Paid Family Leave Overview
NY Paid Family Leave is an employee paid benefit that will mandate up to 12 weeks of job-protected paid leave to address family related issues including:

1. Bonding with a newborn, adopted or foster care child during the first 12 months after birth or placement
2. Caring for a seriously ill family member
3. Addressing important needs related to a family member’s military service
What Is the Benefit?

- The PFL benefit is scheduled to start January 1st 2018 at 8 weeks
- The combined maximum DBL and Paid Family Leave benefit is 26 weeks during 52 consecutive calendar weeks.
  *This includes concurrent employment from both employers.

<table>
<thead>
<tr>
<th>Effective Date / Weeks of PFL*</th>
<th>Maximum Weekly Benefit**</th>
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</thead>
<tbody>
<tr>
<td>Jan. 1, 2018 / up to 8 weeks</td>
<td>50% of employee AWW not to exceed 50% of the State AWW</td>
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<tr>
<td>Jan. 1, 2019 / up to 10 weeks</td>
<td>55% of employee AWW not to exceed 55% of the State AWW</td>
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<tr>
<td>Jan. 1, 2020 / up to 10 weeks</td>
<td>60% of employee AWW not to exceed 60% of the State AWW</td>
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<tr>
<td>Jan. 1 each succeeding year / up to 12 weeks</td>
<td>67% of employee AWW not to exceed 67% of the State AWW</td>
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*The New York Superintendent of Financial Services has the authority to delay any of these increases.
** AWW is average weekly wage, the 2015 statewide AWW is $1305.92
Paid Family Leave Policy

Policy Details
1. All NY state employers required to provide PFL
2. ALL existing and new DBL policies (Statutory & Enriched) must include a PFL rider on 1/1/2018
3. Local government and public employers do not have to provide PFL benefits, but may opt in
4. PFL policy will be a rider on the DBL policy—must use same carrier unless self-insured
5. PFL can be a stand-alone policy offering to employers that are self-insured

Eligibility
1. Full-time employees
   – Must work at least 20 hours a week
   – Eligible after 26 consecutive weeks of work
2. Part-time workers
   – Work less than 20 hours a week
   – Eligible on the 175th day of work
Paid Family Leave Rates

Rates and Benefits:
• One **community rate** for males and females statewide
• The rate for premiums is set as **0.126% of an employee's weekly wage.**
• The premium rate is deducted from the employee's payroll.
• Employers *may* begin to deduct the employee contribution starting July 1, 2017, to assist in the employer's responsibility to pay their DBL/PFL carrier annually in advance.

Maximum Benefit and Premium:
• Employees wages that are at or above the statewide average weekly wage are eligible **only** for the maximum Family Leave Benefit; therefore, their premiums will be a percentage of the statewide average weekly wage.
• The statewide average weekly wage for 2016 is $1,305.92; therefore, the maximum contribution would be $1.65 weekly.
  – The updated New York average weekly wage will be released on July 1, 2017 for 2018 PFL calculations.

*Each year, on or before September 1st, the **DFS has the authority to change the rates** which will impact the employer's payroll deductions.*
Risk Adjustment Mechanism

• Employee group size:
  – Small Group: an employer with one to 49 employees;
  – Medium Group: an employer with 50 to 499 employees;
  – Large Group: an employer with 500 or more employees

• Reporting
  – Carrier’s must do a loss ratio calculations annually and based on the three groups and provide results to the state
    • If loss ratio that is lower than the average statewide loss ratio for any group size then payment into special fund is required
    • Carrier with a loss ratio that is higher than the average statewide loss ratio for any group size shall collect a distribution from the applicable risk adjustment pool in the amount specified by the superintendent.

• Target loss ratios
  – 67% for small groups;
  – 73% for medium groups;
  – 80% for large groups
Bonding Benefit

• Leave to care for a child after birth or placement for adoption or foster care within the first 12 months after the birth or placement.
  – Disability may be taken after birth as well, but not at the same time as PFL
  – Men are now able to take leave for bonding
  – Expect a shift from DBL to PFL for maternity leave
Bonding Eligibility

**Birth**

- PFL can’t be paid until *after the birth* mother delivers the baby.
- If the birth mother gives up the baby for adoption than the birth mother can only use their DBL benefit.
- Entitlement to family leave for a birth expires at the end of the consecutive 52-week period beginning on the date of the birth.
- Both disability and family leave benefits can be received, but not at the same time.

**Adoption/Foster Care**

- May take leave before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed. For Example; the employee may be required to attend counseling sessions, appear in court, attorney meetings or the doctor(s) representing the birth parent, submit to a physical examination, or travel to another country to complete an adoption.
- Entitlement to family leave for adoption or foster care begins expires at the end of the consecutive 52-week period beginning on the date of the placement or first day of leave taken.
Eligible:
- Biological Mother & Father
- Domestic Partner of Birth parent
- Spouse of Birth parent
- Step Parent
- Adoptive Parent
- Foster Parent
- Legal Guardian
- Loco Parentis (Assumes responsibility as a parent)

Not eligible:
- Surrogate Mother
- Grandparent
- Siblings

Event:
Child (Birth-1 year of age), Foster Child (Birth-17 years of age), Adoption (Birth-17 years of age)
Military Service Benefit

Time away from work to manage a exigency or qualifying circumstance rising out of the fact that the spouse, domestic partner, child, or parent of the employee is on active duty (or has been notified of an impending call or order to active duty) in the armed forces of the United States.
What is Qualifying Exigency Leave?

A “qualifying exigency” includes: (not limited to)

- Short-notice deployments of up to 7 days to address issues arising from the notification of an impending call to active duty.
- Military events and related activities such as ceremonies, programs, events, or information briefings related to active duty or a call to active duty.
  - Childcare and school activities.
  - Financial and legal arrangements.
- Counseling related to active duty or the call to active duty provided by someone other than a health care provider.
- Rest and Recuperation for up to 5 days during deployment.
- Post-deployment activities such as reintegration events up to 90-days after active duty terminates or dealing with the death of a service member.
- Additional service related activities- as agreed to by employer.
Family Member - Military Service

Eligible:

- Spouse
- Domestic Partner
- Parent or Step Parent of the employee
- Child
  - Biological
  - Adopted
  - Foster son or daughter
  - Stepson or stepdaughter
  - Legal ward
  - A son or daughter of a domestic partner
  - The person to whom the employee stands in loco parentis
Family Care for Serious Health Condition

Time away from work to provide care for a family member with a "Serious Health Condition" including an illness, injury, impairment, or physical or mental condition that involves:

- In-patient care in a hospital, hospice, or residential health care facility
- Continuing treatment or continuing supervision by a health care provider
Health Conditions Defined

• **Providing care**
  - Definition: "providing care" may include necessary physical care, emotional support, visitation, assistance in treatment, transportation, arranging for a change in care, assistance with essential daily living matters and personal attendant services.
  - Covered employee providing care must be present at the same location as the family member during the majority of the employment period from which leave has been taken.
  - Travel necessitated for the purpose of securing medication or to arrange care for the family member, or other such deviations determined to be reasonably related to providing care, shall satisfy this definition.

• "**Serious Health Condition**" means an illness, injury, impairment, or physical or mental condition that involves: inpatient care in a hospital, hospice, or residential health care facility; or **continuing treatment** or **continuing supervision by a health care provider**.

• “**Continuing treatment or continuing supervision by a health care provider**" means one or more of the following:
  - A period of more than 3 consecutive, full calendar days during which a family member is unable to work, attend school, perform regular daily activities, or is otherwise incapacitated due to illness, injury, impairment, or physical or mental conditions, and any subsequent treatment or period of incapacity relating to the same condition, that **also involves**:
    - treatment 2 or more times by a health care provider; or
    - treatment on at least 1 occasion by a health care provider, which results in a regimen of continuing treatment under the supervision of the health care provider.
Family Members-Serious Health Condition

Eligible relationships:

- Child (Biological, adoptive, foster)
- Spouse
- Domestic partner
- Parent (Birth, Step, Foster, In-Law, Legal guardian, or the person to whom the employee stands in loco parentis to the employee)
- Grandchild (The child of the employees child)
- Grandparent (Parent of the employees parent)
- Sibling (Biological, adoptive, foster)
Knowledge
• Understand coverage, regulations, billing and claims process
• Maintain same or similar job upon return
• Maintain health insurance for the employee on leave

**Keep asking questions**

Preparation
• HR process
• Payroll: employee contribution may begin as soon as July 1st, 2017
• Update employee handbook
• Display the coverage details

Communication
• Update employee handbook
• Display the coverage details
• Conspicuously post the NYS Workers’ Comp Board’s prescribed notice
• Inform any employee that is on FMLA of their PFL benefit eligibility

Compliance
• Non-compliance: the NYS Workers’ Comp Board may access penalties for non-compliance,
  – up to one half of 1% of the employers’ weekly payroll for period of non-compliance,
  – plus payment of any PFL claims and an additional sum of up to $500.
Thank you!