NYS Paid Family Leave (PFL) Q & A 12/1/17

Question 1: What is NYS Paid Family Leave (PFL)?
Answer: NYS Paid Family Leave will provide eligible workers with wage replacement during time away from work for eligible reasons.

Question 2: What are the eligible reasons?
Answer: To bond with a new child during the first 12 months after the child’s birth or the first 12 months after the child’s placement for adoption or foster care with the employee.

To provide care for an eligible family member with a serious illness. A serious health condition is an illness, injury, impairment or physical or mental condition that involves: inpatient care in a hospital, hospice, or residential health care facility or continuing treatment or continuing supervision by a health care provider.

To participate in qualifying exigencies as defined in the federal FMLA due to a spouse, domestic partner, child, or parent’s active duty military service or notice of a call to order to activity duty

Questions 3: Who are eligible family members?
Answer: Eligible family members include: Spouse/domestic partner, child (no age limit), parent and parent-in-law, grandparent, and grandchild and in loco parentis relationships.

For family members who are called to active military duty, family members include: Spouse/domestic partner, child or parents.

Question 4: How do I become eligible for PFL?
Answer: To become eligible for PFL, an employee scheduled to work 20 hours or more per week will have to work for 26 consecutive weeks. If an employee’s regular employment schedule is less than 20 hours per week, the employee will have to work for 175 days.

Question 5: Is there a cost for PFL?
Answer: Yes this benefit is paid for by the employee. The maximum contribution is 0.126% of an employee’s weekly wage capped at New York’s current average weekly wage (AWW) of $1,305.92. Deductions will be capped in 2018 at $85.56 per year (which is .126% of the annual New York State AWW of $67,907.84).

Question 6: Will this contribution change?
Answer: The maximum contribution rate will be established each year in September for the following calendar year.

Question 7: How much would I receive if I was on PFL?
Answer: For 2018, the coverage would be for eight weeks at 50% of an employee’s average weekly wage (based on 8 weeks of earnings prior to the leave) capped at 50 % of the state’s average weekly wage as defined annual by New York State. This benefit is
anticipated to rise over four years to the maximum benefit of 12 weeks of leave at 67% of an employee’s average weekly wage (with the cap at 67% of the state average weekly wage).

**Question 8:** What is the anticipated benefit implementation schedule?

**Answer:**

<table>
<thead>
<tr>
<th>Year</th>
<th>Weeks Available</th>
<th>Max % of Employee Salary</th>
<th>Cap % of State Average Weekly Wage (Set each year)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1/2018</td>
<td>8</td>
<td>50%</td>
<td>50%</td>
</tr>
<tr>
<td>1/1/2019</td>
<td>10</td>
<td>55%</td>
<td>55%</td>
</tr>
<tr>
<td>1/1/2020</td>
<td>10</td>
<td>60%</td>
<td>60%</td>
</tr>
<tr>
<td>1/1/2021</td>
<td>12</td>
<td>67%</td>
<td>67%</td>
</tr>
</tbody>
</table>

**Question 9:** How many weeks would I get in 2018?

**Answer:** For 2018 the maximum number of weeks is 8.

**Question 10:** Will my position be at risk if I take PFL?

**Answer:** PFL is job protected. Employees on PFL are entitled to restoration to “the position of employment held by the employee when the leave commenced or to be restored to a comparable position with comparable employment benefits”. Employees are also protected from retaliation if they exercise their rights to PFL.

**Question 11:** Can I continue my medical plan with the University?

**Answer:** Employees on PFL are entitled to continue health benefits on the same basis as if actively working. However, employees must continue to pay their portion of the premium cost while on PFL in order to maintain uninterrupted health insurance coverage.

**Question 12:** When should I notify the University when I need PFL?

**Answer:** An employee is responsible for notifying the University that they intend to apply for PFL benefits. If the request is foreseeable, the employee must provide the University with 30-days advance notice. If the event was not foreseeable, the employee must notify the University as soon as practical taking into account all of the facts and circumstances.

**Question 13:** How do I apply for PFL?

**Answer:** Aetna, our present disability carrier, will be our insurance carrier for PFL. You need to call them at 1-866-326-1380 to initiate a PFL claim. Aetna will begin accepting PFL claim calls on January 1, 2018.

**Question 14:** Are there forms involved?
The supporting documentation depends on the type of PFL requested. All employees applying for PFL must fill out Form PFL-1. In addition, the following forms are required:

- Bond with a newborn, newly adopted child or a foster child
- Bonding Certification (Form PFL-2)
- Care for a family member with a serious health condition
- Health Care Provider Certification for a Family Member with Serious Health Condition (Form PFL-4)
- Time off due to a family member’s active military duty or impending active duty
- Military Qualifying Event (Form PFL-5)

Question 15: Where can these forms be found?
Answer: The forms can be found on the Leave Administration website at: www.rochester.edu/working/hr/leave.

Question 16: What happens next?
Answer: Leave Administration will need to complete the “Employer Information” section within 3 business days of being notified that a request for PFL has been received.

Question 17: How will Leave Administration be notified of a PFL request?
Answer: Leave Administration will respond to any forms received in our office or once Aetna has been notified that a PFL request has been received, they will notify Leave Administration to complete the Employer Section within 3 business days.

Question 18: Is the process then complete?
Answer: No. Both the employee and employer sections need to be submitted to Aetna along with the required supporting documentation.

Question 19: The PFL-1 form requests my Average Weekly Wage (AWW). How will I know that?
Answer: Leave Administration will include this number on the employer section of the form which you can use when completing your portion.

Question 20: When the completed application and all applicable documentation is submitted, how long does it take to get a response?
Answer: If the application and documents are complete, the insurance carrier will process the claim within 18 days.

Question 21: How will I be notified?
Answer: Aetna will send you a letter outlining the approval and associated time frames. If your request is denied, Aetna will also include how to appeal the decision.

Question 2: If my claim is approved, how will I be paid?
Answer: Your payment for any PFL day will be from Aetna. Payments are made weekly in the form of a check or direct deposit. These benefits will be taxable.

Question 3: How do I notify my department that I will be away from work?
Answer: Once your request is approved and you need to take time away for PFL, you would follow the call off procedures within your department. You will also need to notify Aetna when you are out on PFL.

Question 4: How often will I be paid by Aetna for approved PFL time?
Answer: Payments will be processed on a weekly basis in arrears.

Question 5: What if I do not need a full day of PFL, can I break it into hours or half days?
Answer: No PFL runs for a full day, you cannot work on a day that you request PFL.

Question 6: Since I am not receiving my full pay when on PFL, can I also take vacation or PTO?
Answer: Yes, however, you must notify your supervisor that you wish to take vacation or PTO while out on PFL.

Question 7: What if my request for PFL is not approved. Do I have any options?
Answer: If you are denied for PFL, Aetna will provide you with the reason and describe the appeal process.

Question 8: Does Short Term Disability (STD) time away count against my 8 weeks of PFL?
Answer: Perhaps. You cannot use more than 26 weeks of PFL and STD during any in a 52 consecutive week period. As an example, if you were on STD for 20 weeks and then returned and needed PFL, you would have 6 weeks remaining in a 52 week period.

Question 9: What about FMLA?
Answer: FMLA automatically runs concurrently with Worker’s Compensation and/or STD. FMLA would also run concurrent with PFL if the reason and family member was also eligible under FMLA.

Question 10: What is the difference between PFL and FLMA?
Answer: FMLA is a federal law, whereas PFL is a state law. PFL is paid time off, and FMLA is unpaid. FMLA can be used for an employee’s own serious health condition, where PFL cannot. PFL provides coverage for additional family members that are not eligible under FLMA, including grandparents, grandchildren, and parents-in-law. PFL can be taken intermittently for bonding with a child, where FMLA may be taken intermittently, but not for bonding. PFL must be taken in increments of 1 full day, where FMLA can be
taken 30 minute (for hourly-paid employees) or ½ day (for salaried employees) increments.

Question 31: **What if my spouse and I both work for the University and are in need of PFL?**

Answer: If you and your spouse both work for the University, you may both have the ability to be approved for PFL but you cannot be away from work at the same time.

Question 32: **What if I am part time, do I have 8 weeks of PFL?**

Answer: If you are a part time employee, your PFL time will be prorated. For example, if you work 3 days per week, your PFL eligibility would also be 3 days per week for 8 weeks.

Question 33: **Do I have the ability to opt out of PFL?**

Answer: If you believe that you will not ever meet the eligibility requirements for PFL while employed at UR (26 weeks of employment for employees who are scheduled to work 20 or more hours in a week or, for employees who are scheduled to work fewer than 20 hours in a week, 175 days of employment), you have the ability to waive PFL. However, should you become eligible at some point in the future, you are required to pay the deductions back to your hire date.

Question 34: **If I know that I won’t be eligible and understand that if I become eligible, I would owe back deductions but still would like to waive the benefit, what do I need to do?**

Answer: You would need to complete the waiver form entitled, Employee Opt-Out of Paid Family Leave Benefits, located in HRMS.

Question 35: **What if I am out on short term disability (STD) for maternity. Can I apply and receive PFL as well to bond with my child?**

Answer: An employee cannot be on STD and PFL at the same time. Once the STD ends, an employee can begin PFL as a block of time or intermittently.

Question 36: **Do I need to take PFL to bond with my child immediately after birth or placement?**

Answer: No, a parent can take PFL during the first 12 months following birth, adoption, or fostering a child.

Question 37: **I am not sure I understand how STD, FMLA, and PFL relate. Are there case examples?**

Answer: Here are some case examples that may help:

Case #1 - An employee was on STD for 20 weeks and then returned to work. A couple months later, the employee requested an 8 week block of time for PFL to take care of a family member with a serious illness.

Results: An employee may only use a combined 26 weeks of STD and PFL during any 52-week period. In this case, the employee would only be approved for PFL for 6 weeks because he/she had already used 20 weeks of STD during the previous 52 weeks.
Case #2 - An employee was approved to take 8 weeks of PFL for his grandchild who had a serious health condition. When he returned, he requested intermittent leave under FMLA for his mother’s serious health condition. Did he have 12 weeks of FMLA to take?

Results: The 8 weeks of PFL that the employee took did not count against his FMLA entitlement because he did not take PFL for an FMLA-qualifying reason (an employee may not take FMLA to care for a grandchild). Therefore, the employee still has 12 weeks of FMLA available.

Case #3 - An employee took 6 weeks of PFL for her son’s serious health condition. Upon return to work, the employee became ill with her own serious health condition. She went out on STD and her doctor disabled her for 26 weeks. Was she able to receive STD payments for the 26 weeks she was disabled?

Results: An employee may only use a combined 26 weeks of STD and PFL during any 52-week period. Because the employee already took 6 weeks of PFL earlier in the year, she only has 20 weeks of STD available to her.

Case #4 - An employee had a baby in June of 2017 and was away for 12 weeks. She was on STD and FMLA for 6 weeks and remained out another 6 weeks under FMLA. Will she be able to take 8 weeks of PFL in 2018?

Results: yes, if eligible, the employee can take another 8 weeks of PFL either in a block of time or intermittently in 2018 as long as it is within the first 12 months of birth.