LE MOYNE
Agenda

- Short Term Disability
- Family & Medical Leave Act (FMLA)
- NY State Paid Family Leave (PFL)
- Side-By-Side Comparison FMLA and PFL
- Case Studies
- Question & Answer
SHORT TERM DISABILITY

• Eligibility - immediately upon hire
• Benefit - a maximum of 26 weeks (180 days)
  – Employee should apply for long term disability if he/she will exceed the 26 weeks of short term disability.
• Process: Employee should:
  – Notify supervisor as soon as possible if he/she is going to be out of work due to illness, injury, maternity leave, etc.
  – Make an appointment with Human Resources
  – Download form from portal and have physician complete and return to Human Resources
• Return to Work – Employee will need to provide HR a doctor’s release to return to work.
FAMILY & MEDICAL LEAVE ACT

Provides eligible employees with up to 12 weeks of unpaid, job-protected leave per year. It also requires that their group health benefits be maintained during the leave. FMLA may be taken for the following reasons:

- Birth and care of a newborn child of an employee
- Placement with the employee of a child for adoption or foster care
- To care for an immediate family member (spouse, child, or parent) with a serious health condition
- To take a medical leave when employee is unable to work because of a serious health condition
FMLA ELIGIBILITY

Employees are eligible for leave if they have worked for their employer at least 12 months, and least 1,250 hours over the past 12 months.

1. Employee notifies manager
2. Employee completes Leave of Absence form and supplemental FMLA form and returns to HR
3. HR notifies manager of anticipated return date
4. If also a short-term disability, doctor’s release is needed to return to work.
NEW YORK STATE PAID FAMILY LEAVE

New York State Paid Family Leave (PFL) provides job-protected, 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. This benefit is paid for by the employee (after tax payroll deduction).

Eligibility

1. Full-time employees: 20 or more hours per week, working 26 consecutive weeks
2. Part-time employees: less than 20 hours per week, working for 175 days
NYPFL Benefit for 2018

• 50% of employee’s weekly wage, up to a maximum of $652.96 (based on NYS average weekly wage).

• The maximum length of the benefit is 8 weeks (or 40 days for an employee who normally works 5 days/week and takes the leave intermittently).

• This benefit will run concurrently with FMLA benefit.
NY Definition of 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 supervision by a health care provider.
  - Conditions such as the common cold, the flu, ear aches, upset stomach, minor ulcers, routine dental or orthodontia problems, periodontal disease, etc. do not meet the definition of a serious health condition.
Filing a Claim with Guardian

1. **Provide Notice** - notify HR 30 days prior to employee leave, when practical. Complete the appropriate [NYS PFL form](#) available from Guardian or on the Human Resources Benefits portal page. If leave is unplanned, please notify Human Resources as soon as possible and complete the appropriate claim form.

2. **Obtain Supporting Information** - Obtain supporting documentation for a leave (i.e. birth certificate, military deployment certificate, etc.).

3. **Submit Your Form** - submit claim form, along with supporting documentation, to Guardian, which will process and pay or deny the claim within 18 days of receipt of completed claim.

4. **Plan for Deduction Continuation** - Meet with HR to set-up double deductions of insurance prior to leave, as employee will only be receiving a check from Guardian while on PFL.
**FMLA vs. PFL**

<table>
<thead>
<tr>
<th>Eligibility</th>
<th>FMLA</th>
<th>PFL</th>
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<tbody>
<tr>
<td></td>
<td>Employed for 12 months, worked 1250 hours in the preceding 12 months, and worked at location with 50+ employees employed within 75 mile radius</td>
<td>Employed for 26 weeks full-time OR 175 days part-time (no minimum hours)</td>
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<table>
<thead>
<tr>
<th>Length of Leave</th>
<th>FMLA</th>
<th>PFL</th>
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<tbody>
<tr>
<td></td>
<td>Up to 12 weeks in a 12 month period</td>
<td>1/1/18- up to 8 weeks 1/1/19- up to 10 weeks 1/1/20- up to 10 weeks 1/1/21- up to 12 weeks</td>
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# Qualifying Events

<table>
<thead>
<tr>
<th>Qualifying Event</th>
<th>FMLA</th>
<th>PFL</th>
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<tbody>
<tr>
<td>Providing care for child after birth or placement for adoption or foster care in first 12 months.</td>
<td></td>
<td>Providing care for child after birth or placement for adoption or foster care in first 12 months</td>
</tr>
<tr>
<td>Qualifying exigency arising from service of spouse, child or parent in US armed forces</td>
<td></td>
<td>Qualifying exigency arising from service of spouse, child, parent or domestic partner in US armed forces</td>
</tr>
<tr>
<td>Care for immediate family member with serious health condition</td>
<td></td>
<td>Care for family member with serious health condition</td>
</tr>
<tr>
<td>Employee’s own serious health condition</td>
<td></td>
<td></td>
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<tr>
<td>Military caregiver leave</td>
<td></td>
<td></td>
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</table>

- **FMLA**
- **PFL**
# Measurement Period

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<tr>
<th>Measurement Period</th>
<th>FMLA</th>
<th>PFL</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Rolling” 12-month period measured backward from the date an employee uses any FMLA leave</td>
<td>52 consecutive weeks computed retroactively with respect to each day for which benefits are currently being claimed</td>
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</table>

**Note:** The measurement period is the same, but the wording is different if you were to look at these on their respective websites.
## Approval Process

<table>
<thead>
<tr>
<th>FMLA</th>
<th>PFL</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Employer makes determination</td>
<td>• Insurance carrier (Guardian), <strong>not</strong></td>
</tr>
<tr>
<td>• Employer must follow strict</td>
<td>the employer makes determination</td>
</tr>
<tr>
<td>certification and designation</td>
<td>Carrier must pay the claim or deny</td>
</tr>
<tr>
<td>notice requirements</td>
<td>the claim within 18 days after receipt</td>
</tr>
<tr>
<td></td>
<td>of completed request with the necessary</td>
</tr>
<tr>
<td></td>
<td>certification</td>
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</table>
## Use of Accrued Time Off

<table>
<thead>
<tr>
<th>Use of Accrued Paid Time Off</th>
<th>FMLA</th>
<th>PFL</th>
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<tbody>
<tr>
<td></td>
<td>• Employee may decide to use, accrued paid leave to cover all or part of FMLA leave (with limited exceptions) only when it does not also qualify as PFL. • Paid leave may run concurrently with the unpaid FMLA leave time.</td>
<td>• Employee not eligible to use paid time to supplement leave.</td>
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</tbody>
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**FMLA**

**PFL**
### Intermittent Leave

<table>
<thead>
<tr>
<th>FMLA</th>
<th>PFL</th>
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<tbody>
<tr>
<td>Permitted – minimum 1 hour increments</td>
<td>Permitted – minimum 1 day increments</td>
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Employee should provide a list of dates and times for either leave to the supervisor prior to taking leave time.
CASE STUDY 1

An employee gives birth on March 1, 2018.

1. What types of leave is she eligible for?
   - Short-term disability (usually 6 weeks for regular birth, 8 weeks for c-section); Family Medical Leave Act; Paid Family Leave

2. What types of leave is her partner eligible for if he also works for LMC?
   - Family Medical Leave Act; Paid Family Leave

3. What is the maximum amount of leave (in number of weeks) if all leaves are taken consecutively? (Hint: maternity leave is generally 6 weeks + FMLA + PFL)
   - 20 weeks

4. What is the last day an employee is eligible for FMLA or PFL benefits if she uses leave time intermittently?
   - February 28, 2019 (52-week period to use the benefit; minimum of 1 day increments for PFL; minimum of 1 hour increments for FMLA)

### Family Medical Leave Act (unpaid, 12 weeks)

<table>
<thead>
<tr>
<th>Short term disability 6 weeks</th>
<th>FMLA - unpaid 6 weeks</th>
<th>NYS Paid Family Leave 8 weeks</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td><em>Total: 20 weeks of leave</em></td>
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CASE STUDY 2

An employee requests a leave to care for a seriously ill family member.

1. What types of leave is the employee eligible for?

   Depends on definition of “family member”
   
   **Paid Family Leave:** spouse, child, parent, stepchild, domestic partner, stepparent, parent-in-law, grandparent, grandchild
   
   **Family Medical Leave Act:** spouse, child, parent

2. What is the maximum leave time if leave is used consecutively? Intermittently? (Hint: Leaves may run concurrently)

   **Consecutively:** 12 weeks for spouse, child or parent; 8 weeks for “family members” not covered by FMLA

   **FMLA** (unpaid, 12 weeks)
   
   NYS Paid Family Leave 8 weeks
   
   3/1/18 - 4/25/18

   **FMLA - unpaid 4 weeks**
   
   4/12/18 - 5/23/18

   **Total: 12 weeks of leave**

   **Intermittently:** FMLA = 60 days or 420 hours (if 7 hours/day is normal schedule); PFL = 40 days (if 5 day/week is normal schedule)

   **Family Medical Leave Act (unpaid, 12 weeks)**

   NYS Paid Family Leave 40 days

   **Total: 40 days + 20 days or 140 hours**