



New York State Paid Family Leave Overview

General Information

Eligible employees in the State of New York may take New York State Paid Family Leave ("NYPFL"). Kelly has obtained NYPFL insurance, and employees will contribute toward the cost of insurance through payroll deductions. The amounts will be set by New York state and are subject to change annually.

Overview

Eligibility

If the employee's regular schedule is 20 or more hours per week, they are eligible for NYPFL if they have been employed for 26 consecutive work weeks, inclusive of paid time off and other periods of leave, except for periods of NYS statutory disability, so long as the employee remained continuously employed.

If the employee is regularly scheduled to work fewer than 20 hours per week, they become eligible for NYPFL after having worked 175 days, inclusive of paid time off and other periods of leave, except for periods of NYS statutory disability, so long as they remain continuously employed.

Once the employee is eligible, there is no waiting period before receiving NYPFL benefits. Unlike disability benefits, they are not eligible for NYPFL after termination of employment.

Permitted Uses

An employee may take job-protected leave for any of the following reasons:

- To provide care or participate in providing care, including physical or psychological care, for a covered Family Member, defined as a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner when the Family Member has a serious health condition;
- To bond with a child the first year after birth, adoption, or foster placement. An employee may take NYPFL 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 any "qualified exigency" covered under the Federal Family Medical Leave Act ("FMLA"), where the covered Family Member is on active duty or has been notified of an order to resume active duty in the military.

Length of NYPFL and Amount of Pay:

If eligible, an employee may take up to 12 weeks of NYPFL beginning January 1, 2021 and thereafter. If an employee takes leave after January 1, 2021 and later, benefits will be paid at the rate of 67% of their average weekly wage, but not more than 67% of the state average weekly wage.

NYPFL may be taken in weekly or daily increments. NYPFL may be taken in shorter increments only during periods when NYPFL runs concurrently with other forms of leave (such as FMLA) and intermittent leave in shorter increments is granted. An employee may not use more than a total of 26 weeks of

disability and NYPFL benefits in any 52-consecutive week period. Employees collecting disability benefits may not also collect NYPFL at the same time, for the same occurrence. Employees, however, may collect disability benefits relating to pregnancy disability, and then may subsequently collect NYPFL for child bonding time.

An employee may not receive Workers' Compensation and NYPFL at the same time. However, employees eligible for reduced earnings under Workers' Compensation may be eligible for NYPFL.

An employee may choose to charge all or part of NYPFL time to unused accrued PTO in order to receive full salary. Time taken as NYPFL leave may be counted against the maximum NYPFL allotment, even if the employee does not apply for NYPFL benefits during this period of leave. Under no circumstance will an employee be paid more than 100% of their base salary.

If NYPFL is taken for a reason that is a qualifying reason under NYPFL and under FMLA, then NYPFL will run concurrently with FMLA leave. When NYPFL runs concurrently with FMLA, the FMLA rules regarding use of paid time off accruals will govern. NYPFL leave will also run concurrently with any other forms of leave, as permitted by law. Please see the **Family and Medical Leave Act Policy (e1081)**, for more details on FMLA.

Employee Notice of Leave

If NYPFL leave is foreseeable based on an expected birth or placement, planned medical treatment, known military exigency or otherwise, the employee must provide Kelly Services with no less than 30 days' notice before the leave is to begin, or as soon as is practicable. When the need for leave is foreseeable, failure to provide 30 days' notice may result in partial denial of a claim. If NYPFL leave is not foreseeable, if dates of the scheduled leave change or are extended, or were initially unknown, the employee shall advise Kelly Services as soon as is practicable.

If NYPFL is taken on an intermittent basis, the employee must advise Kelly Services of the schedule for intermittent leave, to the extent practicable. The employee must also provide notice as soon as is practicable to Kelly Services before each day of intermittent leave.

Certification

The employee may be required to provide medical certification of their family member's condition and may be required to have their family member submit to a medical exam.

The employee may be required to provide copies of military orders for leave taken for qualifying emergency, as well as certification regarding facts supporting the qualifying emergency.

The employee may be required to provide supporting documentation to support the need for bonding, adoption, or foster care leave.

It is the employee's responsibility to provide the insurance carrier with a complete and sufficient certification. The employee will be required to provide documentation of their leave.

Please contact your Kelly Representative for the appropriate forms and if you have any questions.

Health Insurance

During NYPFL, Kelly will maintain the employee's health insurance on the same conditions as if they had continued working their regular schedule.

Kelly will deduct their portion of the health plan premium (if applicable) as a regular payroll deduction. If an employee chooses not to retain health plan coverage while on NYPFL or the coverage lapses due to non-payment of premiums, upon the employee's return from NYPFL, the employee shall be reinstated into the health plan on the same terms the employee had prior to taking leave.

Any other applicable benefits, such as 401(k) will be governed in accordance with the terms of each benefit plan. Benefit accruals, such as vacation, sick leave, or holiday benefits will be suspended during NYPFL and will resume upon the employee's return to active employment. The employee's previously accrued benefits will remain intact during leave.

Limitations on Leave Benefits

An employee will not be eligible for NYPFL benefits if their leave is due to their willful intention to bring about their illness or injury. The employee will not receive NYPFL for any day in which they perform work for remuneration or profit. If the employee is disqualified from NYS unemployment insurance, it may affect their eligibility for NYPFL.

Employee's Ability to Opt Out

An employee may only opt to waive their eligibility for NYPFL if:

- An employee's regular employment schedule is 20 hours or more per week and the employee will not work 26 consecutive weeks in a 52-consecutive week period; or
- An employee's regular employment schedule is fewer than 20 hours per week and the employee will not work 175 days in a 52-consecutive week period.

Should the employee's regular work schedule change, such that they will reach the eligibility thresholds detailed above, within 8 weeks of such change any waiver is deemed revoked, and the employee must begin making contributions to the cost of NYPFL benefits, retroactive to the date of hire, upon receiving notice from Kelly.

Anti-Retaliation

The employee's job is protected while out on NYPFL. Employees will normally be reinstated to the same or a comparable position after their leave ends, consistent with applicable law. Kelly will not retaliate or discriminate against any employee who uses PFL.

If you believe an employee needs to take NYPFL or have any questions, contact your Kelly Representative.

Questions/Contacts

- For questions about the paid family leave process, contact [Mailbox Benefits](#).
- For questions about a particular sick/safe leave law, contact [Mailbox Legislative Compliance](#).