

Employer Resource Guide to the New York State Paid Family Leave Benefits Law

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On July 19, 2017, the New York State Workers' Compensation Board ("WCB" or the "Board") issued its [final regulations](#) ("Regulations") for the New York Paid Family Leave Benefits Law ("PFLBL" or "Law"), which, effective January 1, 2018, will provide most New York-based employees with paid family leave benefits. On the same day that these Regulations were published, the WCB also issued an [Assessment of Public Comment](#) ("Assessment"), which addresses certain public comments to the prior iteration of the Regulations. Please see [our blog post](#) for an analysis of how the Regulations and Assessment modified the Board's prior interpretation of certain aspects of the PFLBL.

When the PFLBL becomes effective, most employees working in New York State will be eligible for paid family leave ("PFL") benefits. Employers are not responsible for actually providing pay to employees during a period of PFL; rather, employees will receive PFLBL benefits through an insurance policy that will either be purchased by the employer from an insurance company or self-funded by the employer.

New York State has also published two fact sheets—one for [employees](#) and one for [employers](#)—outlining the basic elements of the PFLBL. In addition, on August 29, 2017, the New York State Department of Taxation and Finance issued [guidance](#) regarding certain tax implications of the PFLBL.

We have created [a handy resource guide](#) that provides the latest updates on the PFLBL, includes links to where additional information about the PFLBL can be found, and summarizes what employers need to know about the Law.

What New York Employers Should Do Now

In anticipation of the January 1, 2018, effective date of the PFLBL, New York employers should take the following actions:

- Revise leave of absence policies addressing leaves covered by the PFLBL (i.e., all leaves covered by the federal Family and Medical Leave Act, except leaves for an employee’s own serious health condition) to provide cross-references to, and/or information regarding, the PFLBL. The policies should include information pertaining to employees’ right to leave and benefits, as well as information on filing a claim for PFL benefits.
- In the absence of an employee handbook or other written policies, prepare written guidance to provide to employees concerning their rights under the PFLBL and information on how to file a claim for PFL.
- Consider how the PFLBL will interact with any PFL or paid parental leave currently provided pursuant to company policy.
- Determine whether to provide the benefit level required under the PFLBL through the applicable insurance policy or, alternatively, to allow employees to receive full pay during all or part of a period of PFLBL coverage.
- Consider whether to self-insure or obtain PFL coverage through an insurance carrier.¹
- Prepare to obtain coverage, either through an insurance carrier or as a self-insured employer, under the PFLBL.
- Prepare to begin payroll deductions with your payroll service provider—such deductions may begin any time after July 1, 2017.
- Consider whether and, if so, how to notify your employees prior to implementing deductions for PFL benefits. Although such notification is not required under the PFLBL, we recommend that employers do so.
- Determine which employees may qualify for a waiver of PFLBL deductions and notify those employees of their right to waive participation.
- Review any collective bargaining agreements covering employees working in New York State to assess what impact, if any, the PFLBL may have on contractual obligations, and consider whether you must address PFLBL-related terms in future contract negotiations.

¹ Employers are not responsible for actually providing pay to employees during a period of PFL, since the paid leave will be funded by an insurance policy, and the premium of the policy is funded by employee payroll contributions.

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