

Dutchess County Manual of Policies and Procedures	Paid Family Leave (PFL)
Applies to: CSEA	Policy 00.07
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Policy Statement:

Dutchess County and the CSEA have mutually agreed to provide CSEA members with the benefits of the New York State's Paid Family Leave Act (PFL), which provides job-protected, partially-paid leave to bond with a new child, care for a loved one with a serious health condition or to help relieve family pressures when someone is called to active military service.

Cross - References:

1. NYS Paid Family Leave (PFL) Act
2. Family Medical Leave Act (FMLA)
3. CSEA Collective Bargaining Agreement (2017-2020)

Definitions:

1. Serious Health Condition : an illness, injury, impairment, or physical or mental condition that involves either:
 - a. Inpatient care (an overnight stay) in a hospital, hospice, or residential health care facility; or
 - b. Continuing treatment by a health care provider; for
 - i. A period of incapacity of more than three (3) consecutive days with two (2) or more visits to a health care provider or one (1) visit with an ongoing treatment regimen; or
 - ii. Any period of incapacity due to pregnancy or for prenatal care; or
 - iii. Any period of incapacity due to a chronic health condition. A chronic health condition requires periodic visits for treatment, continues over a period of time, and may cause episodic rather than continuous incapacity.
 - iv. A period of incapacity for which treatment may not be effective but supervision is needed (ie Alzheimer's, stroke, etc.)
 - v. For multiple treatments or restorative surgery of a condition that, if left untreated, would likely result in a period of incapacity of more than three (3) days.

Standards:

1. CSEA employees are eligible when:
 - a. Regularly working twenty (20) hours or more a week after working 26 consecutive weeks, regardless of the number of days worked.
 - b. Working less than twenty (20) hours a week after working 175 days in a 52 week period.
 - c. This eligibility is effective 7/1/18 for qualifying employees.
 - d. Employees who become eligible under the criteria above and have a subsequent reduction in hours will remain eligible for PFL as long as continuously employed with the County.
2. Covered Reasons to use Paid Family Leave include:
 - a. Bonding with a newborn or newly placed adopted, or foster child. Leave may be taken within the first year of the occurrence, commencing July 1, 2018. In some instances of adoption or foster placement, PFL may be taken before the adoption or foster care is finalized.
 - b. Care for a family member with a serious health condition. For the purpose of this benefit, family member includes child, spouse, parent, parent in-law, step-parent, grandparent, grandchild, or domestic partner

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- c. For a qualifying exigency arising out of the fact that a spouse, domestic partner, child, or parent of the employee is on active duty or has been notified of an impending call or order to active duty in the Armed Forces of the United States (as defined under FMLA and PFL).
 3. Covered PFL may be taken continuously or intermittently in full day increments. Intermittent PFL is subject to the scheduling rules in your application approved in advance by the carrier. Any absence deviating from the schedule will not be considered PFL and is subject to benefit time rules in the Collective Bargaining Agreement between the County and the CSEA.
 4. Employees will be required to provide thirty (30) days notice of leave for instances when the leave is foreseeable. Failure to supply sufficient notice could result in a denial of claim by the insurance carrier.
 5. PFL and FMLA will be required to run concurrently as available and appropriate. PFL will provide continuation of benefits the same as FMLA even if FMLA is exhausted or not applicable to the leave.
 6. PFL and Benefit Time:
 - a. Employees may elect to use the PFL benefit (a percentage of their average weekly wages to be capped at the State Average Weekly Wage. The percentage is set by State law.), however, PFL may not be supplemented with benefit time. Employee will be paid directly from the insurance carrier and will be responsible for submitting payment for their standard premium contributions to the County (i.e. health insurance, etc.). Risk Management will send an invoice to the employee's home address and payment will be due upon receipt of notification. Failure to pay could result in termination of benefits and implementation of COBRA.
 - b. Alternatively, an employee may elect not to use PFL but instead use appropriate benefit time.
 - i. The use of benefit time is subject to the rules of Collective Bargaining Agreement between the County and CSEA.
 - ii. The County will designate any qualifying FMLA where applicable.
 - iii. If the employee elects to use benefit time in lieu of PFL, this does not preclude the employee from using PFL in the future if the employee otherwise qualifies.
 - c. Employees on PFL and/or PFL/Parental Leave will not accrue benefit time.
 7. Paid Parental Leave (PPL) and PFL:
 - a. Permanent full-time employees who are eligible for PFL, may also be eligible for Paid Parental Leave upon the birth or adoption of a child after having served at least one year in any full-time position. This benefit is a supplement to PFL and will provide a balance payment between the PFL covered salary and the employee's full salary.
 - b. Employees are entitled to up to eight (8) weeks of Parental Leave upon the birth or adoption of a child. The eight (8) weeks need not be taken consecutively or immediately, but the use of Paid Parental Leave expires after twelve (12) weeks from the birth or adoption of the child.
 - c. Employees who are eligible for PFL with Parental Leave will be paid by the County and reimbursement from the carrier will go to the County.
 - d. This benefit runs concurrently with FMLA.
 8. Covered employees will be responsible for completing and submitting all necessary paperwork to the carrier. The decision of the carrier in all decisions relating to eligibility and coverage will be considered final by the County.
 9. Covered employees cannot take disability and PFL at the same time.

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Procedures:

1. Application

- a. There are three different applications for PFL (bonding with a child, care of a family member, and military leave) and a CSEA Paid Parental Leave application.
- b. Employee completes the appropriate application pursuant to the instructions and submits via e-mail, US Post Office mail or hand delivery to the Department of Human Resources/Risk Management. Faxes and interdepartmental mail are not an approved method of submitting an application to Human Resources/Risk Management.
- c. If the event qualifies for Paid Parental Leave, the employee must submit the Paid Parental Leave application with the PFL application.
- d. Risk Management will consult with Employee Relations to determine if the employee procedurally qualifies (i.e. hours worked, bargaining unit membership, etc.) for PFL and/or Paid Parental Leave, if the employee is also qualified for leave under FMLA, and if the employee has already submitted an application for FMLA leave.
 - i. If the request does not meet the requirements of PFL, the application will be returned to employee and Risk Management will notify the carrier the employee is not eligible for the benefit.
 - ii. If the leave is covered by FMLA, and the employee has not yet submitted an FMLA application, Employee Relations will notify Risk Management who will provide the necessary FMLA paperwork to the employee when returning the PFL application.
- e. If the leave request is covered by CSEA Parental Leave, the PFL application will indicate the reimbursement be made to the County.
- f. Risk Management will complete the Employer portion of the PFL application and return to the employee within three business days of receipt of the application using the same method the employee used to submit the application. The employee is responsible for sending the completed PFL application to the insurance carrier for processing.
- g. Risk Management will send notification via e-mail to Human Resources, Payroll and the Employee's Department of the pending application and dates requested.

2. Calculating Average Weekly Wages to be used for PFL reimbursement

- a. Based on 8 weeks prior to leave:
 - i. Will not include final week if hours are reduced due to the leave request.
 - ii. Will not include time "off the payroll" due to exhaustion of benefit time or other appropriate leaves, and will be for the final 8 weeks of normal time worked.
- b. If the amount in 2.a. is greater than the State Average Weekly Wage (SAWW), the state average will be used.

3. Determination of PFL Claim:

- a. The carrier shall provide confirmation to the employee of receipt of a complete application within three business days. If the application is not complete, the carrier shall provide a list of all required missing information within 5 days of receipt of the application. Once the carrier has a complete request, they must approve, pay or deny the claim as required by the law.
- b. While waiting for a determination on a claim, an employee may not use benefit time for the purpose of initiating the PFL leave before it is approved by the carrier.

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- c. If an employee is absent on leave pending determination of a claim, and the claim is denied, and the event is an FMLA qualifying event, an employee will be required to use benefit time retroactively for the period designated FMLA leave. If the PFL claim is denied and the event is not an FMLA qualifying event, the employee will be required to take the leave as unpaid.