York State Dept. of Taxation and Finance memo (N-17-12) dated August, 2017.

- Benefits paid to employees will be taxable non-wage income that must be included in federal gross income.
- Taxes will not automatically be withheld from benefits; employees can request voluntary tax withholding.
- Employers should report employee contributions on Form W-2 using Box 14 – State disability insurance taxes withheld.
- Benefits will be reported by Arch on 1099-MISC form after the year has ended.

## Employer FAQ's

### Are employers required to take PFL deductions?

PFL as designed by the state is to be funded from employee contributions, however, you as the employer are not required to make this deduction and may pay the PFL premium yourself. The employer is ultimately responsible for remitting the full DBL and PFL premium to Arch.

### What if I start early deductions and an employee leaves my company before January – do I have to refund the PFL deductions?

Deductions do not have to be refunded.

### Can I retroactively collect contributions from Employees?

Contributions cannot be collected retroactively for "eligible" employees to the PFL plan.

For employees who have "waived" coverage, you may retroactively collect contributions back to the employees date of hire only when the "waived" employee has a work status change and is now scheduled to work at least 26 weeks (full-time employees) or 175 days (part-time employees) within a 52 week period.

### When do I begin collecting PFL contributions from new employees?

Paid Family Leave premium applies from time of hire for all "eligible" employees.

### Is this insurance mandatory just like DBL?

Yes, however, there are a few exceptions for government employees. Visit the NY PFL website for more information: <https://paidfamilyleave.ny.gov/>

### Does PFL apply to all company sizes?

Yes, PFL applies to all companies regardless of size.

### What if an employee changes employers, does the time worked continue?

If an employee changes jobs from one employer to another, their time worked at the previous employer does not count and the Paid Family Leave qualification period starts over.

### **If an employee goes out on leave in December 2022, will the benefit and duration amount increase after January 1, 2023?**

No, the benefit amount that is in effect at the time the leave claim began applies to the full duration of the paid leave, even if a new calendar year with increased benefit levels falls within that period.

### **If PFL is taken in increments of 1 or 2 days at a time, how is the maximum number of days calculated?**

The total days is calculated by taking the number of weeks allowed and multiplying by 5 days in each week.

### **If an employee uses 12 weeks PFL, when can they take another PFL Leave?**

This employee would not be eligible again until 52 weeks have passed since the start of the initial paid family leave. Leave durations are based on the date the leave begins.

### **Is the PFL benefit considered payroll? Would deductions be made for 401K, etc.?**

No, see note on Taxation.

### **Can an employer withhold for PFL contributions if they don't withhold for DBL? Yes.**

### **If an employer is providing salary continuation, can they seek reimbursement for PFL? Yes.**

### **Can an employee opt out of Paid Family Leave?**

No. Paid Family Leave is a mandatory benefit for employees at covered employers, the same as DBL. The only employees who can file a waiver for contributions are those that are scheduled to work less than 26 weeks in a 52-week period (if full-time) or 175 days in a 52-week period (if part-time).

### **Does Paid Family Leave apply to domestic employees? Yes.**

### **Does the domestic worker exclusion carry over for employees working less than 20 hours per week?**

Yes. If you're considered a covered employer of a domestic employee (working 20+ hours or more per week, and 30 days or more per year), then you must have DBL and PFL. If your domestic employee is working less than 20 hours per week then DBL/PFL is not required.

### **Are teachers required to have PFL? No.**

### **Are teachers that opt into DBL required to have PFL? No.**

### **Is a sole proprietor/owner who has DBL required to add PFL?**

Sole Proprietors with employees must have PFL. Sole Proprietors without employees may opt for voluntary coverage. If they add voluntary Paid Family Leave later than 30-days of forming the business, they can still add voluntary Paid Family Leave coverage, but they may be subject to either:

- A surcharge (higher premium) or;
- Pay the standard community rate and have a 2-year waiting period on Paid Family Leave benefits

### **Are state employees required to have PFL?**

State employees are exempt from PFL requirements.

### **Does PFL apply to public/government employees?**

PFL is not required for these employees, however those groups can choose to offer a Paid Family Leave policy to their employees.

### **Is PFL mandatory for municipal entities?**

No, but they can add the coverage as a voluntary group coverage.

### **Are unions required to have PFL?**

If a union is considered a covered employer and currently have a DBL policy in place, they are then required to have Paid Family Leave.

If a unionized workplace that has a Collective Bargaining Agreement (CBA) already provides a family leave benefit equal to or exceeding NYS Paid Family Leave benefit, employers then do not have to provide the benefit under the law.

### **How do exempt employers offer PFL?**

Exempt employers can choose to offer PFL to employees on a voluntary basis to the entire group. However, individual employees do not have the choice to "opt out" of coverage.

## How does Paid Family Leave differ from NY Disability?

New York Disability allows an employee to take time off and gain partial income replacement for when an employee is unable to work due to a qualifying disability (i.e. maternity, sickness, recovering from an accident, etc.). Paid Family Leave is meant for caring for someone else. PFL provides job-protected, wage replacement to employees when time is needed to bond with a child, care for a close relative with a serious health condition, or help relieve family pressures when someone is called to active military service.

New York Disability benefits and Paid Family Leave benefits can not run concurrently.

## When will invoices be issued including PFL?

Annual invoices will be issued in December of each year for the upcoming year.

Quarterly invoices will continue to be issued in arrears at the end of each quarter.

## How do I calculate my PFL premium?

There will be a separate line item on your NY DBL invoice for PFL premium. You will enter the number of males and females that are eligible for PFL benefits along with their wages (using the 2023 capped annualized NYS average weekly wage of \$87,785 per employee per year) for the policy period noted on your invoice. Please add employees who are classified as non-binary to the male headcount, until further notice. These total capped wages will be multiplied by the rate of .00455 to calculate your PFL Premium due.

- The PFL premium due must be added to the NY DBL premium due to pay your policy in full. Payment should be remitted to Arch along with the completed invoice.
- Once an employee reaches the 2023 annualized capped wages of \$87,785, their wages should no longer be included in the PFL calculation for the remainder of the year.

## What Employers Can Do to Prepare

### Update your Employee Handbook

Employers subject to NY Paid Family Leave must inform their employees on benefits and leave rights.

### Prepare for Payroll Deductions

Contact your payroll provider and confirm that they're ready for PFL deductions and that they understand the 2023 maximum contribution of \$399.43 per employee per year.

### Complete the Arch Invoice

Your Arch invoice will include a section for PFL premium. You're required to report the number of males/females under PFL as well as male/female covered payroll.



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**<https://paidfamilyleave.ny.gov/>**

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