

Q&A from 11/1/18 NY PFL Webinar

Can you remind me what the definition of a Serious Health Condition is?

On 11/5/18, Gov. Cuomo signed into law the "Living Donor Protection Act" ([S.2496-B/A.297-C](#)). This act expands the definition of Serious Health Condition to include: "including transplantation preparation and recovery from surgery related to organ or tissue donation."

The definition that will appear in Guardian's 2019 NY PFL Rider is as follows:

- Serious Health Condition means an illness, injury, impairment, or physical or mental condition, including transplantation preparation and recovery from surgery related to organ or tissue donation, that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or continuing supervision by a health care provider.

Are employees who are employed by an employer located in NY but work at a location outside of NY covered?

No. If the employee's primary work location is not within the State of NY, they would not be considered a NY covered employee and thereby not eligible for benefits.

If someone works five days a week and wants to take two days a week of PFL - how many weeks can they do that for? And does it have to be for consecutive weeks? Also, how does them still getting paid for three days a week of work affect calculating their average weekly wage?

PFL must be requested in full-day increments, thereby, if requesting leave in daily increments, the employee would be eligible in 2018 for a maximum of 40 days and 50 days in 2019. Based on the average weekly wages reported at time of claim, for PFL leaves in daily increments, an average daily wage would be used to calculate the daily payable benefit. As an alternative to incremental days, PFL can also be taken in continuous days – the maximum number of weeks is eight weeks for 2018 and 10 weeks for 2019.

If an employee has their own supplemental STD Policy - not financed by the company - will the employee still not receive the DBL benefits?

Since the NY DBL is a state mandated benefit, a NY covered employee would be eligible for benefits even if they have an existing STD policy in place, since a traditional STD policy cannot act as a replacement to the state mandated DBL policy. Typically, a traditional STD policy would integrate with state mandated plans and their benefits may likely be offset accordingly.

Gross amount paid is Total earnings or Net pay?

PFL wages should include gross covered wages, inclusive of regular wages, bonus and commissions.

Do you know the frequency that the deductions need to be sent to the state of NY?

The premium for the cost of the PFL coverage, whether it be to a private carrier or the NYSIF, should be submitted based on the billing mode established with the provider of the coverage. The premium cost of the coverage is typically fully funded by the employee payroll deductions, which the employer should be taking from each payroll until the maximum deduction per employee has been met for the calendar year.

Can an employee choose to use their PTO (vac/sick) when they are out on NYPFL? Or are they not allowed to be paid full wages and the leave at the same time? I know we can't force them to use their PTO while out.

Contingent on the employer's policy, the employee may be allowed to use PTO time to allow for full wages during a period of time while on PFL leave. In this incident, the employer would be eligible for reimbursement of the PFL benefits since they are paying the employee full wages.

What is the number of intermittent days for working 7 days a week again?

For 2019, the maximum number of intermittent days for someone working an average of seven days a week is 60 days.

When completing the wage form, can an employer attach a spreadsheet of wages, or does the PFL-1 employer portion need to be completed?

The employer section of the PFL-1 form should be completed to ensure efficiency of processing the claim.

Regarding the birth of a child, can the claim form be submitted prior to the birth of child or not until after birth of the child?

The claim may be submitted prior to the birth, but the claim will not be initiated until the birth date is confirmed. Thereby, there is no need to submit the claim to the carrier prior to the birth, but the employee is expected to provide their employer 30 days' notice when reasonable. We encourage employees to submit their claims as close to the date they are planning to take their leave as possible (i.e. within two weeks of the actual leave).

If someone reaches the max annual employee contribution with one company and leaves to go to another company, what happens when that company takes PFL as well?

Employee eligibility for PFL claim benefits and contributions must be re-satisfied with new employer.

Can you review again the 52-week lookback and being entitled to two additional weeks?

At the point of claim request, the maximum duration of benefits will be calculated by looking back 52 weeks prior to the requested day of leave to determine the number eligible weeks available. So, for example, if an employee is seeking to take bonding leave as of Feb 1, 2019 for an additional two weeks with their same child, who was born on Oct 1, 2018, and the employee took the full eight weeks of leave for bonding following the birth in 2018, the employee claim would be denied since the employee exhausted their maximum leave time in 2018 and it has been less than 3 months since they took leave for the same event. If, however, the same employee seeks additional bonding leave for the same child as of July 1, 2019, and based on the 52-week look back the only leave taken was the eight weeks following the birth, the employee would be entitled to the additional two weeks, since it has been in excess of the three months since the last bonding leave, and there have been no other leaves within the prior 52 weeks and it is within the first year of the child's birth.

If an employee works less than 20 hrs/week, is it 175 days per year in order to qualify?

Based on this work schedule, the employee must work 175 days before they are eligible for payable benefits. The 175 days do not need to be consecutive.

Are employers required to hand out 2019 notices to employees?

Yes. The employer is responsible to notify their impacted employees of the 2019 benefit provisions as well as posting updated DBL and PFL Compliance Posters received from their carrier for their active policy.

Can you confirm - I didn't think an employer could require an employee to take PTO while on PFL?

If the employer has more than 50 employees, and thereby subject to FMLA law, then the employer can require the employees to utilize PTO time and have it run concurrent with their PFL leave. This should, however, be clearly noted within the company's employee handbook.

Should an employer wait for the carrier to designate the time as PFL before potentially designating time as PFL in payroll?

Based on the employees' claim and request for paid leave, the employer would be recommended to note time as PFL leave to accommodate for the absence from work. If the claim is denied, the employer should make the appropriate adjustments at that time.

Does PFL have to be granted when the employee is taking PFL to work for another company?

PFL benefits would only be payable to an employee for a qualified event while they are actively employed. Taking a leave to pursue work at another company would not be considered a qualified PFL event.

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We have an employee that works for additional organizations and has applied for PFL with all the organizations. Will she be granted three separate periods of PFL or will the amount of time she is granted off be divided among the three companies? Each company has a different insurance provider.

An employee covered for NYPFL at multiple jobs will pay deductions at each employer (unless the employer is paying the premium), and the employee can take PFL from all jobs concurrently and earn the appropriate PFL benefit amount. But the employee cannot take PFL from all employers at separate times to exceed the PFL benefit period cap each year. For example, the employee may take PFL starting 1/1/19 for 10 weeks and collect their full PFL benefit payment from all employers, or the employee may choose to take PFL with only one job and work the others, but the employee cannot take PFL with one employer starting 1/1/19 for 10 weeks, then take 10 more weeks from the second employer after that leave is over and then 10 weeks from the third employer.

If an employee has a baby in 2018 but took NYPFL in 2019 for bonding, does the employee get eight weeks or 10 weeks from NYPFL?

The maximum duration of leave is dictated based on when the leave is initiated. If the leave begins in 2018, then eight weeks will be the maximum; if the leave begins in 2019, 10 weeks will be the maximum.

If you have two events in the same year, do you get eight weeks for each event or just eight weeks total?

No. The maximum weeks are for the entire year and not per event.

Leaves that overlap from 2018 and 2019, I understand that a new claim would need to be submitted in 2019 for the additional weeks. When the leave needs to be separated by three months, is that from the start of the first leave or the end of the first leave?

The three months would be from the end of the prior leave.

Employees who complete the form in advance of their leave and employers have three days to respond, should we not complete the wage data since their leave is in the future?

Employers are encouraged to complete their portion of the claim form at time claim is submitted. If the claim is submitted in advance of the requested leave, the carrier will qualify all data prior to processing the claim for payable benefits.

Employer with a closed shop - based on the employer's job needs, the Union sends a member. Employer pays Union member. Union member works as little as one time up to more consistent schedule. Most Union employees waive PFL since they are not eligible under this employer. If Union employee does request PFL, what exposure does our group have?

While this question isn't entirely clear from our perspective, here are details regarding PFL for unions. Public employees represented by a labor union may be covered for NYPFL, if the benefit is collectively bargained with the public employer. The agreed upon plan must then be submitted to the NY Workers' Compensation Board for approval. The plan must be "at least as favorable" as the statutorily mandated NYPFL benefits and may not permit eligible employees to waive PFL coverage. Once an agreement is reached, written notice must be provided to the WCB Chair, including a list of employees and coverage information. Opting out may occur later if agreed upon by the union and public employer. There's no notice requirement to union employees, in contrast to 12-month discontinuation notice requirement to non-union public employees.

A collective bargaining agreement for NYPFL may provide rules that differ from the Paid Family Leave regulations. Where the agreement does not provide a different rule, the Paid Family Leave regulations will apply. For example, the CBA may include rules regarding but not limited to the following:

- Employees are permitted to collectively establish their eligibility for PFL benefits through actual time worked at any employer covered by the CBA, so long as the time period for eligibility is not greater than required law.

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- The union may be responsible for time records and payroll deductions related to the administration of the PFL.

What if an employee works for a school and receives deferred payment for the summer months. Example: Employee works 10 months- Sept - June but elects to be paid over 24 pay periods- Sept - August. Do we include deferred payment as earned income for calculating 8 weeks of weekly wages?

Yes, all wages for the 8 weeks prior to the first date of leave should be included.

If an employee is receiving 100% pay while out on PFL using their PTO time, how can employer be reimbursed if employee is the one paying into PFL? Why would employer receive monies back for a benefit they do not pay into?

At time of claim submittal, an employer may request reimbursement of the benefit equivalent for the period of time in which they are paying the employee 100% of their wages. The employer would be reimbursed the benefit equivalent in lieu of paying the employee for this time period.

When can an employer recoup PFL premiums that were not deducted from an employees' pay?

Employee PFL contributions should be deducted from employees' payroll from day one up to the annual maximum employee contribution, unless eligible for waiver and signed waiver is on file. The only incidence in which the law allows for retro employee deductions is when a waiver is revoked whether it be voluntarily by the employee or an employee's hours change such that they are expected to meet claim eligibility requirements.

Can you take PFL in increments and accumulate the time so that you employees are paid out for a full day?

No, PFL must be taken in full day increments.

If someone's leave is starting in December, but will extend into 2019, will their benefit amount continue to be eight weeks or increase to 10 weeks?

The date the leave begins will determine the payable benefits and maximum duration period. If the claim begins in 2018, then 2018 PFL benefits will apply for the entire length of the claim.

Will employer have access to submitted claims on Guardian Anytime to track PFL?

No, at this time, Guardian does not have the option to view PFL claims in Guardian Anytime.

Isn't that addition to the definition of Serious Health Condition already covered under DBL? Those benefits would then overlap (at least the recovery piece) - right?

DBL benefits are for an employee's own illness and would not be covered by PFL. The Serious Health Condition definition will be expanded and apply to PFL for an employee to care for a family member.

Does the employee need to give a certain amount of notice in order to use intermittent leave? Does 'my baby is sick today and I won't be in' count for PFL?

No, PFL only applies to serious health conditions. A child sick with common illness would not constitute a qualifying event for a PFL claim.

If a woman is back from bonding and still has more time to use – she missed a day of work because her baby was sick and then comes back and requests that to be PFL. Is that PFL bonding under the current claim or should she submit for sick child PFL?

That day could be submitted as a bonding leave, but it could not be submitted as a serious health condition. PFL is only available for serious health conditions – it is not available for common illness.

The employee contribution rate is something that we should be deducting from each pay for NY employees, correct?

Correct.



Does the maximum weekly benefit mean that we have to pay that much per week? Or, we don't have to pay beyond it?
The maximum weekly benefit is the maximum amount payable to an employee per week for claim benefits.

If we offer 100% paid leave, in general, (so, for employees not in NY), are we able to seek reimbursement from Guardian for any portion of the leave?

If an employer is paying the employee 100% of their wages for an employee eligible for PFL leave, the employer can seek to be reimbursed the PFL benefits for that period of time providing that their company policy clearly indicates that the company leave will run concurrent with all state mandate leaves and the employee is required to file claim whereby the Employer will be reimbursed the PFL benefits for the period of time in which the employer is paying the employee full wages.

Does Guardian have resources available for employers and/or employees about submitting leave claims?

Resources and Tools are available to employers and employees via Guardian's dedicated PFL webpage at www.guardiananytime.com/NY-paid-leave.

An employee can take six weeks of disability and 10 weeks of NYS Paid Family Leave in 2019. We make them take FMLA and NYS Paid family leave concurring. Can they exceed the 12 weeks?

Leaves for disability would run concurrently with FMLA as well, therefore the employee's leave should begin as of the disability period. Once the disability period ends, the leave would continue with the PFL period until the FMLA either exhausts or the employee returns from leave. There may be a period where the employee has exhausted FMLA and continues on PFL, however, the employee is only entitled to the maximum benefit under each statute.

Will it be expanded to take care of other family members such as siblings?

The State of New York governs any future changes to the program. Current regulations do not include siblings.

If someone is out to care for family member, but HR is notified two weeks after the fact and the absence was not planned, can the employee elect to take PTO for the prior two-week period, applying for PFL effective the date they decide they need an extended period of time since they are eligible for FMLA as well and in current plan year it is all within the FMLA 12-week period?

When a PFL absence is concurrent with FMLA, the employer could require or allow the use of accrued PTO to substitute unpaid leave for paid leave. However, if the leave is only PFL, the employer could not require the use of accrued PTO during leave. It appears in this example, the need for leave was unforeseeable, therefore, the employee notified the employer as soon as practicable therefore could be entitled to leave.

If an organization offers paid leave from the company, does that count against the PFL time?

Yes, providing it is clearly noted in the company's benefit policy which has been provided to their employees.

Do we send those deductions amounts made to the employees checks to the state?

No, if insured through a private carrier, the premium cost is utilized by the carrier to administer the policy.

We are a PA-based university with one or two online part-time professors living and working out of NY. Can the university opt to cover the employee contribution?

Yes, the New York State Law allows for the option for the employer to cover cost of coverage in lieu of taking deductions from the employee.

We had two employees that lived in and worked out of New York but then moved last year. This year, 2018, we applied one male and one female to ensure we were covered in case new employees were hired in NY. Is that a good practice?

If you anticipate having fluctuation with employees working in NY, this is certainly an allowable practice.

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How should an employee file a PFL claim considering some days fall on a government holiday, therefore, employees are not required to work that day. Can those days be excluded when filing the claim (Thanksgiving or Christmas, for example)?

If taking intermittent leave, the recommendation would be to not request a day that you would otherwise not be working and getting paid. If taking continuous leave, if the holiday falls within the leave period, we would typically pay, but would require that the employer advise us if they are paying the employee. If they are, our option would be to not pay for that day or pay the employer as reimbursement.

In regards to a maternity claim, if an employee applies for DBL as soon as the baby is born and considering there is a 7-day elimination period on this benefit, can an employee apply for PFL (bonding with the child) during this elimination period?

No. Per guidance received by the NY Workers' Comp Board, PFL benefits cannot be paid during the DBL elimination period.

If bonus and commissions were not included in an employee's wage calculation, can an adjustment be made if they have already been paid for the benefit?

No adjustments can be made if benefits have already been paid. It's important that total gross wages are calculated accurately and indicated on the claim, so benefits can be paid correctly.

When is it acceptable for employees to use PFL and DBL?

Covered employees first need to meet the eligibility requirements before applying for either PFL or DBL. Once eligibility requirements are satisfied, an employee taking PFL or DBL will be based on the reason for leave. It's important to remember that PFL is intended to be taken to care for someone else, while DBL is intended to be taken for an employee's own non-occupational injury or illness.

If employee contributions were missed, can you retro deduct?

No. If employee contributions are missed, retroactive deductions cannot be taken. However, the employer would still be responsible for remitting the appropriate premium for all covered employees.

Can you talk a bit more about caring for a family member outside of NY? Sick parent overseas who may not be able to provide certification as quickly to Guardian, how does the employer respond to PFL request? Should the employer allow leave of absence in lieu of Guardian's acceptance of the claim? What happens if the claim is not accepted and the employee is already on leave?

If an employee has met the eligibility requirements in order to submit a leave request, it's not the responsibility of the employer to allow the leave or not. It's the employee's decision whether or not to submit a claim to Guardian. While we understand there may be delays in obtaining medical certification, Guardian is unable to make a claim decision until a complete claim is submitted. If an employee has already taken leave and their claim is denied, it is up to the employer to decide how to handle those days that were missed.

Our company has a 6-week paid leave policy. Would we be eligible for reimbursement, and if so, how would we go about requesting it?

Employers are eligible for reimbursement if they are paying an employee 100% of wages while out on an approved PFL leave, and the reimbursement is requested in the employer section of the claim form. Reimbursement must be requested prior to the PFL benefit being paid by the carrier to the employee.

If a parent is taking intermittent leave for bonding, do they have to provide 30 days advance notice for every day they want to take for bonding?

No. The 30-day advance notice does not need to take place for every day the employee wants to take intermittent leave. An employer may require the employee provide notice as soon as is practicable before each day of intermittent leave. An

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employee shall advise the employer and carrier of the schedule for intermittent leave. When the dates for leave are not specified on the Request for Paid Family Leave, the carrier or self-funded employer may withhold payment pending submission of a request for payment together with the date of leave.

If someone was just hired in August 2018 and then went out on DBL in October 2018 for pregnancy, are they eligible for PFL after DBL considering they haven't employed by us for at least 26 consecutive weeks?

The employee would not be eligible for PFL benefits since he or she hasn't met the eligibility requirements. As a reminder, the eligibility requirements to receive PFL benefits are:

- Employees who regularly work 20 or more hours per week are eligible for benefits after they have been employed for at least 26 consecutive weeks preceding the first full day family leave begins.
- Employees who work less than 20 hours per week are eligible for benefits if they have worked at least 175 days (do not need to be consecutive) preceding the first full day the leave begins.

I have a new hire who started in October 2018 and is planning on a birth of a baby for April 2019. What would she be eligible for – DBL, PFL or both?

Assuming the new hire is full time and started on October 1, 2018 and the leave isn't expected to start until April 1, 2019 or later, the employee would be eligible for both DBL and PFL (the 26 consecutive weeks of employment would have been met). After the birth occurs, it would be up to the employee if she wanted to take DBL and then PFL (DBL and PFL cannot be taken concurrently but can be taken consecutively) or PFL right away.

If the employer is paying PTO benefits to the employee during the employee's leave, does the employer have to accept reimbursement from PFL?

If paying 100% of wages while an employee is out on PFL, an employer may request reimbursement from the carrier.

For hourly employees, do we use Regular Pay rate (including OT) or Base Rate?

Wages should include every form of remuneration for employment paid by the employer to the employee, including salary, overtime, bonuses and commissions.

I have employees that get paid both in NY and NJ. 15% of their pay allocated to NY, do we they qualify still for PFL in NY?

Being a covered employee for PFL is not dependent on what state an employee is paid out of. In simple terms, if an employee physically works in New York, they are required to have PFL coverage.

In terms of FMLA, it will end after 12 weeks, so if she uses PFL after, can the employer terminate her employment during her bonding time?

FMLA and PFL should run concurrently when possible unless the employer allows otherwise. There may be periods of leave where FMLA or PFL ends prior to the other mandate. In all circumstances, when the absence is covered by either NYPFL or FMLA or both, the employee is entitled to job protected leave during the period of coverage.

Are employees of the US Postal Service eligible to use NY PFL?

Employees of the U.S. Postal Service are not considered covered employees under the PFL law. For a full list of employees who are not covered employees, [click here](#).

Are all supervisory employees covered?

If the supervisor works in New York for a private company, then yes, he or she would be considered a covered employee. Remember, all private sector organizations with at least one employee (not counting the owner) on each of 30 days in any calendar year are covered employers under the NY PFL law. Public employers, meaning the state, any political subdivision of the state, a public authority or any other governmental agency or instrumentality are not "covered employers."

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Do you factor in the bonus only if it was paid out in the previous 8 weeks?

If an employee received a bonus during the 52 weeks preceding PFL, add the prorated weekly amount to the average weekly wage. To determine the prorated weekly amount, add all bonuses earned in the preceding 52 weeks and then divide by 52.

If the employee needs to leave the country to take care of a parent do they still qualify?

Yes. Where the family member lives does not matter, as long as the parent meets the definition of a serious health condition.

Is there a limit or timeframe that a father has to submit a PFL bonding leave? For instance, the mother takes 10 weeks and then goes back to work, and then can the father then take his 10 weeks?

Bonding leave needs to be taken within 12 months of the birth of the baby or the placement of an adopted or fostered child.

Will Guardian provide the 1099 for the employees since no tax is taken from the benefits?

Yes. PFL benefits in excess of \$600 will be reported on a 1099-Misc. and sent directly to the employee.

We have a married couple can they both take PFL for bonding at the same time?

This would be up to the employer. An employer is not required to allow more than one employee to use the same period of family leave to care for the same family member or to bond with a child – newborn or newly adopted/fostered child.

For intermittent days, if you work a split shift how would you calculate days off? For example, we work three days on four days off and then four days on three days off on a rotating schedule.

For intermittent leave, the maximum number of days is based on the average number of days worked per week during the last 8 weeks prior to taking PFL. In the case of 3 days on, 4 days off on a rotating schedule, the average number of days over 8 weeks would be 3.5 days. Therefore, for 2019, the maximum number of days would be 35 days.

Are we required to notify employees of the 2019 changes, even if our policy noted the upcoming changes?

It is highly recommended that employers notify their employees of the PFL changes going into effect as of 1/1/2019. PFL is still relatively new, so educating your employees about this benefit should be handled in a similar manner to your other benefit programs.

Why does Guardian have to pay STD before PFL as that payout makes an employee leave longer as PFL is job protected?

Guardian is not required to pay STD (non-NY DBL) before PFL – these can be taken concurrently, although offsets may apply. In the case of a bonding leave, it's up to the employee if they want to take DBL first and then PFL. It's important to remember that DBL and PFL cannot be taken concurrently.

If an employee takes DBL for the birth of their child and doesn't want to take PFL until later that year can they still get DBL for 6 weeks?

Yes. For the birth of a child, a mother could take six weeks of DBL and then wait to take bonding leave under PFL for a later date. However, the bonding leave needs to take place within 12 months of the birth.

Taxes - are they automatically taken out of the employee's check?

No, taxes are not automatically withheld from a benefit payment.

FMLA is concurrent with PFL. What happens if someone takes FMLA and has exhausted the 12 weeks? Can they take PFL in the rolling year?

If an employee has PFL leave time available in a 52-week period looking back, then they would be entitled to leave.

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I'm still confused on intermittent leave. If a full-time employee wants to take 1 day per week, how do I calculate that? She could use 1 day per week for months?

The maximum number of intermittent days would be based on the average number of days worked per week during the last eight weeks prior to taking PFL. So, for example, if an employee works an average of five days per week, for leaves beginning in 2019, the maximum number of days that can be taken would be 50 days. If someone averaged two days a week, it would be 20 days.

If an employee takes STD/FMLA for themselves for 12 weeks, then needs to take PFL for a spouse after, can they?

Yes, if the employee has not exhausted their available leave time under DBL and PFL, then they would be entitled to PFL leave for the care of an ill spouse.

Would you include an insurance opt out payment as wages?

No. For purposes of PFL, wages should include every form of remuneration for employment paid by the employer to the employee, including salary, overtime, bonuses and commissions.

Will Guardian be sending out a memo regarding the changes in 2019 so clients can send out a communication to employees?

Yes. We already conducted one planholder mailing in September for our inforce customers that provided details on the 2019 changes. Another mailing, which will include the updated PFL Rider for 2019, is scheduled for December for inforce customers. As a reminder, a number of PFL resources can be found on our PFL-dedicated Guardian Anytime page at <http://guardiananytime.com/NY-paid-leave>.

Is the reconciliation report only for the employers annual billing?

Correct.

We have an employee on disability for a shoulder injury/surgery. He is expected to be out for another 4-8 weeks. Can he use paid family leave rather than NYSDBL?

No. PFL can only be used to care for someone else.

Regarding year-end payroll processing. When the first check for 2019 includes work days from 2018, do we split the percentage by the wages earned in 2018 and the wages earned in 2019?

Yes. The days worked in 2018 should be based on the 0.126% rate, while the days worked in 2019 should be based on the 0.153% rate.

I heard of another employer who allowed partial day PFL. Does this exist?

Per the PFL law, days can only be taken in full-day increments.

While on PFL, can you work at a part time job not exceeding 20 hours/week?

You can work another job while you're out on PFL from another employer. Please note, however, that if you're working in NY for both jobs, employee deductions will be taken by both employers.

Can STD count towards a Company's parental leave? For example, we have 12 weeks parental leave, but typically count the STD time to be a part of those 12 weeks.

Yes. Having STD be part of a company's parental leave policy is the employer's decision that should be clearly communicated to employees.

If an employee goes on DBL before they take PFL, should the earnings be looked for the period before the DBL starts?

Yes. The earnings while you were last working should be used.

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Can you provide examples of when the PFL leave is not a FMLA leave?

Eligibility criteria is different for PFL and FMLA, therefore, if a full-time employee working 20 or more hours per week has worked the required 26 consecutive weeks prior to leave may be eligible for PFL but not yet eligible for FMLA. Also, if the employee is taking leave to care for a parent-in-law, grandchild, grandparent or domestic partner, these leave reasons are not covered under federal FMLA (absent in-loco parentis relationships for grandparents or grandchildren).

I have a seasonal company open from Dec-March, so no employees qualify for the leave. Is there an exemption we need from the state?

If no employees will meet the eligibility requirements, employees should complete a PFL waiver form. The waiver can be found [here](#). By completing and signing the waiver, the understanding is that employee deductions will not be taken for PFL and that the employee will be unable to apply for PFL benefits. Completed waiver forms do not need to be sent to the state, but employers must keep a copy of the fully executed waiver on file for as long as the employee remains in employment with the covered employer.

Additional PFL resources can be found on [Guardian Anytime](#).