

REGULATORY UPDATE

New York Paid Family Leave

Additional guidance provided by the state of New York

After reviewing the written comments received from various groups – including insurance carriers, employers and employees, the Workers' Compensation Board of the state of New York issued updated proposed regulations on May 24, 2017. The updated regulations and other information regarding the comments received and New York's Paid Family Leave (PFL) program can be found online at: www.wcb.ny.gov/PFL/pfl-regs.jsp.

Are these regulations final?

Not yet. The Board has allowed for a new 30-day comment period for interested groups to provide feedback and ask questions.

Did the weekly benefits or duration change?

No. Benefits and duration of leave gradually increase as the program matures as provided for in the statute.

Benefits are capped at the same percentage of the statewide average weekly wage*, which is adjusted annually and effective on July 1 of each year.

Effective date	Weekly wage maximum benefits amount	Maximum benefits duration
1/1/18	50%	8 weeks
1/1/19	55%	10 weeks
1/1/20	60%	10 weeks
1/1/21+	67%	12 weeks

Employers may designate leave under New York's PFL to run concurrently with unpaid federal Family and Medical Leave Act (FMLA), with notice to the employee. Further, New York's PFL is coordinated with the Disability Benefits Law (DBL) time. Employees can't receive both New York PFL and DBL benefits at the same time, unless the disability benefits are partial benefits received pursuant to workers' compensation, volunteer firefighters' benefits or volunteer ambulance workers' benefits. Employees are not entitled to more than 26 weeks of PFL and DBL benefits combined in a 52-week period.

Leave taken in daily increments is calculated based on the average number of days the employee worked each week over the past eight weeks, which ensures the same number of days for either continuous or intermittent leave. Once the program is fully ramped up in 2021 the maximum amount of daily leave is 60 days for employees who work at least five days per week (12 weeks x 5 days per week).

What changed?

The Board did make some changes to the regulations based on the comments submitted and provided clarification and guidance on many other provisions. Although not an exhaustive list, some notable changes include:

- › **Clarification of employee eligibility.** The references to part-time and full-time employees were removed, which helps ensure more consistent treatment of employees with “non-standard” work schedules.
 - Employees working 20 or more hours per week become eligible after 26 weeks of employment
 - Employees working less than 20 hours per week become eligible after working 175 days.
- › **Updated notice requirements for intermittent leave.** The proposed regulation was updated to allow employers to require employees to provide notice before each intermittent absence.

What is Cigna doing?

We are reviewing the updated regulations and continue to develop our solution based on the new information. We will await the final regulations and prescribed forms from the Workers' Compensation Board. We will continue to provide updates to our clients and customers as new information becomes available.

Are you ready?

With new PFL laws comes new absence management challenges for employers – we're here to help. To continue to serve the needs of our current and future clients, Cigna will offer a new PFL solution for New York by the end of the year as a foundation for future market needs.

For more information, contact
your Cigna account manager
or broker today.



*2016 New York state average weekly wage is \$1,305.92. New York State Department of Labor Statistics.

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