

Policy Category: Operational Policies	Title: NH Paid Family Leave Plan/Paid Family Leave Policy for State Employees	Effective Date: January 1, 2023
Document #: POL-3-2023	Prepared By: Department of Administrative Services	Number of Pages: 6
Revision #: New		
Revision Date: 11/1/2023	Approved By: Cassie Keane, DAS Deputy Commissioner; Lorrie A. Rudis, DAS Director of Personnel	Date Approved: 10/21/2022
Creation Date: 7/18/2022	Stakeholder(s): Executive Branch	

PAID FAMILY LEAVE WAGE REPLACEMENT INSURANCE BENEFIT POLICY

1. Purpose

- 1.1. The purpose of this policy is to outline the parameters of the Paid Family Leave (PFL) wage replacement insurance benefit for State Employees with regard to covered benefits, eligibility, notification, and claim procedures for permanent State employees.
- 1.2. PFL is a component of the NH Paid Family and Medical Leave Insurance Plan established by RSA 21-I:99.
- 1.3. The PFL wage replacement insurance benefit provides a percentage of wages to eligible State employees for a specified period of time when taking a qualified and approved unpaid leave of absence from the workplace.

2. Scope

- 2.1. This policy applies to the State of New Hampshire Executive Branch.
- 2.2. This policy is limited to classified, unclassified, and non-classified permanent State employees, as defined in paragraph 4.14 of this policy.

3. Policy Statement

- 3.1. According to RSA 21-I:100, the NH Paid Family and Medical Leave Plan (NH PFML), eligible State employees are automatically enrolled in PFL wage replacement insurance coverage.
- 3.2. The State has selected an insurance company (the “contracted carrier”) to fully insure and administer PFL.

4. Definitions

- 4.1. "Annual leave" means time off for vacation or other personal reasons. Per 102.04.

- 4.2. “*Average Weekly Wage*” is determined by calculating the average weekly wage paid during the employee’s Base Period.
- 4.3. “*Base Period*” for purposes of determining the average weekly wage paid toward a claim will be the total wages paid in the 12 months immediately preceding the first day of an approved claim, limited to the current Social Security wage cap.
- 4.4. “*Benefit year*” for purposes of determining benefit coverage, means a calendar year.
- 4.5. “*Child*” means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis, who is either under 18 years of age, or who is 18 years of age or older and incapable of self-care because of a mental or physical disability at the time that FMLA leave is to commence.
- 4.6. “*Compensation time*” means time off allotted for exceeding the basic work week.
- 4.7. “*Eligible employee*” means a permanent state employee, as defined in paragraph 4.14.
- 4.8. “*Elimination period*” means the period of time during which the contracted carrier does not pay benefits on an approved claim.
- 4.9. “*Family Leave*” means leave from work, in accordance with FMLA, for:
 - 4.9.1. *Bonding* which includes the bonding with a newborn child within one year of birth; and the placement with the employee of a child for adoption or foster care and to bond with the newly placed child within one year of placement;
 - 4.9.2. *Care for a family member* to include care for the employee’s spouse, child, or parent who has a serious health condition, including incapacity due to pregnancy and for prenatal care; or
 - 4.9.3. *Qualifying Exigency and Military Caregiver* to include any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty or called to covered active duty status, or caring for a covered service-member with a serious injury or illness if the eligible employee is the service-member's spouse, child, parent, or next of kin.
- 4.10. “*Family and Medical Leave Act*” means the federal Family and Medical Leave Act of 1993, Pub.L. 103-3, 29 U.S.C. section 2601 et seq.
- 4.11. “*Family member*” means a child; a parent; or the child's spouse or domestic partner; a biological, adoptive, foster or step grandparent; a spouse or domestic partner.
- 4.12. “*Floating holiday*” means the additional holidays allotted to State employees in the classified system for use within the fiscal year. Per 1303.01.
- 4.13. “*Parent*” means a biological, adoptive, foster, or stepparent, or legal guardian as defined in “family member.”

- 4.14. "*Permanent fulltime State employee*" means a full-time employee who has satisfactorily completed an initial probationary period, including those who have been employed on a temporary or seasonal basis and works the equivalent of 6 months or more in a 12-month period. RSA 98-A:3; Per 102.46.
- 4.15. "*Serious health condition*" means any illness of a family member covered by FMLA, including treatment for addiction as prescribed by a treating clinician, consistent with American Society of Addiction Medicine criteria, as well as treatment for a mental health condition, consistent with American Psychiatric Association criteria.
- 4.16. "*Sick leave*" means time off due to illness, injury, bereavement, dependent care, or pre-approved medical appointment. Per 102.62.
- 4.17. "*Spouse*" means an individual who is legally married to the employee.
- 4.18. "*State rate*" means the per employee premium amount that is charged by the contracted carrier for Paid Family Leave coverage for State employees. The State rate shall be expressed as a percentage of wages.
- 4.19. "*Wages*" means every form of remuneration for personal services paid to the employee by the employer, including salaries, commissions, and bonuses but excluding business expense reimbursements and fringe benefit imputed income.
- 4.20. "*Wage replacement*" refers to the Paid Family Leave insurance benefit of sixty (60) percent of an eligible employee's average weekly wage, up to the Social Security wage cap.

5. Benefits and Eligibility

- 5.1. The State shall provide wage replacement insurance benefit coverage to all eligible permanent full-time State employees for qualified leave events when the employee is in an approved unpaid status, which include the same types of leave as protected under the Family and Medical Leave Act, except leave for a serious health condition of the employee. This shall include leave for:
 - 5.1.1. *Bonding* with a newborn child within one (1) year of birth; and the placement with the employee of a child for adoption or foster care and to bond with the newly placed child within one (1) year of placement;
 - 5.1.2. *Care for a family member* to include care for the employee's spouse, child, or parent who has a serious health condition, including incapacity due to pregnancy and for prenatal care; or
 - 5.1.3. *Qualifying Exigency and Military Caregiver* to include any qualifying exigency arising out of the fact that the employee's spouse, child, or parent is a military member on covered active duty or called to covered active duty status, or caring for a covered service-member with a serious injury or illness if the eligible employee is the service-member's spouse, child, parent, or next of kin.

- 5.2. Permanent full time State employees are eligible to receive wage replacement insurance benefit coverage under this Plan only after they have first exhausted all paid leave time available to them, in the following order:
 - 5.2.1. Sick leave;
 - 5.2.2. Compensation time;
 - 5.2.3. Floating holidays; and
 - 5.2.4. Annual leave.
- 5.3. Under this Plan, exhaustion of paid leave time will be considered satisfied when the eligible permanent full-time State employee's leave accrual balance is no greater than one work day (7.5 hrs. or 8 hrs. respectively).
- 5.4. Subject to any changes authorized under RSA 21-I:103, and claim approval by the contracted carrier, the wage replacement insurance benefit under the Plan shall be structured as follows:
 - 5.4.1. Eligible permanent full-time State employees shall receive sixty (60) percent of their average weekly wage, up to the Social Security wage cap.
 - 5.4.2. The maximum duration of the wage replacement insurance benefit coverage shall be six (6) weeks within a benefit year, subject to an elimination period of one work week before benefits are paid.
 - 5.4.3. PFL claims may be submitted for continuous leave or intermittent leave, with a minimum of 4-hour increments.
- 5.5. Eligible permanent full-time State employees are provided with PFL wage replacement insurance as an employee benefit and as such are required to file a claim when taking unpaid leave for qualifying leave events.

6. Continuation of Employee Group Insurance Benefits While On Unpaid Leave

- 6.1. When employees are receiving PFL wage replacement insurance benefits, they are on unpaid leave and not receiving a paycheck. Therefore, it is not possible for the State to withhold the required employee share of the contributions for elected benefits like group health and dental insurance, supplemental life insurance and flexible spending accounts. In order to continue certain eligible elected benefits while on unpaid leave, the employee must make direct payment to the State for their share of the required premium contributions. Refer to Department of Administrative Services (DAS) Division of Risk & Benefit Policy "Benefit Continuation During Time Away From Work".
- 6.2. Agency HR representatives will provide employees with the necessary benefit continuation information and election forms to continue eligible benefits while on unpaid leave.

- 6.3. Benefit continuation payments while on unpaid leave are due on the first of each month, in general. If payments are not received timely, the State shall provide the employee with a final 15-day notification of payment(s) due. If payment is not received by the employer by the end of the final 15-day notice period, the employee's benefit coverage will terminate effective the date of the last day of paid coverage.
- 6.4. While in unpaid leave status, employees will have the same opportunities as other employees to change other coverage, plans or benefits as a result of a qualifying life event and/or during annual open enrollment.
- 6.5. In accordance with federal law, employees may be eligible to continue certain benefit plans under the Federal Consolidated Omnibus Reconciliation Act (COBRA) if they are unable to return to work from leave. However, should the employee fail to make payment for their benefit continuation as instructed by the State, employees may forfeit their right to COBRA under the law.

7. Procedure for Submitting a PFL Claim

- 7.1. When an eligible permanent full-time State employee has a qualifying family leave event, as outlined in provisions 5.1.1 – 5.1.3 of this policy, the employee shall notify their agency Human Resources (HR) Representative as soon as possible.
- 7.2. The agency HR Representative shall provide the employee with a PFL claim packet, an FMLA packet, contact information for the contracted carrier, and an unpaid leave approval form to be signed and approved by the employee's appointing authority or their designee.
- 7.3. The employee shall:
 - 7.3.1. Complete required documents within the PFL claim packet;
 - 7.3.2. Submit a PFL claim to the contracted carrier by either calling the phone number provided or visiting the designated web portal; and
 - 7.3.3. Complete the FMLA forms and submit them to their agency HR Representative.
- 7.4. The employee's agency HR Representative will submit a work unit to the DAS Division of Personnel and create an allocation of FMLA hours and PFL hours.
 - 7.4.1. State agency payroll is obligated to validate the allocation of FMLA hours.

8. Process of Verifying a PFL Claim

- 8.1. Once a claim for PFL has been submitted, the contracted carrier will validate the claim and calculate the weekly benefit based on wages reported electronically to the contracted carrier.
- 8.2. The contracted carrier will send an email notification to a designated State inbox, confirming receipt of the PFL claim submission.

- 8.3. The contracted carrier will coordinate with the DAS Division of Personnel to address and rectify any issues regarding claim validation.
- 8.4. Within five (5) business days of all the required claim information being received, the contracted carrier will render a claim decision. The contracted carrier shall then:
 - 8.4.1. Notify the State of its claim decision via an email; and
 - 8.4.2. Notify the eligible permanent full-time State employee of its decision via both a phone call and a direct mailing.

9. Employee Notification Obligations

- 9.1. In addition to the initial HR notification required by paragraph 7.1 under this policy, an eligible permanent full-time State employee with an approved PFL claim shall notify their agency HR Representative when:
 - 9.1.1. Circumstances related to the eligibility for PFL change; and/or
 - 9.1.2. The employee will be returning to work.
- 9.2. To be granted the authority to leave work and submit a PFL claim, an employee must:
 - 9.2.1. Complete and sign an unpaid leave approval form; and
 - 9.2.2. Submit the completed and signed unpaid leave approval form to their supervisor for review and signature by the appointing authority or their designee.

10. PFL Payments and Closure of a Claim

- 10.1. When a PFL claim is approved, the contracted carrier will issue the wage replacement insurance benefit payment(s) directly to the eligible permanent full-time State employee.
- 10.2. Once all qualifying payments have been issued, the contracted carrier will close the claim and notify the State that the claim has been closed.
- 10.3. The Division of Personnel will work with the contracted carrier, the Agency HR Representative, and the employee to close out the claim and return the employee to active status.
- 10.4. If the contracted carrier denies a PFL claim, the employee may appeal the denial through the contracted carrier's appeal process.