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Frequently Asked Questions
2021

Insured New York Disability Benefits Law (DBL) Coverage and Paid Family Leave (PFL)

Group Insurance

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Overview

What is Statutory Disability?

New York is among the jurisdictions that mandate benefits for workers. While each state's program is unique, the common goal of these plans is to provide short-term income replacement for non-occupational disabilities experienced by eligible workers. New York's program is governed by the Disability Benefits Law (DBL). Employers subject to DBL law are required to provide a minimum level of coverage in compliance with statutory guidelines.

How does an employer register with New York?

Employers are required to provide DBL if they employ one or more individuals on each of at least 30 days in a calendar year in New York State. This requirement applies to businesses in New York, as well as to out-of-state employers who have employees in New York. Subject employers must register their business with the state. Instructions can be found at: https://www.businessexpress.ny.gov/app/portal/content/start_a_business.

What plan options are available to employers to comply with New York DBL requirements?

Employers have three options:

- Insure DBL coverage through an insurance carrier, such as Prudential.
- Insure DBL coverage through the New York State Insurance Fund (NYSIF). NOTE: Participation in the fund is not automatic. Employers must enroll.
- Self-insure DBL benefits by filing their plan with the Workers' Compensation Board and posting a security deposit.

Who is eligible?

An employee is eligible for New York DBL if they work for a covered employer and meet the following eligibility requirements:

- Full-time employees: four consecutive weeks of covered New York employment; or
- Part-time employees: 25 days of covered New York employment (based on actual days worked).

However, because "covered" employment may include service provided to a former "covered" employer, new hires may be eligible on their first day worked. For example, if Ted worked for the NY Company A for five years, left on March 31 and started working for NY Company B on April 1, he would be eligible for DBL coverage from NY Company B on his first day, April 1, because he already has more than four weeks of continuous New York employment.



Excluded from coverage are federal and state government employees, certain occupations employed by religious and non-profit organizations, minor children of an employer, daytime students working part-time, and workers in other categories specifically exempted by the law.

Ultimately, the onus to comply with New York's employer laws falls on the employer and non-compliance could result in a penalty. If an employer is unsure if they are obligated to provide DBL benefits to their employees, they should contact the New York Workers' Compensation Board.

Are employees who telecommute from homes in New York or salespeople with New York territories eligible for DBL?

Unfortunately, there is no definitive yes or no answer. The state needs to walk the employer through a set of "tests" regarding their business and the employee's job responsibilities. Factors that the Workers' Compensation Board will consider include the employee's right to control, whether or not the character of the employee's work is the same as the employer's, the method by which the employee is paid, equipment and materials furnished by the employer, and the employer's right to hire or fire the individual. The employer needs to discuss their unique situation with the state, which will ultimately help the client understand why their employees are eligible or not—knowledge that can be applied to future eligibility questions.

If an employer has a more generous STD plan in place, do they still need DBL?

Yes. Employers must provide DBL coverage that is filed and approved by the state of New York in order to comply with the law. STD and/or salary continuation plans will not fulfill the requirements and are considered "supplemental" to DBL.

What services will Prudential provide as the private plan insurer?

- Private Plan Filing:
Prudential will file the employer's private plan with the state of New York for approval. A Certificate/Cancellation of Insurance form (DB-820/829) will be submitted for each of the employer's FEINs with New York employees. Prudential will also file any subsequent FEIN additions or cancellations.
- DB 120 Poster:
Prudential will prepare poster notices for each DBL plan filed with New York. The employer is required to display these notices in a conspicuous location to advise employees of their right to claim disability benefits. Posters will be issued upon New York filing approval.
- Claim Management and Payment:
Prudential will perform all claim management and payment tasks for DBL claims in compliance with New York statutory requirements.
- Appeal Handling:
Claimants have the right to appeal an insured DBL claim decision to Prudential, the state, or both. When an appeal is filed with New York, Prudential will appear at any hearings required by the Workers' Compensation Board.

- Annual Reports:
Prudential will prepare the required New York claim and premium annual reports.
- Certificates of Compliance:
Employers may be asked to supply a Certificate of Compliance (DB-120.1) when applying for a permit, license, or contract from a government agency as proof DBL coverage. We will prepare DB-120.1 certificates upon request for entities with private plans insured by Prudential.
- Plan Summaries:
Upon request, Prudential will provide a one-page summary of NY DBL plan provisions that the employer can distribute to eligible employees.

What responsibilities does DBL law impose on employers?

- DB 120 Poster:
DBL law requires that employers notify employees of their potential right to claim disability benefits. For insured private plans, Prudential will prepare a DB 120 Poster Notice and send it to the employer at the same time that the DBL contract is issued. This Notice must be posted in a conspicuous area.
- Statement of Rights:
A New York employer must provide a Statement of Rights (DB-271) to any worker who has been disabled more than seven days. The distribution of the Statement of Rights must be done within five days after learning the worker is disabled. Form DB-271 can be found on Prudential's Forms Library: <https://www.prudential.com/links/forms/group-insurance-employers#daclaims>.
- Employer Identification Cards:
An Employer Identification Card (DB-125) must be furnished to each covered person who terminates employment with a New York-covered employer. This card explains to the employee that he/she continues to be covered under his/her former employer's DBL plan if he/she become disabled within four weeks of termination and are unemployed. However, Form DB-125 is not required to be issued to persons hired for a period of less than 30 days and who have not worked for more than 30 work days during the employment that is then terminated. The company name, address, and unemployment insurance (UI) number must be inserted on the form before giving it to each person upon termination of employment. The Employee ID Card can be found on Prudential's Forms Library: <https://www.prudential.com/links/forms/group-insurance-employers#daclaims>.
- Advise Prudential of New or Inactive FEINs with New York Employees:
If an employer acquires a new associated company with New York employees, Prudential must file the new entity's FEIN with the state in addition to the company's existing FEIN. Likewise, if wages are no longer being reported under an FEIN (ex. out of business, merger/acquisition, employee transfers, etc.), Prudential must file to terminate coverage for that employer. Clients are expected to notify Prudential of any new or terminating entities subject to DBL coverage. Cancellations must be filed with New York within 30 days (10 days if terminating due to non-payment) and failure to comply may result in penalties to Prudential.



Where can an employer find more information?

Additional information regarding New York's Disability Benefits Law is available on the state's website:
<http://www.wcb.ny.gov/>.

Plan Design

What is the statutory DBL benefit plan design?

| | |
|------------------------------|--|
| Benefit Percentage | 50% of employee's weekly wage (rounding does not apply) |
| Maximum Weekly Benefit | \$170 |
| Minimum Weekly Benefit | \$20 |
| Elimination Period | 7 days for accident and sickness |
| Maximum Duration | 26 weeks in a rolling 52-week period NOTE: Effective 1/1/2018, the duration of benefits cannot exceed 26 weeks in a 52-week period when combined with Paid Family Leave (PFL). |
| Standard Maternity Guideline | Four (4) weeks pre-partum Six (6) weeks post-partum (normal delivery); or Eight (8) weeks post-partum (c-section) |
| Exclusions | <ul style="list-style-type: none"> • Occupational injuries • Self-inflicted injuries • Perpetration of a crime • Acts of war <p>No benefits payable while the employee is receiving Unemployment Benefits.</p> |
| Recurrent Disability | <ul style="list-style-type: none"> • Periods of disability separated by less than 90 calendar days of active work will be treated as the same disability. • Periods of disability separated by 90 calendar days or more of active work will be treated as separate claims. • After return to work, a new period of disability caused by a different medical condition will be treated as a new claim. |
| Post-termination coverage | 4 weeks Benefits are payable by the employee's last employer for disabilities which commence within 4 weeks of his/her last day worked unless the employee becomes subsequently employed/covered. |



Can an employer provide better benefits than required by DBL law?

Yes, an employer has three options to improve upon benefit levels required by New York.

Statutory Enriched:

A statutory enriched plan improves upon or enriches at least one benefit provision of the statutory plan in a manner approved by the state. Provisions an employer may choose to enrich include the elimination period (ex. change 7 days to 1st day accident), maximum benefit duration (ex. increase 26 weeks to 30), maximum weekly benefit or benefit percentage. Examples of provisions which cannot be changed with an enriched plan are the definition of disability and benefits for partial disability.

Supplemental STD Plan:

A supplemental STD plan adds to or supplements the underlying statutory plan. The DBL benefits are paid first and are then subtracted or “offset” from any additional STD benefit payable. A supplemental STD plan allows an employer to offer plan provisions otherwise unavailable on statutory or enriched plans, such as partial disability. However, these plan provisions only apply to the non-statutory portion of the benefit. Additionally, a supplemental STD plan allows an employer to limit STD plan features to specific classes of employees. For example, a supplemental STD plan can be limited to salaried employees only versus a DBL plan, which must cover all eligible New York employees.

All States Rider (ASR):

Adding an ASR to a Prudential insured DBL contract allows an employer to offer benefits similar to NY DBL to non-New York employees. Plan provisions for non-NY and NY employees are the same under this arrangement except that non-NY employees cannot appeal their claim to the New York Workers’ Compensation Board. They still have the right, however, to appeal directly to Prudential. Employees covered under other state statutory benefit plans are not eligible for coverage under ASR plans and contributory coverage is only available if the employer can guarantee 100% participation.

How much can an employee be asked to contribute to the DBL plan?

Employers can offer DBL on a non-contributory or contributory basis. If the plan is contributory, the DBL law indicates that employees may not be asked to contribute more than one half percent of weekly wages, not to exceed \$0.60 per week.

NOTE: Contributions are calculated as a percentage of taxable wage, not premium.

What is the definition of disability under DBL? Is it different from Prudential’s STD plan?

A person is considered disabled under DBL if due to a non-work related injury or illness he/she is unable to perform the regular duties of his/her employment or the duties of any other employment which his/her employer may offer at the same wage. To receive benefits, the employee must be under the care of a duly licensed physician, podiatrist, chiropractor, dentist, or Case Nurse Manager acting within the scope of his/her practice.

The DBL definition of disability is different than the Prudential STD definition of disability. Most STD plans will pay benefits for partial disability as long as the employee has a 20% earnings loss; DBL requires total disability.



Claims Administration

How does the claims process differ for DBL?

- Claim Submission Timeframes:

Claims must be submitted within thirty (30) days after the commencement of the period of disability. Claims filed late will not necessarily be rejected; however, the claimant will not be paid for any disability period more than two weeks before the claim is filed unless the claimant can show that it was not reasonably possible to file earlier. If a claim is filed more than 26 weeks after the disability began, no benefits will be paid.

- Claim Denials:

Prudential will mail a DB-451 to the claimant in triplicate within 45 days as notice of total or partial rejection of a claim for disability benefits. This form instructs claimants on how to request a claim review by the New York Workers' Compensation Board.

- Appeals:

In addition to Prudential's standard two-step appeals process, claimants whose new DBL benefits have been terminated or denied have the right to request a hearing before a state appointed hearing officer in order to appeal the decision on their claim. Prudential will appear at appeal hearings as required and abide by the ruling of the hearing officer.

Are DBL benefits taxed?

Yes, DBL benefits are taxed similarly to how STD and LTD benefits are taxed. If the plan is non-contributory, disability contributions are reported as taxable wages and therefore benefits are fully taxed. If the plan is contributory (paid all or in part by the employee with after-tax dollars), the amount of benefits attributable to the employer's contribution is taxable to the employee as income. NOTE: It is the client's responsibility to calculate and provide the contribution rates to Prudential in accordance with IRS Regulation 1.105-1.

Can an employer have DBL payments redirected to them as reimbursement for salary continuation benefits already paid to an employee?

Yes, provided that salary continuation payments already issued are greater than or equal to the DBL statutory weekly benefit of \$170. If the employer's salary continuation benefits cease prior to DBL benefit payments, the employer must notify Prudential so that the DBL payment can be re-directed to the employee.

Clients who would like to have DBL benefits redirected to them should notify their account manager so that Prudential's claim system can be updated accordingly.

Will Prudential withhold deductions from an Employee's DBL benefit?

No, Prudential does not withhold deductions from DBL benefit payments.



How will a DBL claim be handled for an employee on a temporary leave of absence?

Once an employee is no longer working due to a leave of absence, his/her DBL coverage is extended for a period of four weeks. For unpaid leaves of absence, the four weeks is calculated from the last day worked. For paid leaves of absence, DBL coverage continues while the employee is still receiving wages from the employer and the four-week extension is calculated from the date wages from the employer end (i.e. leave becomes unpaid or employment is terminated).

How will a DBL claim be handled for an employee receiving unemployment?

If an employee is receiving unemployment, he/she is ineligible to receive DBL benefits. However, an employee may satisfy the DBL Elimination Period while receiving unemployment.

NOTE: When an employee is terminated, the former employer is required to provide four weeks of DBL coverage unless the employee subsequently becomes employed by another employer providing DBL coverage. After this four-week extension period expires, former employees who become disabled while unemployed may be entitled to unemployment disability benefits through the New York Workers' Compensation Board.

Is a separate, DBL-specific claim form required?

No, claimants are encouraged to use Prudential's standard claim form to submit their DBL or combined DBL/STD claim. When Prudential receives the completed form via mail or fax, it is scanned directly into our claim system. This streamlines the claim process by quickly creating the claim so that the evaluation process can begin. New York has standard DBL Claim Forms for the Employer and Employee Statement (DB-6) and the Attending Physician Statement (DB-450). Prudential will accept these forms; however, they require manual input into our claim system.

If a New York employee's DBL benefits are denied or terminated, can he/she appeal to the state?

Yes, claimants have three appeal options—submit an appeal to the state, Prudential or both the state and Prudential. Employees always have a right to appeal a DBL claim decision to the New York's Workers' Compensation Board regardless of whether or not they also file an appeal with Prudential. Information about the state's appeal process and how to contact the state will be included with Prudential's decision letter.



New York Paid Family Leave

| | 2020 | 2021 |
|--|--|---|
| Maximum Employee Contribution | 0.27% of gross wages up to a 2020 individual cap of \$196.72 | 0.511% of gross wages up to a 2021 individual cap of \$385.34 |
| Benefit Amount *Based upon Average Weekly Wage (AWW) | 60% of AWW | 67% of AWW |
| Maximum Benefit | \$840.70 | \$971.61 |
| Benefit Duration | 10 weeks (no change from 2019) | 12 weeks |

What is the 2021 maximum employee contribution rate? Is this the same as the insured rate? Are employee contributions required?

The maximum employee contribution and the insured rate is the same. The New York State Department of Financial Services (DFS) announced that the maximum employee contribution for 2021 will be 0.511% of an employee's gross wages each pay period up to and not to exceed an annual maximum employee contribution of \$385.34. If an employee's contributions reach the annual maximum of \$385.34 before the end of the calendar year, no additional contributions may be withheld from their pay.

Although the State of New York frequently refers to this program as employee-funded, employers are not required to withhold employee contributions. Employers may choose to pay the premium on their employee's behalf.

When the leave begins in 2020 but continues into 2021, what benefit schedule applies?

The benefit percentage, the maximum benefit, and the leave duration is determined by the first date of leave. For example, if the leave began on December 1, 2020, the benefit would be 60% of the employee's average weekly wage up to \$840.70.

Will 2020 or 2021 benefits apply if an employee's PFL began in 2020, they returned to work?

If an employee's PFL began in 2020 and then the employee needs a second period of leave period in 2021, determining whether 2020 or 2021 benefits apply to the second on leave will depend on the amount of time the employee returned to work between absences and whether the subsequent leave is for the same qualifying reason and relationship. For example, if the original leave was for the care the employee's mother, a subsequent absence to care for the employee's child would not be considered a recurrence since the employee's relationship with the care recipient is different.

- Periods of leave for the same qualified reason and relationship that are separated by less than 3 months of active work will be treated as the same leave event.
- Periods of leave for the same qualified reason and relationship that are separated by 3 months or more of active work will be treated as separate leave events.
- After return to work, a new period of leave requested for a different qualified reason or relationship will be treated as a new claim.



To help illustrate, for all of the following scenarios:

- The 1st Period of Leave was taken December 3, 2020 through December 7, 2020 to care for an ill spouse.
- The employee has never had a DBL claim.

| 2nd Period of Leave | Analysis |
|---|---|
| Spouse's medical condition requires employee to take leave again on February 5, 2021. | Since the periods of leave are for the same qualified reason and relationship and are separated by less than 3 months, they will be treated as the same leave event. The benefit payable and the leave duration will follow what was in place on December 3, 2020. |
| Spouse's medical condition requires employee to take leave again on April 5, 2021. | Although the periods of leaves are for the same qualified reason and relationship, they are separated by more than 3 months. The 2021 benefit schedule (benefit percentage and maximum weekly benefit) will apply to the 2 nd Period of Leave. |
| Leave taken on February 5, 2021 to care for ill child. | The periods of leave are not for the same qualified relationship, so the 2 nd Period of Leave is not tied to the 1 st Leave. The 2021 benefit schedule (benefit percentage and maximum weekly benefit) will apply to the 2 nd Period of Leave. |

If an employee is having a baby in 2020 but her bonding leave does not begin until 2021, what PFL benefits will she be eligible to receive, the 2020 or 2021 benefit schedule?

The 2021 benefit schedule because the first date of leave for PFL –not the date of birth of the baby ---determines the benefit percentage, the maximum benefit, and the leave duration payable. PFL is available within the first 12 months of a child's birth, adoption or foster care placement.

An employee used his entire 10-week PFL entitlement in 2020. If the employee has another qualifying event, can he take PFL again in 2021?

There is a combined DBL and PFL maximum of 26 weeks in a 52-week period. The maximum amount of PFL in 2021 is 12 weeks in a 52-week period. Let's assume that the employee did not have a DBL claim. If the employee took 12 weeks of PFL in the last 52 weeks, no PFL benefits will be payable until after 52 weeks have elapsed when the employee accrues additional time.



OVERVIEW

What is the New York Paid Family Leave (PFL) Law?

The New York Paid Family Leave (PFL) Law provides job-protected paid time away from work that employees may take:

- to care for a seriously ill family member;
- to bond with a newborn, adopted, or foster child; or
- for military exigency (as defined by Federal Family Medical Leave Act (FMLA)).

New York's Disability Benefits Law (DBL) was amended to include paid family leave for New York workers beginning January 1, 2018.

PFL Benefits At-A-Glance

| Effective Date | Benefit Amount % of Average Weekly Wage (AWW) | Maximum Benefit % of Statewide Average Weekly Wage (SAWW) | Duration of Benefits |
|--------------------------------|--|---|----------------------|
| January 1, 2018 | 50% of AWW | 50% of SAWW (\$1,305.92) or \$652.96 | Up to 8 Weeks |
| January 1, 2019 | 55% of AWW | 55% of SAWW (\$1,357.11) or \$746.41 | Up to 10 Weeks |
| January 1, 2020 | 60% of AWW | 60% of SAWW (\$1,401.17) or \$840.70 | Up to 10 Weeks |
| January 1, 2021 and thereafter | 67% of AWW | 67% of SAWW (\$1,450.71) Or \$971.61 | Up to 12 Weeks |

Other Notes:

- \$1,450.17 is the 2021 Statewide Average Weekly Wage (SAWW) as determined by the New York Department of Labor.
- The duration of benefits may not exceed 26 weeks in a consecutive 52-week period when combined with DBL.
- Benefits are payable on the first day of an eligible absence. There is no elimination period.
- Employees may not receive DBL and PFL concurrently.

Which employers are required to provide paid family leave coverage?

All private employers with one or more employees working in New York will be required to provide paid family leave coverage. Similar to DBL, the requirement applies to out-of-state employers if they have employees working in New York. Public employers are not required to provide this coverage but may opt in to paid family leave benefits.

How long must employees be working to be eligible for PFL benefits?

Unlike DBL, PFL employee eligibility is based upon service with the current employer and does not take into consideration service with a prior New York employer. Full-time employees are eligible for benefits after 26 weeks of consecutive employment. Part-time employees are eligible after 175 work days. Part-time is defined as employees who have a regular employment schedule that is less than 20 hours per week.

Although employees are not eligible for benefits until they have completed the service waiting period, contributions are required beginning with date of hire (if later than January 1, 2018).



May employees waive coverage?

Yes, there are limited circumstances where an employee may waive coverage. Employers must offer the option to waive coverage for the following seasonal or temporary employees:

- Employees whose regular employment schedule is 20 hours or more per week but the employee is not expected to work 26 consecutive weeks; and
- Employees whose regular employment schedule is less than 20 hours per week but the employee is not expected to work 175 days in a 52-consecutive week period.

However, this waiver will be revoked within eight weeks of any change in the regular work schedule of an employee that results in the employee meeting the NY PFL eligibility requirement (i.e. 26 consecutive weeks or 175 days in a 52-consecutive week period). If the waiver is revoked, the employee is obligated to begin making contributions to the cost of family leave benefits, including any retroactive amounts due from date of hire.

Are PFL benefits taxable?

Based on guidance issued by the New York State Department of Taxation and Finance, New York Paid Family Leave (“NY PFL”) benefits are considered taxable income, from which employees can request voluntary income tax withholding.

- Voluntary Federal Income Tax at a rate of 10%
- Voluntary New York State Income Tax at a rate of 2.5%

NY’s guidance indicates that NY PFL benefits are non-wage income reportable on Form 1099-MISC, *Miscellaneous Income*. However, for consistency purposes, Prudential will report NY PFL benefits on Form W-2, *Wage and Tax Statement*, similar to NY disability benefits that are paid.* Prudential will report NY PFL benefits as federal and NY income and will allow recipients to elect voluntary federal and/or NY state income tax withholding, if desired.

**Prudential only issues and reports Forms W-2 for NY disability benefits under Prudential’s name if FICA Match Services have been added to the client’s plan design.*

Most of our employee population is in New York and our non-New York employees are covered under the DBL policy. May I extend NY PFL coverage to these same employees?

No, based on guidance received from the New York Department of Financial Services, non-New York employees are not covered for NY PFL. Those employers who currently extend DBL coverage to non-New York employees may continue to do so through an All State Rider, but paid family leave coverage will not be available for these employees.

Where can an employer find more information about the PFL program?

Additional information is available at <https://paidfamilyleave.ny.gov/>.



EMPLOYER RESPONSIBILITIES

- **Inform employees**

If a company handbook, policy, or manual describes employee benefits or leave rights, the employer must include information about NY PFL, and if you do not maintain such written policies, you must provide separate written guidance to employees about their rights and obligations under the NY PFL.

- **Update payroll**

- Employers should work with their payroll departments/payroll vendors to make any necessary adjustments for 2021.

- **PFL Poster**

PFL law requires that employers notify employees of their potential right to claim paid family leave benefits. For insured private plans, Prudential will prepare a PFL-120 Poster Notice and send it to the employer at the same time that the contract is issued. This Notice must be posted in a conspicuous area.

- **Statement of Rights**

New York employers are required to provide a Statement of Rights (PFL-271S) to the employee within five business days after receiving notice of the employee's absence of seven consecutive days is due to a family leave. As the Statement of Rights has information specific to the benefits available for that calendar year, there is a Statement of Rights for 2020. This version can be found on Prudential's Forms Library:

<https://www.prudential.com/links/forms/group-insurance-employers#daclaims>.

ADDITIONAL EMPLOYER RESPONSIBILITIES

Employees are entitled to be reinstated to their same or comparable job upon return from NY PFL.

Failure to reinstate employees to their same or comparable job may leave employers exposed to discrimination and/or retaliation claims.

Employers must continue employees' health insurance while they are on NY PFL. Employers may require that employees continue to pay their health insurance premium contributions.

Employers must ensure that their employees are aware of the NY PFL program and that their organizational policies comply with the law.



CLAIMS ADMINISTRATION

How can employees file a PFL claim?

Employees can submit their PFL requests via paper claim form or by using the Link2Benefits online portal. Claims can also be called into Prudential for customers with telephonic intake services.

The NY PFL claim forms can be found on Prudential's Forms Library:

<https://www.prudential.com/links/forms/group-insurance-employers#daclaims>.

Is medical or other documentation required for PFL claim submission?

Yes. The documentation required will vary based upon the reason for leave. For example:

- Care of a seriously ill family member – Health care provider certification
- New child bonding – Documentation may include proof of maternity/paternity, foster care placement, or adoption
- Military exigency – Active duty orders, letter of impending call to duty, or documentation of military leave

Specifics regarding the documentation required will be provided to the employee on the NY PFL claim form and summarized in Prudential's acknowledgement letter.

How does PFL define family members?

Leave to care for a seriously ill "family member" is permitted under PFL. Family members are defined as spouse, domestic partners, children, parents, parents-in-law, grandparent, and grandchildren. For a fuller description, please see the table on the next page.

Please note that while FML defines a child as under age 18 (or 18 or older if incapable of self-care due to a mental or physical disability), there is no age restriction for the child under PFL.

PFL is also available for employees so that they may take time off under the military provisions of FMLA. Under this provision the covered relationships differ from the relationships permitted for leave to care for a family member. Leave may be taken only when a spouse, domestic partner, child, or parent of the employee is on active duty or has been notified of an impending call or order of active duty.

Is there a waiting period before PFL benefits are payable?

Unlike NY DBL, there is no elimination period for PFL. Benefits are payable as of the first day of an eligible leave.

Can PFL leave be taken on an intermittent basis? In less than 1-day increments?

PFL leave can be as continuous blocks of time or on an intermittent basis (e.g. every Monday for 6 weeks). However, leave must be taken in full-day increments. Partial-day absences will not qualify for benefit payment.



What are the timeframes for PFL claim submission?

If the need for leave is foreseeable, per New York regulations, employees must submit their PFL leave request at least 30 days prior to the commencement of the leave. Failure to give 30 days advance notice can result in the partial denial of PFL benefits of up to 30 days from the date the notice is provided.

Where the need for leave is not foreseeable or 30 days advance notice is not practicable, the leave should be submitted as soon as reasonably possible.

Notice of leave is only required once for both continuous and intermittent leaves. However, employees must advise their employer as soon as practicable of scheduled date changes.

After a PFL claim is filed, how soon will a decision be made?

A claim must be paid or denied within 18 calendar days of a complete submission. If the employee's claim submission is not complete, Prudential will provide notice within 5 business days of claim receipt, including a list of the missing documentation.

How will PFL benefits be paid?

PFL benefits can be issued by check or direct deposit similar to NY DBL and other disability benefits payable by Prudential.

Can PFL benefit payment be issued to the employer as reimbursement for salary continuation, similar to DBL?

Yes.

Can an employee take both DBL and PFL concurrently?

No.

What happens to PFL when an employee takes FMLA increments smaller than a full workday?

PFL can only be taken in 1-day increments, in comparison to FMLA, which can be taken in smaller increments defined by the employer. If the employer tracks the hours taken as FMLA leave on days when the employee is paid, works at least part of the day, and is therefore not eligible for NY PFL, the employer may deduct a day of PFL from the employee's PFL allotment when the total hours taken as FMLA add up to the number of hours in the employee's usual workday. Prudential will not be deducting day(s) from NY PFL allotments unless requested by the employer for the specific claim.



How will DBL maternity claims coordinate with PFL new child bonding claims?

An employee is eligible for DBL benefits for a disability related to pregnancy. The general duration guideline is four weeks prior to the anticipated birth date and six weeks after the actual birth, although these periods may differ based upon individual circumstances. PFL benefits are payable for new child bonding and must be taken within 52 weeks of the date of birth.

As DBL and PFL benefits cannot be paid concurrently, an employee may opt to change her DBL maternity claim to a PFL bonding leave following the birth of her child to qualify for the higher PFL benefit payment. Unless the employee instructs otherwise, Prudential will continue to pay DBL benefits while the employee is still disabled with PFL bonding benefits to commence on the date requested by the employee.

Will FMLA run concurrent with PFL?

Generally, where an employee's absence qualifies for both FMLA and PFL, these leaves will run concurrently.

There may be, however, some instances where these leaves do not run concurrently. This may be due to differing eligibility requirements, differing qualified relationships, or exhaustion of a leave entitlement.

Please note that employers must designate FML by providing notice required under federal FMLA regulations—even when the leave is covered under both laws. Prudential provides this notification to employees on behalf of employers when we are the Absence (FMLA) administrator.



How does PFL compare with the Family and Medical Leave Act (FMLA)?

Important distinctions between NY PFL and FMLA include but are not limited to those summarized in the table below.

| | NY PFL | FMLA |
|--|---|--|
| Employer Eligibility | Company with 1 or more New York employees | Company with 50 or more employees |
| Employee Eligibility | Full-time (20 or more hours per week): 26 weeks of employment with current employer Part-time (Less than 20 hours per week): 175 days of employment with current employer | <ul style="list-style-type: none"> 1 year of service Worked 1,250 hours in the year immediately preceding the leave |
| Job Protection | Yes. Employee reinstated to same or comparable position with equivalent benefits, pay, and other terms and conditions of employment in effect prior to leave. | Yes. Employee reinstated to same or comparable position with equivalent benefits, pay, and other terms and conditions of employment in effect prior to leave. |
| Maximum duration | Up to 12 weeks* of paid leave within a 12-month period. State requires rolling-back year calculation. * Phased-in leave duration increases from 8 weeks in 2018, 10 weeks in 2019, and 12 weeks in 2021 | Up to 12 weeks of unpaid leave within a 12-month period as defined by the employer |
| Eligible leave reasons | <ul style="list-style-type: none"> To care for a seriously ill family member New child bonding Military exigency | <ul style="list-style-type: none"> Employee's own serious health condition To care for a seriously ill family member New child bonding Military exigency Military caregiver |
| Leave increments | 1-day increments | Partial-day increments permitted with minimum duration defined by the employer |
| Medical Certification of a Family Member's Serious Health Condition | Medical certification must be requested from a health care provider | Medical certification may be requested from a health care provider |
| Definition of family member | <ul style="list-style-type: none"> Spouse Domestic partner Child (biological, adopted, step, foster, domestic partner's child, legal ward, person for whom employee stood in loco parentis) Parent (biological, adopted, step, foster, legal guardian, and in loco parentis) Parents-in-law Grandparents Grandchildren | <ul style="list-style-type: none"> Spouse (includes same-sex and common law) Child (biological, adopted, step, foster, legal ward) Parent (biological, adopted, step, foster, and in loco parentis) |
| Health benefits | Must maintain existing employee health benefits as if the employee continued to work | Must maintain existing employee health benefits as if the employee continued to work |
| Use of PTO | Employer may request, but not require, employees to use vacation or PTO time concurrent with PFL | Employer may require employees to use vacation or PTO time concurrent with FMLA |
| Providing Care | Employee required to be in close and continuing proximity to care recipient | Providing care definition does not include a proximity test. |



Under what circumstances can a PFL claim be denied?

A PFL claim can be denied for the following reasons:

- The employee is not eligible due to insufficient length of service;
- The employee is not a covered employee of a covered employer;
- The employee requests leave to care for a person who is not a qualified family member;
- The employee provides insufficient certification or proof of eligibility;
- The amount of leave requested exceeds the maximum benefit period for PFL;
- The amount of leave requested exceeds the duration stated in the medical certification (if this occurs, only the leave in excess of the certification may be denied);
- The employee fails to provide the employer with 30 days' notice for a foreseeable leave event (if this occurs, a partial denial of up to 30 days may be applied);
- The employee requesting leave is the perpetrator of domestic violence or child abuse against the care recipient; or
- The claim is not made timely.

If a claim is rejected or not paid, may it be reviewed?

Yes. The PFL regulations encourage informal resolution of any open issues or concerns. If employees have any questions or concerns regarding the claim decision, they should contact Prudential as instructed in the decision letter.

Additionally, employees can request arbitration of an adverse claim decision on the basis of eligibility, benefit rate, and duration within 26 weeks of written notice of denial. Instructions for requesting arbitration will be provided in the claim decision letter, including the documentation and \$25.00 filing fee required.



This policy provides disability income insurance only. It does NOT provide basic hospital, basic medical, or major medical insurance as defined by the New York Department of Financial Services.

Group Disability Insurance coverages are issued by The Prudential Insurance Company of America, a Prudential Financial Company, Newark, NJ. The Booklet-Certificate contains all details, including any policy exclusions, limitations and restrictions, which may apply. (Contract Series: 83500, 112251)

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