

# New York Disability Benefits Law and Paid Family Leave

NY DBL and NY PFL

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This document is meant to help answer questions employers may have and provide a quick summary of the law and the state-mandated DBL and PFL plans as of January 1, 2022.

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# New York Disability Benefits Law (DBL) and Paid Family Leave (PFL) Basics

## Am I required to offer DBL and PFL benefits to my employees?

Likely, yes. Currently, private employers with employees working in New York State are required to offer statutory DBL and PFL. Virtually all employers are required to offer these benefits. Click here for additional information regarding the coverage requirements for DBL and PFL benefits.

NY DBL and PFL benefits may be reimbursed if the employee is receiving employer sponsored benefits for the same reason on the same absence days and reimbursement is requested before benefits are paid to the employee. With each claim, employers are required to verify employment details including if the employer qualifies for reimbursement.

## How is the program funded?

DBL is a combination of employee and employer funding. PFL is 100% employee funded, but employers may choose to fund on behalf of their employees or may take payroll deductions\*.

NY DBL (for 2022)	NY PFL (for 2022)
No more than \$0.60 per week	No more than 0.511% per week up to cap
Max annual contribution: \$31.20	Max annual contribution: \$423.71
0.5% up to cap	0.511% to cap

\*Payroll deduction must start day one of employment.

## What is MetLife’s premium rate for fully insured DBL and PFL coverage?

**DBL:** Is individually underwritten. Employee contribution is 0.5% up to a cap of \$0.60 per week and the employer funds the balance.

**PFL:** For 2022, MetLife’s premium rate is based on the state mandated community rate of 0.511% with a cap of \$423.71 per employee per year. PFL is fully funded by employee contributions, but employers can choose to fund on behalf of their employees.

## How do you calculate the PFL premium amount due for each employee in 2022?

NY PFL payroll deduction = Wages x 0.511%. When the **cumulative total** of the employee's contributions reaches **\$423.71** for the 2022 calendar year, the payroll deductions stop. Here is an example:

	Employee A	Employee B	
<b>Annual Salary</b>	\$27,000	\$100,000	
<b>Community Rate for 2022</b>	0.511%	0.511%	
<b>Total Annual Premium</b>	\$137.97	\$423.71 (cap)	
<b>Weekly Payroll Deduction</b>	\$2.65 (assuming no bonus)	Variable Calculation details below:	
		<b>Normal Pay:</b> \$80,000 (or \$1,538/week) <b>Bonus:</b> \$20,000 paid March 1	<b>Cumulative Deduction</b>
		Payroll deductions January 1 to February 28: (\$1,538 x 0.511% x 8) = 62.89 Weekly pay x 0.511% x 8 weeks = \$62.89	<b>= \$62.89</b>
		Bonus paid March 1 via separate check: \$20,000 x 0.511% = \$102.20. Added to amount paid earlier \$102.20 + \$62.89 = \$165.09	<b>= \$165.09</b>
		Payroll deductions March 1 to October 31: (\$1,538 x 0.511% x 32=\$251.57) Weekly pay x 0.511% x 32 weeks = \$251.49 added to amount paid earlier \$165.09 = \$416.66	<b>= \$416.66</b>
		Payroll deduction through November 8: Adjusted due to the maximum annual contribution cap: \$423.71 – \$416.66 = \$7.05 Payroll deduction November 8 through December 31 = \$0. Employee B met annual cap	<b>= \$423.71</b>

## Private Plan Option Details

### What are MetLife's private plan coverage options and services?

MetLife offers fully insured coverage by adding NY PFL as a rider to NY DBL policies.

If a customer has self-insured NY DBL, a customer can purchase a fully insured NY PFL policy.

Self-insured administration of NY PFL/DBL is also available for a service fee. MetLife will provide claims administration and advice to pay or issue benefit checks as part of an administrative agreement.

New customers have access to NY DBL/PFL coverage if they package their coverage with STD, fully insured LTD, and one other core product.

## How do I remit MetLife's premium?

MetLife uses the Self Administer Premium Billing (SAP) method and can be aligned with the frequency of other coverages offered.

Since NY requires contributions to be assessed on every dollar earned, as premiums are collected, premiums should be submitted to MetLife. For a payroll deduction example, please see above. MetLife also has a simple premium calculator for guidance. Please reach out to your MetLife Representative to obtain this.

## What are the planned annual changes?

Annual changes to the state's average weekly wage are published in March, but the changes do not impact the NY PFL benefit until January of the following year.

NY DBL has been steady without major annual changes.

For NY PFL, annual changes for the community rate and the state maximum employee contributions are announced before September 1 of each year, but the changes do not impact NY PFL premiums until January of the following year.

## Do employers with private self-insured plans need to re-file or re-apply with the state for 2022?

Self-insured employers do not have to refile or reapply, but they do need to file the DB-681 annual report each year.

## DBL/PFL Benefit Details

### Who is eligible for coverage?

NY DBL/PFL benefits are tied to the employer's plan for employees working in the state.

NY DBL	NY PFL
<p>Full time covered employees are eligible for DBL benefits after 4 consecutive weeks of employment. Part time employees are eligible after their 25th day of employment.</p> <p>In general, an employee is a person (including family members) who performs under the supervision, direction, and control of an employer either on or off their premises. This applies whether the worker is:</p> <ul style="list-style-type: none"><li>• Part-time</li><li>• Full-time</li><li>• Temporary</li><li>• Seasonal</li><li>• Casual/Day Labor</li><li>• Leased</li><li>• Borrowed</li><li>• Certain unpaid workers - including certain volunteers and family members</li></ul>	<p><b>Full-time employees:</b> Employees who work 20+ per week eligible after working 26 consecutive weeks with the employer.</p> <p><b>Part-time employees:</b> Employees who work less than 20 hours per week will become eligible after completing 175 days of work with the employer.</p> <p><b>Out-of-state employees/telecommuters:</b> In general, NY PFL is for employees who work in New York, and where you live typically does not matter when determining if you are in New York employment. If an employee is working in New York, his/her employment is considered New York employment. If an employee spends only part of their time working in New York, their coverage status depends on other factors.</p> <p><b>Waiver available if employee will not meet work hour criteria:</b> If a worker will not meet the eligibility criteria listed above, they can sign a waiver to remove the payroll deduction and opt-out of benefits. However, the waiver is void if the employee's schedule changes such that they will meet the eligibility criteria listed above and the employee would be responsible to pay retroactive contributions.</p>
<p>If you are a business owner there are special eligibility rules that apply. <a href="#">Click here for more details.</a></p>	

## What are the state benefits and what life events can they be used for?

Eligible workers can receive wage replacement benefits for:



NY DBL	NY PFL		
	NY PFL is a rider on an existing NY DBL policy that provides job protection and wage replacement for:		
<b>NY Disability Benefit</b> Employee's own medical need including organ and tissue donations	<b>Child Bonding</b> Including newborn, adoption and foster placement	<b>Family Caregiver</b> When a covered family member has a serious health condition	<b>Military Exigency</b> When a covered family member is called to active service overseas
Up to 26 weeks • 7 day unpaid waiting period applies (minus any PFL time taken)	Up to 12 weeks or 84 days if taken intermittently No waiting period for NY PFL benefits		

## How much of a benefit can an employee receive?

Benefits are paid as a percentage of employee's average weekly wage.

Maximum Weekly Benefit (for 2022)	
NY DBL	NY PFL
\$170.00	\$1,068.36
<b>Wage replaced at 50%</b> of the employee's average weekly wage up to the state's cap	<b>Wage replaced at 67%</b> of the employee's average weekly wage up to 67% of the state's average weekly wage (For 2022, the State's average weekly wage is \$1,594.57)

An employee can have more than one benefit each year, but no more than 26 weeks combined PFL and DBL in a 52-week period.

## Leave Request Process

### How do employees apply for PFL benefits?

1 Notify employer	2 Apply for benefits	3 Submit supporting documentation	4 Stay connected until your return to work
At least 30 days prior if leave is foreseeable or as soon as employee can if unforeseeable	<ul style="list-style-type: none"> <li>Contact MetLife within 30 days prior or within 30 days after leave starts</li> <li>MetLife can accept claims via web, telephone, or paper claim. Method dependent on your employer's coverage plan</li> </ul>	<ul style="list-style-type: none"> <li>Proof may be required before the claim decision can be made</li> <li>MetLife will make a claim decision within 18 calendar days of receiving all information (or your first day of leave whichever is later)</li> </ul>	Employer and MetLife will need to have employee anticipated return to work date scheduled or an intermittent leave plan on file to efficiently manage the claim

## Coordination with Other Benefits

In general, NY DBL and PFL cannot be taken at the same time.

However, COVID-19 emergency temporary benefits do allow special benefits under DBL and PFL to be taken at the same time. [Click here](#) for more details.

### Can an employee qualify for more than one benefit?

An employee may qualify for more than one benefit based on the leave reason. Below is a list of common events

Leave reason	NY DBL	NY PFL	FMLA	Company	Other
Employee has complications to pregnancy	Yes	No	Yes	STD	Other laws may apply
Employee has a serious health condition requiring multiple days-weeks-months away from work (including acting as a bone/organ donor)	Yes	No	Yes	<b>STD-continuous or reduced leave schedules</b>  Maybe for intermittent leave	Other laws may apply
Employee is injured at work	No	No	Yes	No	Workers Comp
Employee is bonding with a newborn, fostering and/or adopting a child under age 18	No	Yes	Yes	Maybe (Parental/Bonding leave)	Other laws may apply
Employee needs to care for a grandparent or grandchild with a serious health condition	No	Yes  Unless Company PTO, sick leave 100% salary continuation used	Yes	Sick leave, PTO  May overlap or replace state paid leave	Other laws may apply
Employee needs to care for a grandparent, sibling, grandchild, or affinity family member with a serious health condition	No	Yes  Unless Company PTO, sick leave 100% salary continuation used	No	Sick leave, PTO  May substitute state paid leave	Other laws may apply
Former employee receiving unemployment (less than 90 days post termination) has a quailing event	No	No	No	No	Unemployment
Former employee not on unemployment (less than 30 days post termination) has a disability	Yes	No	No	No	Other laws may apply

### **Can the employee elect to end the DBL benefit and then begin the NY PFL sooner as it is a richer plan than DBL?**

Generally, this can take place after the delivery of a baby. The birth mother can switch from a DBL claim to a PFL claim for child bonding. Other claims will be decided on a case-by-case basis.

### **If an employer has a private plan for parental leave that pays 100% salary for a designated number of weeks how would MetLife coordinate the private plan with the statutory benefit?**

As part of our benefit coordination process, MetLife's claims team will reach out to the employer to coordinate dates of the company leave that directly overlaps with the state leave (i.e., the company's parental leave and PFL child bonding). If the employer is seeking reimbursement, per the law, the employer needs to request reimbursement before MetLife has paid the employee.

### **If an employee receives an employer-provided benefit at a different time, can the employer be reimbursed for benefits?**

No. The state guidelines require MetLife to make benefit payments within 18 days of receiving the completed claim form. Therefore, the employer reimbursement needs to be confirmed at the same time. MetLife will either pay the employee or employer based on these state rules. For an employer to be eligible to receive the NY PFL benefit as reimbursement, the employee MUST apply for NY PFL benefits equivalent to the dates paid under the employer's private plan so that the benefit payments can be set up to automatically reimburse the employer for the same absence days that the employer is paying the employee.

## **Claims Processing**

### **What happens if an employee is out on a NY PFL continuous leave in 2021 which extends into 2022?**

Benefits are locked in based on the first day of absence. A NY PFL claim in 2021 is capped at the maximum weekly benefit of \$971.61 per week. Therefore, if the claim started in December 2021, even if it will roll into January 2022 absences will be capped at the 2021 maximum weekly benefit of \$971.61.

### **Can NY PFL be taken intermittently?**

Yes, NY PFL can be taken in full day increments as requested by a qualified claimant.

### **What is the difference between a recurrent claim and a new claim?**

The PFL claim is considered 'recurrent' if, (1) the employee files for a NY PFL absence within 3 months of a prior claim, (2) the claim reason is the same, and (3) there are still benefits available on the prior claim.

**Scenario 1:** An employee took 6 weeks of NY PFL in 2021, starting November 19 through December 31 to bond with their new child. On February 1, the employee requests leave for the same reason as the earlier claim. Because the claim is for the same claim reason and it is within 3 months of the original claim, it is treated as a recurrent claim. The 2021 benefit applies for the remaining 6 weeks of the NY PFL claim.

**Scenario 2:** An employee took 6 weeks of NY PFL in 2021, starting November 19 through December 31 to bond with their new child. On February 1, the employee requests leave for a new reason – to care for their mother who needs care after cancer surgery. Because the claim is for a different qualifying reason, the employee will need to file a new claim. A 52-week lookback is performed showing 6 weeks of PFL used. 12 weeks minus 6 weeks already taken = 6 weeks of PFL available for the new February claim.

### **Can an employee who is out on maternity leave in the fall of 2021 wait until 2022 to take NY PFL child bonding to get the enhanced benefits?**

Yes, under NY PFL law, covered employees can take PFL for bonding with a new child at any time within the first 12 months of the child's birth, adoption, or foster care placement.

### **Should a NY PFL claim be filed for half days similar to FMLA absences?**

No. FMLA allows the employee to take off partial days under certain circumstances, but PFL only allows for full days of intermittent leave. If the employee asks for a partial PFL day, the leave will be denied because the law requires a full day of leave.



### Why does the law say the employee must give a 30-day advance notice of foreseeable leave?

The 30-day advance notice requirement is for the employee to alert their supervisor/employer that they will be absent. This may help with staffing and identify back up training to cover while the employee is out for an extended period. There is no requirement for the insurance claim to be submitted early.

### How do I get a copy of my 2022 claim benefit coordination tip sheet?

Your MetLife Representative can help you obtain the current claim benefit coordination tip sheet. And, if updates are needed, they can resubmit changes back to our claims team for use when new claims come in.

## General Tax Questions

### Are benefit taxable?

**DBL:** Traditionally, if an employee pays the premiums with after-tax dollars, the benefits they receive are tax free; if the employer funds the benefit, benefits are taxable.

**PFL:** According to the Tax Notice published by the state (Tax Notice No N-17-12) PFL benefits are taxable, regardless of whether the employee or employer funds the benefit.

### How do I report payroll contribution?

Employers should report employee contributions on Form W-2 using Box 14 – state disability insurance taxes withheld.

### Are taxes automatically withheld?

**DBL:** Yes

**PFL:** No. Taxes will not automatically be withheld from benefits, but employees can request voluntary tax withholding. They simply need to submit a W-4S tax form to the claims team and taxes can be withheld.

## Resources



### Need more information visit:

The MetLife PFML [website](#) regarding state mandated benefits.

### NY State Resources:

For the NY DBL website, [click here](#).

For the NY PFL website, [click here](#).

**For details regarding your coverage, contact your MetLife Representative.**

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