Updated April 20, 2020

On March 18, 2020, New York enacted a new law ("Law") requiring new job protected paid/unpaid sick leave mandates ("Sick Leave") and enhanced disability ("DBL") and/or family leave ("PFL") benefits. Sick Leave requirements and DBL/PFL Benefits vary depending upon the size of the employer’s employee population. This is effective immediately.

We’ve gathered information to help you understand this new Law and will provide additional updates as we have more answers:

Are Sick Leave and/or DBL/PFL Benefits under the Law provided without loss of any employee accrued sick leave?

Yes.

Which of my employees are eligible for the Sick Leave and/or DBL/PFL benefits?

Only employees who are “Quarantined” as strictly defined by the Law. “Quarantine” means an “employee who is subject to a mandatory or precautionary order of quarantine or isolation issued by the state of New York, the department of health, local board of health, or any governmental entity duly authorized to issue such order due to COVID-19.” The employee (or the employee’s minor dependent child) must have an Order to be eligible for benefits. The employee caring for their minor dependent child who is under a Quarantine Order is eligible for enhanced PFL. If, while caring for that child, the employee is also subject to their own Quarantine Order, the employee could qualify for both enhanced PFL and DBL benefits payable after the employee has exhausted all paid leave. Employees who are paid and working from home are ineligible for Quarantine benefits. An employee whose child who is diagnosed with COVID-19 would also have the option of taking regular family care paid leave to care for the child.

As a result, the Law does not apply to employees who self-quarantine (whether by self-determination or employer or physician request or directive).

Remote/work at home employees who are asymptomatic and working at home are not entitled to Sick Leave or DBL/PFL Benefits under the Law.

No Sick Leave or DBL/PFL Benefits under this Law are payable for Quarantine due to non-employment related personal travel to CDC level 2 or 3 travel advisory countries.

How do employees obtain a mandatory or precautionary order of quarantine or isolation?

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Employees can visit this website for directions on how to obtain a mandatory or precautionary order of quarantine: https://paidfamilyleave.ny.gov/system/files/documents/2020/03/obtaining-order-of-quantine.pdf

For employees eligible for DBL/PFL Benefits, how have the definitions of “Disability” and “Family Leave” been enhanced for purposes of the special Quarantine benefits provided under this Law?

“Disability” means an inability to perform regular duties of employment or duties of other employment the employer may offer employee as a result of Quarantine, and when the employee has exhausted all paid sick leave under this Law. “Family Leave” means either 1) Quarantine or to provide care for a minor dependent child of the employee who is Quarantined.

Generally, how are Sick Leave requirements and DBL/PFL Benefits allocated under the Law among NY employers?

For Employers having 10 or fewer Employees (Employer’s prior tax year net income $1MM and under):

- *Unpaid* leave must be provided until the termination of any Quarantine
- Until the termination of any Quarantine, employees are eligible to apply for PFL Benefits (60% of average weekly wage up to maximum of 840.70 week) and/or DBL Benefits (average weekly wage up to a maximum of $2,043.92 week), for a potential total weekly maximum of PFL/DBL $2,884.62
- If the employee qualifies for both PFL and DBL Benefits, PFL is paid first, then the DBL Benefit paid (which will be the difference between the PFL Benefit and the employee average weekly wage up to a maximum of $2,043.92 week)
- There are no DBL Benefit waiting periods
- Leave under the Law is job protected

For Employers having 10 or fewer Employees and Employers prior tax year net income of more than $1MM; and, Employers with 11 to 99 Employees:

- At least 5 days *paid* leave and then, *unpaid* until the termination of any Quarantine must be provided
- Until the termination of any Quarantine, employees are eligible to apply for PFL Benefits (60% of average weekly wage up to maximum of 840.70 week) and/or DBL Benefits (average weekly wage up to a maximum of $2,043.92 week), for a potential total weekly maximum of PFL/DBL $2,884.62
- If the employee qualifies for both PFL and DBL Benefits, PFL is paid first, then the DBL Benefit paid (which will be the difference between the PFL Benefit and the employee average weekly wage up to a maximum of $2,043.92 week)
- There are no DBL Benefit waiting periods
- Leave under the law is job protected

For Employers having 100 or more Employees:

- At least 14 days *paid* leave during Quarantine; job protected
- Employees are eligible to apply for traditional disability/family leave benefits after the 14 days of paid leave (e.g., not the special Quarantine DBL/PFL Benefits)

For Employers Public Employers:

- At least 14 days of *paid* leave during Quarantine
• DBL/PFL Benefits only available if the public employer previously opted-in

New as of April 20, 2020: If a public employer opted in to NY DBL/PFL, are the public employees entitled to the new enhanced Quarantine DBL/PFL Benefits?

No, only 14 days of paid sick leave. Public employers are not entitled to enhanced COVID-19 DBL/PFL Benefits. This is for any size public employer.

New as of April 20, 2020: Can benefits be paid retroactively?

Yes. An employee may take Quarantine leave if they are still currently under mandatory or precautionary order of quarantine or isolation issued by the State, department of health, local board of healthy, or government entity even if that Order was issued prior to the enactment of the COVID-19 quarantine leave. For example, if the employee was under an individualized Quarantine Order from March 10th to the 24th, they may be entitled to paid sick time beginning March 18th with DBL/PFL running after sick time exhausts and payable through the end of the Quarantine Order on March 24th.

New as of April 16, 2020: If an employee is furloughed can they apply for DBL?

Yes, if they have been unemployed for less than four weeks but regular DBL benefits apply.

May an eligible employee received both DBL/PFL Benefits at the same time?

Yes, if they qualify for both under the Law. This is unlike traditional disability family leave benefits under New York law. If the employee qualifies for both PFL and DBL Benefits, PFL is paid first, then the DBL Benefit paid. For example, a hypothetical benefit calculation could look like this:

For an employee earning $50,000/year, where weekly wages are $961/week. 60% of $961 produces $576 for the PFL Benefit, and then the remaining $355 is the DBL benefit, which produces $961 for the week.

Does a school closing order trigger Benefits under the Law?

At this time, we do not believe such an order itself would constitute and order of “Quarantine” as defined by the Law. However, such school closures could lead to orders of Quarantine being issued to persons associated with the school who may have been exposed to, or diagnosed with, the virus. We are expecting Quarantine orders will identify a specific subject individual. We will continue monitoring for further official guidance.

When must a claim be filed with Cigna?

Claims must be filed within 30 days from the first day of leave.

How does an employee file a claim?

We strongly recommend that employees report their leave by Fax/Email* to: 866.586.0812 / pflcertifications@cigna.com or by calling us at 888.842.4462 or 866.562.8421 (español), 7:00 am-7:00 pm CDT and a representative will walk them through the process.

Claim forms may be found on the New York State website or will be provided to you by your Cigna representative.

• Form COVID19 “Quarantine Leave for Self” and PFL-1 (Self-leave):
  https://paidfamilyleave.ny.gov/if-you-are-quarantined-yourself

• Form COVID19 “Quarantine Leave for Minor Dependent Child” and PFL-1 (Minor Child Care):
  https://paidfamilyleave.ny.gov/if-your-minor-dependent-child-quarantined
Are amendments or updates needed for my existing Cigna DBL/PFL policy?

No. The policy provisions require the policy conformity with the new Law.

**New as of April 20, 2020:** Where can I find more information?

New York State Leave FAQs:


New York State Pandemic Unemployment Benefits:

[https://labor.ny.gov/ui/faq.shtm](https://labor.ny.gov/ui/faq.shtm)

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