



# FMLA, PFL & STD

When do  
they apply to  
you?

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## What is FMLA, PFL and STD?

**What is FMLA:** The Family and Medical Leave Act of 1993 (FMLA) is a federal law requiring covered employers to provide employees job-protected and unpaid leave for qualified medical and family reasons. Qualified medical and family reasons include: personal or family illness, family military leave, pregnancy, adoption, or the foster care placement of a child.

**What is STD:** Short-term disability(STD) insurance pays a percentage of your salary if you become temporarily disabled, meaning that you are not able to work for a short period due to sickness or injury (excluding on-the-job injuries, which are covered by workers' compensation insurance).

**What is PFL:** Employers are to provide job protected paid leave under **NY Paid Family Leave (PFL)** to eligible employees as part of the state's already-existing temporary disability insurance program for qualified medical or family reasons which include: family military leave, birth of a child, family illness, adoption or the foster care placement of a child. (Not for personal illness or injury)



# Let's determine which is for you....



**You have a situation that requires you to be out of work, either due to you or a family members' serious health condition. "What are my options?"**

**FMLA:** Under FMLA you can get up to 12 weeks of unpaid, job protected time off from work. To be eligible you must have worked for RFMH for at least 12 months and worked a minimum of 1,250 hours in that 12-month period. You will be responsible to pay your employee portion of your benefits while out on FMLA. You can request to use your accrued time to supplement your income while out of work. However, it is not required. Some examples of "Qualifying Events";

- Birth of a child/bonding with a child within the first 12 months of the child's birth. This applies to a Mother and a Father and must be taken in a continuous block of time.
- Placement of a child for adoption/foster care within 1 year of adoption or placement
- Your serious health condition which renders you unable to work at all or unable to perform the essential functions of your job. Must be absent for medical treatment.
- To care for a "family member" with a serious health condition.
- Military deployment of a spouse, son, daughter or parent.

- To care for an injured or ill service member: Spouse, son, daughter or parent.

(Family member as defined under FMLA: Spouse, \*child or \*\*parent)

\*Child = biological, adopted, foster, step, legal ward

\*\*Parent = biological, adoptive, step, foster or anyone who stood in loco parentis

**PFL:** Effective January 1, 2018. You may be eligible for up to 50% of your wages for a maximum of 8 weeks. To be eligible, you must have worked at least 20 hours a week for 26 consecutive weeks. If you work less than 20 hours a week, you must have worked 52 weeks. Some examples of "Qualifying Events":

- Bonding with a child within the first 12 months of the child's birth. (applies to a Mother and a Father)
- To Provide care for a "family member" with a serious health condition.
- Military deployment of a spouse, son, daughter or parent

(Family member as defined under PFL: Spouse, domestic partner, child, \*parent, grandparent, grandchild)

\*Parent = Biological, foster, adoptive, parental in-law, step, legal guardian, anyone who stood in loco parentis while you were a child

**STD:** Short -term Disability is payment to you while you are out of work for your own personal illness or injury which is not work related, in the amount of 50% of your wages or a maximum of \$170 – whichever is less, for a maximum of 26 weeks. There is a 1 week (7 calendar day) waiting period while you are out. Payments are calculated starting your 8<sup>th</sup> day out of work. Some examples of "Qualifying Events":

- Birth of a child
- Pregnancy bed rest, medical complications during pregnancy where your doctor deems you unfit to work
- Off the job injuries or illness



Now that you know what FMLA, PFL and STD are, determine which one(s) fits your situation.

**FMLA = Family Medical Leave Act**

**PFL = Paid Family Leave**

**STD = Short Term Disability**

<b>Assuming you meet eligibility requirements for one or more leave benefits.</b>	<b><u>FMLA</u> Unpaid Job Protection</b>	<b><u>PFL</u> Partial Paid Leave</b>	<b><u>STD</u> Partial Income Replacement</b>
You are sick/injured & require more than 1 week out of work for recovery and/or medical treatment(s)	✓		✓
You gave birth to a baby	✓	✓	✓
You are having medical complications during/after pregnancy and need to be taken/kept out of work	✓		✓
Your spouse gave birth, you adopted or fostering a child	✓	✓	
Your Spouse, Child or Parent has a serious health condition and you need to care for them	✓	✓	
Your "Family Member" has a serious health condition and you need to care for them		✓	
Your Spouse, Child or Parent has military deployment	✓	✓	
Your Domestic Partner, Mother/Father In-law, Step Parent, Adoptive Parent, Legal Guardian, Foster Parent has military deployment		✓	

See "Family Member" definition per FMLA/PFL on page 2

	<b>Family Medical Leave Act</b> (Unpaid Job Protection)	<b>Paid Family Leave</b> (Partial Paid Leave)	<b>Short Term Disability</b> (Partial Income Replacement)
<b>Eligibility</b>	You must be employed for one year (12 months) <b>AND</b> have worked at least 1,250 hours.	Worked 26 weeks and no less than 20 hours a week or 52 weeks working less than 20 hours a week.	You must have completed 4 consecutive weeks of employment.  Experiencing a serious medical condition certified by a physician.
<b>Limitations</b>	Must fit into the FMLA guidelines for eligibility. Use of paid time may not extend the length of FMLA, but you can use paid time off, disability, workers comp or PFL to supplement income.  Disability, Workers Compensation and Paid Family Leave run concurrently with Family Medical Leave Act.	Must fit into the PFL guidelines for eligibility.  Use of paid time off may not extend the length of PFL.  Paid Family Leave is only available in full day increments, but it can be taken intermittently. Employees can take only the full days off during the week when they are caring for a relative or bonding with a child.  An employee's combined total disability leave and Paid Family Leave in any 52-week period may not exceed 26 weeks. (i.e. if an employee has maxed out the 26 week disability leave entitlement, the employee may not take family leave during that same 52 week period  Can run concurrently with FMLA	Cannot be used with PFL.  If you use accruals while on STD payment of up to the maximum \$170 will be made to RFMH.  You cannot collect payment from PFL and/or RFMH and receive payments from STD.  An employee's combined total disability leave and Paid Family Leave in any 52-week period may not exceed 26 weeks. (i.e. if an employee has maxed out the 26 week disability leave entitlement, the employee may not take family leave during that same 52 week period).  Can run concurrently with FMLA
<b>Maximum Benefit</b>	12 weeks in a 12 month period measured forward from the date of your first FMLA leave usage.	50 % of wages or 50% of the State average weekly wage, whichever is less, up to 8 weeks	50 % of wages up to a maximum of \$170 weekly, whichever is less for 26 weeks (6 months) during 52 consecutive weeks.
<b>Process</b>	Request for FMLA are submitted in writing to your local Human Resources department 30 days in advance in writing of the need for leave indicating the reason for the leave and the requested/required duration.  Employee request must indicate if the leave is without pay, or with pay by applying leave accruals.	Request for PFL are submitted in writing to your local Human Resources department 30 days in advance in writing of the need for leave indicating the reason for the leave and the requested/required duration.	You must notify your employer as soon as you know you will need to be out of work for an extended period lasting more than 1 week.  You will need to complete the disability claim form.
<b>Determination</b>	Made by the employer. Must meet all applicable requirements set forth by FMLA. You will be notified in writing of the determination.	Made by the insurance carrier.	Made by the insurance carrier.
<b>Use of Accruals</b>	Maximum of 15 days sick used for "Family Member"  All accrued time allowed with supervisor approval	All accrued time allowed with supervisor approval. Cannot be used to supplement income.	All accrued time allowed with supervisor approval while certified disabled. Cannot be used to supplement income.

	<b>Family Medical Leave Act</b> (Unpaid Job Protection)	<b>Paid Family Leave</b> (Partial Paid Leave)	<b>Short Term Disability</b> (Partial Income Replacement)
<b>Employee Responsibilities</b>	<p>If leave is foreseeable, the employee is required to give at least 30 days' advance written notice. If you learn of the need for leave less than 30 days in advance, you must notify your supervisor and HR as soon as possible.</p> <p>Give a clear expected return date and maintain communication with your supervisor and HR.</p> <p>Obtain a return to work note from your doctor prior to returning.</p> <p>Update and submit timecards while out.</p> <p>You must follow the usual notice or call in procedures.</p>	<p>If leave is foreseeable, the employee is required to give at least 30 days' advance written notice. If you learn of the need for leave less than 30 days in advance, you must notify your supervisor and HR as soon as possible.</p> <p>Complete the appropriate claim form that applies to your situation and submit to the carrier for approval which can be found at: <a href="https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-employer-and-employee-forms-0">https://www.ny.gov/new-york-state-paid-family-leave/paid-family-leave-employer-and-employee-forms-0</a></p>	<p>File claim with your employer, using form DB-450.</p> <p>File your claim within 30 days after you become disabled. If you file late, you will not be paid for any disability period more than two weeks before the claim is filed. No benefits will be paid if you file more than 26 weeks after your disability begins. You must be under the care of a physician, chiropractor, podiatrist, psychologist, dentist, or certified nurse midwife to qualify for benefits.</p> <p>Your health care provider must complete and sign the "Health Care Provider's Statement" certifying your disability.</p> <p>Update and submit timecards while out indicating what accruals are to be applied or LWOP.</p>
<b>Employment/Return to work</b>	<p>FMLA is job protected leave. You will be required to provide physicians note releasing you back to work. You must return to work on the date FMLA ends (based on FMLA initial request) unless you have updated paperwork to extend your return date, or when all FMLA has been exhausted. Whichever is sooner. Failure to do so cannot guarantee your employment. If returning to work prior to exhausting all 12 weeks You will be returned to the same job or a similar position and status.</p>	<p>PFL is job protected leave. You must be ready willing and able to return to your job when PFL expires unless otherwise covered by FMLA extending beyond the PFL time out.</p> <p>You will be returned to the same job or a similar position and status.</p>	<p>STD is not a job protected benefit. See FMLA for applicable leave/employment rules.</p>
<b>Benefits</b>	<p>Employee portion must be paid in order to avoid interruption of benefits, either by making payments directly to RFMH in advance but no later than 30 days or by payroll deduction while using accrued time. Payments made late does not guarantee reinstatement of coverage. Continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.</p>	<p>Employee portion must be paid in order to avoid interruption of benefits, either by making payments directly to RFMH in advance but no later than 30 days. Payments made late does not guarantee reinstatement of coverage. Continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.</p>	<p>Employee portion must be paid in order to avoid interruption of benefits, either by making payments directly to RFMH in advance but no later than 30 days or by payroll deduction while using accrued time. Payments made late does not guarantee reinstatement of coverage. Continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.</p>
<b>Tax Reporting (?)</b>	<p>FMLA has no wage/ tax implications. Use of accrued time while on leave will be reported as wages on a W2.</p>	<p>Benefits paid will be taxable, non-wage income that must be included in federal gross income. The carrier will issue a 1099 Misc. to claimants for tax reporting.</p>	<p>Benefits paid may be taxable. Non-wage income will be reported on a W2/Supplemental W2.</p>