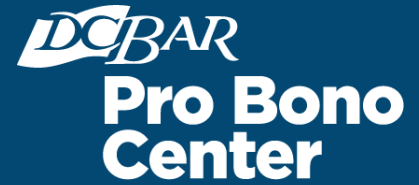
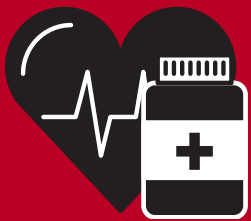


D.C. PAID FAMILY LEAVE



Workplace Navigators Fact Sheet FOR EMPLOYERS

Personal Medical (up to 2 weeks)



Are you a D.C. employer? Then you should know the facts about **D.C. Paid Family Leave (PFL)**, a new program that provides all D.C. employees with up to eight weeks of paid sick and/or family leave per year.

PFL benefits are paid by the District of Columbia directly to your employees, not by you, and every D.C. worker is entitled to take PFL leave – even if you already provide sick and family leave benefits.

Now is the time to become familiar with the PFL program, understand your employer obligations, and, if necessary, coordinate your existing sick and family leave benefits.

What Benefits Does PFL Provide to My Employees?

PFL provides all D.C. employees with up to eight weeks of paid leave per year for any combination of three covered events:

1. **Parental leave** to bond with a new child (up to eight weeks);
2. **Family leave to care for family members** with serious health conditions (up to six weeks); and
3. **Personal medical leave** to take care of your own serious health conditions (up to two weeks).

An employee's benefit year starts when they first apply for PFL benefits, not the calendar or employer's fiscal year.

PFL does not provide 100 percent wage replacement. Instead, PFL provides 90 percent wage replacement for up to 1.5 times the D.C. minimum wage and then 50 percent wage replacement for any additional wages, up to a cap of \$1,000 per week.

PFL benefits are processed and paid directly through the D.C. Department of Employment Services (DOES). Employers do not receive or pre-approve leave requests, but they are entitled to notice of foreseeable leave events. While the PFL program does not itself provide job-protected leave, job protection may be available under laws such as the Family and Medical Leave Act (FMLA); furthermore, employers cannot retaliate against employees for applying for or claiming PFL benefits.

Is My Business Covered, and Which Employees are Eligible?

All D.C. employers—regardless of size—who directly or indirectly control

Parental (up to 8 weeks)



Family Care (up to 6 weeks)



the wages, hours, or working conditions of D.C. workers and who are required to pay Unemployment Insurance (UI) tax in D.C. are covered by PFL with respect to their D.C. employees, including the employer obligations described below.

PFL benefits are only available to D.C. employees. Generally speaking, any employee for which an employer paid D.C. UI tax in a preceding quarter is also presumptively eligible for PFL. Specifically, employees are covered under PFL if they spend more than 50 percent of their work time working in D.C. or if they are based in D.C., regularly work at a D.C. site, do not spend more than 50 percent of their time working in another jurisdiction, and perform work outside of D.C. that is only incidental, temporary, or isolated in nature.

What Are My Employer Obligations Under PFL?

While employers do not pay or administer PFL benefits, they have the following obligations to facilitate the PFL program:

PFL Tax Payment: The PFL program is funded by 0.62 percent quarterly payroll tax on the wages of covered employees. DOES has been collecting the PFL tax since the summer of 2019. Employers with over five employees (with the assistance of third-party payroll administrators, if applicable) report and pay their PFL contributions on a quarterly basis through the same online Employer Self-Service Portal (ESSP) they use to pay UI contributions. Employers with under five employees can pay DOES directly and do not have to use the ESSP system.

Recordkeeping and Reporting: In order to calculate and report PFL obligations, employers are required to keep records of the following: (1) name and Social Security number, or, if the Social Security number is unavailable, tax identification number, of each covered employee; (2) the beginning and ending dates of each pay period; (3) the wages paid for each pay period, including the cash value of other remuneration, gratuities, and tips and expenses incurred by each covered employee for which a deduction from wages is claimed; (4) method of payment; (5) earnings of employees; and (6) the dates on which wages were paid.

Employer-to-Employee Notice: Employers are required to provide notice of PFL benefits and eligibility to their covered employees. Notice must be provided in multiple forms and circumstances, including:

- Permanent Notice (Physical Posters).
 - Employers must post the PFL notice form in a permanent, conspicuous physical location.
 - For covered remote/telework employees, employers must send a copy of the poster to workers so they can hang it at their individual worksites.
 - For employers with multiple worksites, a PFL poster must hang at each site where business is conducted or where services or industrial operations are performed
 - For employers with distinct and physically separate departments in the same building, a poster should hang in each separate department's common space.
 - If your business has workers who perform business activities in many different locations, but those locations are not the business' own worksites (e.g. workers who travel to customers' homes), the PFL poster should hang in the District location where workers report to every day.
- Periodic/As-Needed Notice – Employers must also provide the PFL notice form to employees at each of the following times:
 - Once annually to all employees – All employees must receive either a paper or electronic (i.e. attached to an email) version of the PFL notice at least once a year.

- To individual employees at the time of hire – A PFL notice must be provided to all new employees hired after February 1, 2020 within 30 days after hire. The notice can be in paper or electronic form.
- To individual workers when they receive notice that a worker may need to use PFL – Employers must provide a PFL notice to individual workers whenever they are aware that leave is, or will be, needed by that individual. The worker does not need to submit a formal or written request for leave to trigger the notice requirement. If an employer becomes aware via circumstantial evidence that leave will be required, the employer must provide a leave notice.

Penalties for failing to provide PFL notice are \$100 for each covered worker who didn't receive an individual notice and/or \$100 for each day that a covered employer failed to post the notice in a conspicuous place at each worksite.

How Does PFL Interact With Existing Leave Benefits?

Employers are allowed to provide family and medical leave benefits that supplement or run parallel to the PFL program, but employers cannot attempt to replace or override PFL with their own offerings. Any employer-provided leave program must still allow employees to take PFL leave whenever they are eligible under the District's criteria.

Options for employers looking to coordinate PFL benefits with in-house benefits include, but are not limited to:

- Providing independent employer-provided leave and allowing employees to choose freely between PFL and in-house leave, with no requirement to exhaust one source of leave before the other and allowing employees to take PFL leave while preserving their employer-provided leave bank;
- Providing leave benefits that run concurrently with PFL, requiring workers to exhaust their PFL benefits while simultaneously consuming their employer-provided leave benefits;
 - Under a concurrent approach, employers have multiple options: they can choose to “top up” PFL benefits by providing additional salary replacement up to 100 percent; partially or fully pay for employee leave days in addition to PFL payments (potentially exceeding 100 percent wage replacement); or relying on PFL for all wage replacement and not making employer-side contributions, while still having PFL leave deducted from the employee's leave bank.
- Providing leave benefits that run sequentially with PFL, requiring employees to exhaust their PFL benefits before being eligible for additional employer-provided leave periods (e.g. in excess of PFL's eight-week annual cap, or any of the three individual caps for each PFL covered event); and
- Eliminating all employer-provided sick and medical leave benefits, instead relying on PFL to provide all family, medical and sick leave benefits.

This information is provided in conjunction with:



For more resources, webinars, and services related to PFL:
<https://probono.center/PaidFamilyLeave>