

March 3, 2017

## New York releases draft of paid family leave regulations

The New York State Legislature recently amended its workers' compensation and insurance laws to require the implementation of a phased-in system of paid family leave benefits that provides covered employees with up to 12 weeks of paid leave. New York is the fourth state to make paid family leave a requirement, following California, New Jersey and Rhode Island. The New York Paid Family Leave Benefits Law (NYPFLBL), as presented in the current draft, is the most comprehensive paid family leave program in the U.S.

The long-awaited [draft of the regulations](#) was released to the public on Feb. 22. Employers, unions, insurance carriers and third-party administrators have a 45-day window of opportunity to provide feedback and ask questions before the regulations are finalized. Sedgwick's disability and absence compliance group is currently reviewing the proposed regulations and formulating feedback to provide to the regulators before the April 10 deadline.

### NYPFLBL overview

While the 45-day public comment period may lead to significant changes to the regulations, the following summarizes the key features of the draft of the law.

**Funding:** The NYPFLBL program is designed to be fully funded by employee contributions, which employers will deduct from employees' pay. The 2018 employee contribution rate has not yet been announced.

**Effective date:** The law will take effect Jan. 1, 2018.

**Eligibility:** Full-time employees are eligible after 26 consecutive weeks of covered New York employment. Part-time employees (those scheduled to work fewer than five days per week) are eligible after 175 days of covered New York employment.

**Job protection:** An employee who takes paid leave under the NYPFLBL must be restored to the same (or comparable) position held by the employee prior to taking leave.

**Qualifying absence:** Employees may file for benefits to:

- Care for the serious health condition of a family member.
- Bond with a new child during the first 12 months after birth, adoption or foster care placement.
- Care for a spouse, parent or child as a result of military exigency.

**Definition of family member:** The law includes care for the following:

- Spouse or domestic partner.
- Child (biological, adopted, foster or in loco parentis).
- Parent.
- Grandparent.

- Grandchild.

**Elimination period:** Not applicable; benefits will be payable on the first day of an eligible absence.

**Benefit amount:** The weekly benefit is scheduled to gradually increase in subsequent years and is based on a percentage of New York's statewide average weekly wage (AWW).

- Jan. 1, 2018: 50 percent of weekly wage for 8 weeks.
- Jan. 1, 2019: 50 percent of weekly wage for 10 weeks.
- Jan. 1, 2020: 60 percent of weekly wage for 10 weeks.
- Jan. 1, 2021: 67 percent of weekly wage for 12 weeks.

*Note: No employee may receive more than 12 weeks of NYPFLBL benefits or 26 weeks of a combination of disability and paid family leave benefits within any 52-week period.*

**Maximum benefit:** As an example, based on the New York AWW, in 2018 the maximum weekly benefit is expected to be 50 percent of \$1,266.44, or \$633.22.

**Minimum benefit:** The minimum weekly benefit is \$100, or the employee's actual weekly wage if less than \$ 100.

### Partnering with Sedgwick

Sedgwick is fully prepared to support clients for whom we administer New York disability benefit law plans in complying with the NYPFLBL. We strongly encourage clients to work directly with their client services representative to establish if Sedgwick is:

- Currently administering their New York disability benefit plan (statutory disability for the employee's personal illness).
- Managing other paid benefits in our JURIS® system.
- Receiving a human resources (HR) file with the information required to determine eligibility under the New York PFLBL, including identifying which employees are based in New York.
- Providing advice-to-pay (ATP) or check-cutting services.

### Next steps

Clients with questions or comments on the proposed regulations are invited to submit them to Barbara W. Jones, Sedgwick VP of client services, at [bwjones@sedgwick.com](mailto:bwjones@sedgwick.com) by March 31; we will incorporate client feedback into our formal response to the New York Workers' Compensation Board. We will share a summary of the compiled feedback before the April 10 deadline.

In the meantime, we recommend that employers:

- Evaluate their employee demographics to determine whether any employees meet the eligibility criteria.
- Engage with a benefits consultant and/or legal counsel for guidance on policy/plan development, including updating employee handbooks or leave materials to include benefits afforded by the NYPFLBL.
- Prepare their payroll systems to accommodate an additional deduction for contributions to the NYPFLBL program.
- Prepare to maintain employees' existing health coverage for the duration of leaves taken under the NYPFLBL.

Customers with questions about the NYPFLBL are invited to contact their Sedgwick client services representative.

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