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GROUP BENEFITS

Adapting to change

What employers need to know
about New York Paid Family Leave



New York Paid Family Leave

2019 Employer Guide

Paid Family Leave is a mandatory benefit in New York.

New York employers who are required to offer Statutory Disability coverage must also offer Paid Family Leave. The same is true for out-of-state employers with employees who work in New York.

Lincoln Financial Group is here to help you meet this state's mandate. This guide includes helpful information about what Paid Family Leave is, how it coordinates with other leave plans, and what you need to know from an administrative perspective.

What is Paid Family Leave?

New York's Paid Family Leave program provides eligible employees with continuous or intermittent paid leave to:



Provide care for a seriously ill family member



Bond with a child following a birth or adoption, or welcome a child into foster care



Attend to family matters if a family member is called to active military duty (military exigency)

Family members include children, spouses, domestic partners, parents, parents-in-law, grandparents and grandchildren. (Note that parents-in-law, grandparents and grandchildren are not eligible family members for military exigency.)

An employee's job is protected during a covered leave and there is no waiting period for benefits. Health coverage must be continued during a paid leave. Employees must notify their employer 30 days before a foreseeable leave or as early as practicable for an unforeseen leave. Proof of a need for family leave is required.



Who is eligible for Paid Family Leave?

Paid Family Leave is mandatory for many New York-based employees. Employee eligibility for Paid Family Leave benefits is determined by the state as follows:

Full-time	Part-time
Employees who work 20 or more hours per week are eligible for benefits after 26 consecutive weeks of employment.	Employees who work fewer than 20 hours per week are eligible for benefits after 175 days of work.

The use of vacation, personal, sick or paid time off (PTO) days counts toward eligibility. However, days taken for Statutory Disability do not count toward eligibility.

For an employee expected to meet full-time or part-time employment status, premium deduction must begin on the employee's date of hire.

An employer's failure to withhold may not be recovered by withholding greater than the maximum annual premium at a later date.

Certain New York employers are exempt from the Paid Family Leave requirement:

- Public employers, including state offices, public authorities and any other government agencies (Note: Public employers have the option to offer Paid Family Leave to their employees.)

Certain employee types are also exempt, for example:

- Persons engaged in a professional or teaching capacity at a religious, charitable or educational institution
- A licensed minister or member of a religious order
- An executive officer of a religious, charitable or educational institution
- An independent contractor



Keep in mind:

- Benefit eligibility for Paid Family Leave and Statutory Disability differs; employees with four weeks of consecutive employment are eligible for Statutory Disability benefits.
- For a remote employee, primary work location as tracked by the employer determines whether the employee is eligible for Paid Family Leave.
- Family members who are employed by the same employer have access to Paid Family Leave, but the employer can decide whether both can take leave at the same time to care for the same family member.
- Temporary or seasonal workers who meet eligibility requirements are eligible for Paid Family Leave. An employee who is not expected to meet these requirements can waive coverage by completing the state's PFL-WAIVER form. The completed form should not be returned to Lincoln, but rather held by the employer.

How do Paid Family Leave benefits work?

An employee can take paid leave either in weekly or daily increments.

The 2019 maximums are:

10 weeks	50 days
for employees who take paid leave in weekly increments (for example, to help care for a sick family member for an extended period)	for employees who take paid leave in daily increments (for example, to accompany a sick family member to healthcare provider appointments)

Benefit amounts are calculated as follows:

Weekly increments	Daily increments
55% of an employee's average weekly wage, up to a maximum of \$746.41 (55% of the 2019 state average weekly wage: \$1,357.11)	Same formula as weekly, but prorated by the average number of days worked per week during the eight weeks preceding a paid leave

Benefit amounts and maximum lengths of paid leave are expected to increase annually as Paid Family Leave is phased in over the next few years.



Keep in mind:

If your company is new to Lincoln and you have employees on NY Paid Family Leave when your coverages take effect, those employees may be considered eligible for other Lincoln coverages they would otherwise be eligible for while on leave. Where applicable, these employees would be covered based on each coverage's Actively at Work or Prior Insurance Credit contract provision.

For existing Lincoln clients, if an employee files for Paid Family Leave under the Lincoln policy and is insured for other Lincoln coverages, they generally remain covered under those policies via our continuation of insurance provisions.

Premium payment is required for periods the employee is on leave and coverage is maintained.

Refer to your Lincoln product contract for specific details on continuation and other contract provisions that may apply.

Impact on employees who took leave in 2018

If an employee's leave begins in 2019, the 2019 PFL benefit limits will apply. If an employee's leave began in 2018 and continues into 2019, the 2018 benefit limits will apply to the existing leave (as a reminder, PFL benefits were payable at 50% of an employee's average weekly wage — up to \$652.96/week — for up to eight weeks).

However, any remaining PFL time would be payable according to 2019 benefit limits if an employee requested and completed leave in 2018, and requested subsequent leave in 2019 for the same reason (and the leaves are separated by more three months). The same would apply if the employee took leave in 2018 and requested leave in 2019 for a different, covered leave reason.

Coordination with other leave plans

Paid Family Leave and Statutory Disability

Lincoln provides a single plan that combines Paid Family Leave and Statutory Disability. Simply stated:

- Paid Family Leave lets employees take time off to care for or bond with an eligible family member.
- Statutory Disability lets employees take time off to recover from their own injury or illness.

Here are a few things to keep in mind regarding the coordination of benefits:

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Paid Family Leave provides up to ten weeks of leave in a 52-week period (in 2019).



Statutory Disability provides up to 26 weeks of leave in a 52-week period.



An employee cannot take both Paid Family Leave and Statutory Disability at the same time.

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Paid Family Leave and Statutory Disability have a shared duration, meaning an employee who is eligible for both is limited to a total of 26 weeks of payable benefits within a rolling 52-week period. In 2019, Paid Family Leave benefits are capped at ten weeks.

Paid Family Leave and company-paid leave

Increasingly, employers are establishing company-paid leave programs for parental bonding and care of a seriously ill family member. If an employee is eligible for both this type of program and Paid Family Leave, and receives benefits from the company-paid program, the employer can seek reimbursement for Paid Family Leave benefits from Lincoln. This reimbursement is limited to the benefit amount and duration for which the employee would have qualified through Paid Family Leave, not to exceed the actual amount of time taken.

Paid Family Leave and the Family and Medical Leave Act

Paid Family Leave and the Family and Medical Leave Act (FMLA) protect an eligible employee's job during an approved leave. However, the two leave plans differ in a few important ways:

- Paid Family Leave is a paid benefit; FMLA is not.
- Paid Family Leave applies to all private employers with at least one employee; FMLA applies to all public employers with 50 or more employees.
- Paid Family Leave provides up to ten weeks of leave in a rolling 52-week period; FMLA provides up to 12 or 26 weeks of leave in the leave year method selected by the employer.
- Paid Family Leave does not include partial-day intermittent time approved under FMLA. When this time is paid, the employer may report hours to Lincoln when they equal a full day to deduct from the employee's available Paid Family Leave time.
- Paid Family Leave does not require an employee to exhaust PTO prior to an approved leave; FMLA allows employers to require that an employee exhaust PTO while on an approved leave.

Eligibility requirements differ as well:

- **Paid Family Leave**

Full-time employees (20+ hours per week as defined by the state) are eligible after 26 consecutive weeks of employment; part-time employees (less than 20 hours per week as defined by the state) are eligible after 175 work days of employment.

- **FMLA**

Employees are eligible for benefits after 12 months of employment, provided 1) they work 1,250 or more hours in the 52-week period preceding a leave, and 2) work in a location with 50 or more employees within 75 miles of their residence at the time a leave is requested.



Keep in mind:

- An employee may qualify for both Paid Family Leave and FMLA. During this common scenario, Paid Family Leave and FMLA run concurrently.
- In the case of maternity and bonding, if a female employee opts not to take Paid Family Leave for bonding following her Statutory Disability claim, the employee's FMLA would also end and she would be required to return to work. When ready to begin the Paid Family Leave bonding leave, the employee's remaining FMLA entitlement would run concurrently with Paid Family Leave. In addition, when these programs run concurrently, intermittent bonding time under FMLA must be allowed (refer to example three of the "Pulling it all together" chart on page 7).

Paid Family Leave and Short-term Disability

Paid Family Leave and short-term disability both provide paid leave benefits for eligible employees, but differ in a few key ways:

- Paid Family Leave is a mandatory benefit for most New York employees; short-term disability is an optional benefit.
- Paid Family Leave covers time off to care for or bond with someone else; short-term disability covers time off to recover from a personal injury, illness or pregnancy.
- Paid Family Leave does not have a waiting period for benefits; short-term disability typically does.
- Paid Family Leave provides benefits for up to ten weeks (in 2019); short-term disability typically provides benefits for 13 up to 26 weeks, depending on the plan.

Side-by-side overview of leave plans

	Paid Family Leave	Statutory Disability	Family and Medical Leave Act (FMLA)	Short-term Disability
Eligibility	Employees of New York private employers	Employees of New York private employers	Employees of private employers with 50+ employees	Employees of U.S. organizations that offer the plan
Purpose		Care for a personal injury or illness	Care for a personal injury or illness	Care for a personal injury or illness
	Care for a seriously ill family member		Care for a seriously ill family member	
	Bond with a newborn, adopted or foster child		Bond with a newborn, adopted or foster child	
	Attend to family matters following military deployment		Attend to family matters following call to active duty	
			Care for an injured service member	
Benefits	Paid	Paid		Paid
	Job protection		Job protection	
Duration	10 weeks in a 52-week period (in 2019)	26 weeks in a 52-week period	12 or 26 weeks in a 12-month period	Typically 13 up to 26 weeks, depending on the plan

Pulling it all together

Here are a few examples of how Paid Family Leave could coordinate with other leave plans following the birth of a child:

Week	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16
Example 1	Statutory Disability Leave*						Paid Family Leave									
	Short-term Disability*															
	Family and Medical Leave Act (FMLA)															
Example 2	Paid Family Leave															
	Short-term Disability*															
	Family and Medical Leave Act (FMLA)															
Example 3	Statutory Disability Leave*										Paid Family Leave (taken within 12 months of birth; remaining FMLA runs concurrently)					
	Short-term Disability*															
	Family and Medical Leave Act (FMLA)															

*Up to eight weeks for a cesarean section.

2019 Paid Family Leave premiums

The 2019 premium rate is 0.153% of an employee's wages. Wages include base salary, commissions, bonuses, overtime, and the reasonable value of other compensation such as board, rent, housing, or lodging. The 2019 Statewide Average Weekly Wage (SAWW) is \$1,357.11. The annualized SAWW is \$70,570. For employees with an annual salary greater than the annualized SAWW, the maximum annual premium is \$107.97. These rates are set by the state of New York and are expected to change each year.



An employee-funded benefit

New York Paid Family Leave is intended to be 100% funded by employee payroll deductions; however, employers have the option of funding either a portion or the entirety of Paid Family Leave premiums. In either scenario, employers are responsible for paying the monthly premium.

Here are two examples of employee deductions:

Employee annual earnings		Weekly deduction	Biweekly deduction
Less than SAWW*	\$50,000 (\$961.54/week)	\$1.47 $0.153\% \times \$961.54$	\$2.94 $0.153\% \times \$961.54 \times 2$ (weeks)
More than SAWW*	\$75,000 (\$1,442.31/week)	\$2.21 $0.153\% \times \$1,442.31$ Note: Annual deductions will be satisfied in the 49th week of the year.	\$4.42 $0.153\% \times \$1,442.31 \times 2$ (weeks) *Deductions made until the \$107.97 maximum is achieved.

Administrative details

Paid Family Leave is a rider to the New York Statutory Disability policy. Lincoln administers both coverages in a single plan that complies with current state regulations. Paid Family Leave coverage is not available as a stand-alone plan or to workers outside of New York.



Billing

Lincoln bills \$0.153 per \$100 of monthly covered payroll for NY Paid Family Leave. Employers must calculate covered payroll for insured employees and populate aggregate covered payroll on the billing template. Employers have an option to be billed monthly in arrears or quarterly in arrears.

Employers should remit premium based on an employee's actual covered payroll for the billed month ($(\text{actual covered payroll} \times \$0.153) / \$100$). The covered payroll is the equivalent of the employee's gross wages within the billed month. An employee's covered payroll may differ monthly based on a variable work schedule or receipt of other income, such as overtime, bonuses or commissions.

Employers commonly align Paid Family Leave premium remittance with their payroll by remitting premium based on deductions taken during the billed month. If an employer pays on a weekly or biweekly basis and remits in this manner, the company will need to ensure that an extra deduction is remitted in any month that has an extra pay period. To calculate covered payroll for the billed month using this method, an employer should total the gross wages for each paycheck issued in the billed month, multiply the total gross wages by the \$0.153 billed rate, and then divide by \$100. See examples in the following chart:

Sample Paid Family Leave premium calculation:

Employee annual earnings		Biweekly gross earnings	Monthly covered payroll (assumes two equal payments in the month)	Monthly premium*
Less than SAWW	\$50,000 (\$961.54/week)	\$1,923 (\$50,000 / 26 pays)	\$3,846 (\$1,923 x 2)	\$5.88 (((\$3,846 x \$0.153) / \$100)
More than SAWW	\$75,000 (\$1,442.31/week)	\$2,885 (\$75,000 / 26 pays)	\$5,769 (\$2,885 x 2)	\$8.83 (((\$5,769 x \$0.153) / \$100)

* Note this calculation must be done every month to account for any differences in an employee's gross earnings among pay cycles and to account for months that have an extra pay cycle. Deductions should be made up to the maximum of \$107.97 per year.

Billing best practices:

- Paid Family Leave and Statutory Disability are self-billed as separate coverages (with separate rates) within the same billing template.
- Regardless of the payroll deduction and billing method selected, employers must ensure they do not remit more than the \$107.97 annual deduction cap for any given employee for Paid Family Leave. Once an employee has reached this deduction level for the year, the employer should not take any additional deductions for the remainder of the calendar year.
- Premiums for Paid Family Leave and Statutory Disability are in arrears. Any adjustments to covered employee populations (i.e., new hires or terminations) should be accounted for in the month when the adjustment occurs.
- Coverages have a 31-day grace period, beginning at the end of the billed month for groups billed monthly and at the end of the billed quarter for groups billed quarterly. These grace periods allow ample time for employers to deduct NY Paid Family Leave premiums before remitting all premiums to Lincoln.
- The left section of the billing template is for Statutory Disability (denoted NYDI), and the right side is for Paid Family Leave (denoted NYPF).
- Within the Paid Family Leave section, employers must provide male lives, aggregate monthly covered payroll for male employees, female lives, and aggregate monthly covered payroll for female employees (as required by the state of New York). The state requires Lincoln to provide this information, and we cannot keep your coverage in place without it.
- **Paid Family Leave and Statutory Disability premium must be remitted at the same time. A completed Lincoln billing template (or employer report containing all required fields) must accompany the payment for Lincoln to reconcile and apply the payment.**

For more information and examples on billing, refer to Lincoln's New York Statutory Disability & Paid Family Leave Billing Guide.



Claims

Paid Family Leave is part of Lincoln's Integrated Claims model. The same Statutory Disability policy number applies to Paid Family Leave.

Employee notice to the employer

Employees who plan to take a qualified paid leave are expected to provide notice to their employers 30 days in advance of foreseeable events, or as soon as practicable for unforeseen leaves.

The employer has three business days from the date an employee requests the employer to complete the employer section of the claim form to return it to the employee. The employee is responsible for submitting the claim form to Lincoln. Employees taking intermittent leave must notify Lincoln within two business days of a leave once the claim has been approved.

Reporting a claim to Lincoln

Employees can submit Paid Family Leave claims in several ways, as outlined on the back cover of this guide. *For Absence Management clients, claims can be submitted either telephonically or using Lincoln Financial's convenient mobile app.*

Employees can use either Lincoln's Paid Family Leave claim forms or the state-published claim forms. Claim forms can be found in the Lincoln4Benefits portal of our website: LincolnFinancial.com. You can also request copies by contacting Lincoln directly. *For Absence Management clients, all necessary forms will be sent to the employee following the leave intake.*

Lincoln provides a claim form for each type of eligible leave: bonding with a child, caring for a seriously ill family member, and military exigency. Once a claim has been received, Lincoln will review and contact the claimant and/or employer to gather any additional information needed. Once a claim is considered complete, Lincoln has 18 calendar days to pay (or deny) the claim.

Note: Statutory Disability claimants should continue to report their claims in the same manner. *For Absence Management clients, an employee may report the entire period (Statutory Disability and Paid Family Leave) through the initial intake.*



Keep in mind:

If an employee is eligible for more than one leave plan, the claims process is integrated:

- One claims examiner manages Paid Family Leave and/or Statutory Disability claims that run concurrently with short-term disability and/or FMLA, providing a seamless experience for the claimant.
- Maternity claimants that initiate a Paid Family Leave claim immediately after a Statutory Disability claim concludes may do so without submitting a Paid Family Leave claim form. The claims examiner can gather the necessary information over the phone to initiate the Paid Family Leave claim.





Reporting

Claim status and explanation of benefits reports are provided for Paid Family Leave claims reported and paid monthly. In addition, employers may run these reports for different time periods using our client portal, Lincoln4Benefits. *For Absence Management clients, Paid Family Leave is included in Lincoln's integrated Absence Management reporting available on Lincoln4Benefits.*



Taxability

Premiums for Paid Family Leave are deducted from an employee's after-tax wages. Employers should report employee contributions on Form W-2, Box 14 (Statutory Disability insurance taxes withheld).

Benefits paid to employees are taxable nonwage income and are included in an employee's federal gross income. Lincoln does not deduct income taxes from benefit payments unless an employee submits a voluntary tax-withholding request. At year-end, Lincoln issues a Form 1099-M directly to employees that received Paid Family Leave benefits during the applicable year.

Because Paid Family Leave benefits are taxable nonwage income, FICA does not apply and, therefore, the FICA Match service is not available. The FICA Match service remains an available add-on for an employer's Statutory Disability coverage.

There is a difference between Paid Family Leave and disability regarding benefit taxation, since disability benefits are considered wage replacement.

- For disability benefits, the same proportion of premium paid by an employee posttax will determine the proportion of benefits nontaxable (for example, if 25% of the disability premium is paid posttax by the employee, 25% of the benefit will be nontaxable).
- FICA taxes also apply to any portion of STD/Statutory Disability benefits that are taxable. Paid Family Leave benefits are always considered taxable nonwage income that is subject to income taxes but not FICA.



Keep in mind:

An employer is required to communicate Paid Family Leave to their employees by posting the Notice of Compliance in a conspicuous place. Lincoln will issue a new Notice of Compliance to its New York Statutory Disability & Paid Family Leave policyowners before the end of 2018 to replace their current version. In addition, they must include information about Paid Family Leave in their employee handbook or similar written material. If an organization does not have an employee handbook, the employer is still responsible for informing employees of their rights and obligations under Paid Family Leave, as well as outlining how to file a claim. Handbooks and other communication materials should be updated annually as the state sets forth plan increases.

We're here to help.

Client services

Billing, policy inquiries and other administrative questions

Email: ClientServices@LFG.com

Phone: 800-423-2765

Fax: 877-573-6177

Claims submission

Submission of Statutory Disability and New York Paid Family Leave claim forms, medical records and documentation

Email: DisabilityClaims@LFG.com

Phone: 866-STD-CALL (866-783-2255)

Fax: 877-843-3950

Mail: Lincoln Life & Annuity Company of New York
P.O. Box 2609

Omaha, NE 68103-2609

Intermittent time for approved claims may be reported 24/7 via Lincoln's automated phone system.

Claims submission

for Absence Management clients

Phone: 800-423-2765

Fax: 855-831-7061

Email: AMClaims@LFG.com

Claims inquiries

Claims status and general claims questions

Email: Claims@LFG.com

Phone: 800-423-2765

Fax: 877-843-3950

Web: Lincoln4Benefits.com



For the latest updates on Paid Family Leave and to access state forms, visit LFG.com/NYPaidFamilyLeave.

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