

PAID FAMILY LEAVE



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Of California

What is Paid Family Leave?



- Technically, Paid Family Leave (PFL) isn't a leave at all, it's insurance.
- What is this insurance for? Income replacement.
- In 2002, **SB 1661** established the Family Temporary Disability Insurance (FTDI) program.
- A “clean up” bill, **SB 727**, went into law in 2003, making additional changes to the program.
- The program is administered by the EDD as part of the SDI (State Disability Insurance) program.

When Can This Leave Be Used?



- Employees can receive benefits when time off is needed for two main reasons: **CARE** and **BONDING**
- Specifically, it can be used for:
 - Care for a seriously ill child, spouse, parent or domestic partner
 - Bonding with a new child due to birth, adoption, or foster care placement

How is it funded?



- Beginning January 1, 2004 all California employees began contributing to a pool of funds that will be used to pay employees who go out on leave.
- *Employers* don't pay for this insurance—employees pay.
- Employers are required to increase the SDI rate deducted from employees' pay by an additional .08% during 2004 and 2005.
- In 2004, employees will pay up to a maximum of \$55.06.

State Requirements



- PFL affects all employers and an estimated 13 million workers.
- Deductions are mandatory whether or not an employee expects to use the benefit.
- Employees must suffer a wage loss to be eligible.
- The State requires a 7-day waiting period before payments begin.

State Requirements



- A doctor's certification and the signature of the person needing **CARE** (or their authorized representative) is required before the claim will be processed.
- Documentation showing proof of birth or placement of a child by adoption or foster care is required for payment of benefits when the leave is used for **BONDING** purposes.

State Requirements



- In the case of bonding leave, the leave must be taken within 12 months of the birth, adoption or foster care placement of the child.
- When requesting bonding leave for adoption or foster care placement, the child must be under 18 years of age.

Benefits Information



- Employees can begin filing claims for benefits from the State on July 1, 2004.
- Employees receive 55% of their wages while out on leave.
- The weekly benefit range is \$50 - \$728 in 2004.
- An employee cannot collect Workers' Comp benefits, Unemployment Insurance benefits or State Disability Insurance benefits and Paid Family Leave benefits at the same time.
- Also, employees cannot collect vacation pay and Paid Family Leave benefits at the same time.

Who can go on leave?



- Employees can request a leave the day after they start working for you—length of employment has no bearing on when they can request leave.
- If an employee qualifies under the requirements outlined by the State, you must allow them to take a leave for up to six weeks in a 12-month period.
- The leave can be intermittent.

Who can go on leave?



- Women who have gone out on unpaid Pregnancy Disability Leave utilizing either the more common two weeks before birth and six to eight weeks after, or up to a total of four months, may still apply SDI to their pregnancy and then use PFL *without the waiting period* for purposes of bonding with their newborn as long as PFL follows their SDI claim.

Employer Administration Issues



- You need an Employee Handbook update to cover these issues:
 - How employees are to request this leave, and all other administrative issues regarding it
 - Overlap with your medical leave / pregnancy leave / family leave policies
 - Use of vacation / sick leave / PTO
 - Continuation of medical insurance benefits
 - Whether or not holidays will be paid and vacation and sick leave benefits (or PTO) will continue to accrue while employees are on leave
 - Their job protection rights

Leave Policies



- Do you have clearly spelled out Leave policies in your recently updated (that means within the last 6 months) Employee Handbook?
- Have you addressed the continuation of benefits, accruals, and the conditions under which guaranteed reinstatement applies under various laws?
- Your leave policies should be legal, current and answer all your employees' questions.*

Vacation & Sick Leave



- Unlike SDI, the State gives you the option to require your employees to use up to 2 weeks of accrued vacation. How are you going to administer this?
- Under this law you may NOT require employees to use their accrued sick leave.
- You may *permit* them to apply accrued sick leave to the 7-day waiting period, but we strongly recommend you ask them to request it in writing.

Continuation of Insurance

Benefits



- Do you offer medical insurance benefits?
- If so, do your Leave policies state when your employees can expect to begin paying the premiums under COBRA or Cal-COBRA?
- Maybe you just pay and pay and pay....because you don't know you don't have to!

Guaranteed Reinstatement



- There is no “guaranteed reinstatement” requirement
- However, you must not take any “adverse action” against an employee for exercising his or her rights under the law
- “Paid Family Leave insurance does not expand, or change in any way, job protection rights for employees.”

Frequently Asked Questions



- What is the total number of weeks an employee can take off the job for PFL *only*?
 - Seven. One week unpaid and six weeks paid.
- I have less than 50 employees. What is the total number of weeks a pregnant employee can be out to have her baby and then bond with her newborn?
 - Four months plus six weeks. Four months under PDL plus six weeks under PFL.

Frequently Asked Questions



- We have an employee and has requested PFL but hasn't brought in any of the required documentation. What do we do?
 - Our recommendation would be to give him a letter restating your policy as outlined in your handbook and give him a reasonable deadline to bring in the required paperwork. I would be cautious about the next step. Call our office or the office of a labor attorney for specific instructions.
- We have employees who have accumulated up to 4 weeks of sick leave. Can they take their sick leave and then add on six weeks of PFL after that for a total of 10 weeks?
 - Technically, yes. In the absence of some rules (preferably written in your handbook ahead of time) about the use of sick time, they could use the two sequentially as you have outlined.

Frequently Asked Questions



- I have an employee who is requesting time off to care for her mother-in-law. Does Paid Family Leave cover taking care of in-laws?
 - No. Mothers- and fathers-in-law are not covered under PFL.
- If we have more than 50 employees and have to provide Family Leave, how does PFL interface with FMLA?
 - Employees can apply PFL to the otherwise unpaid portion of the 12 weeks of FMLA or CFRA leave. Remember, FMLA comes with guaranteed reinstatement.
- Are part-time employees covered?
 - Yes, if they meet all the other requirements.

Frequently Asked Questions



- What if an employee needs more than six weeks off for a family emergency? Do we have to grant it?
 - No. You can if you wish, but you will be setting a precedent. You may wish to suggest that the employee reapply when the emergency is resolved.
- Am I covered if I have to care for a family member who is out of California or out of the country?
 - Yes.
- Are employers required to provide claim forms to employees?
 - No. They will be available from the nearest EDD office or employees can call 1-877-BE-THERE after April 2004.

Resources



The Employment Development
Department (EDD) website is:

www.edd.ca.gov

You can also call the EDD for more
information at:

- In English 1-877-BE-THERE
- In Spanish 1-877-379-3819

For More Information:
Contact Suhr Risk Services at
800-788-1170