

NY PAID FAMILY LEAVE INCREASES EFFECTIVE JANUARY 1, AND OTHER DEVELOPMENTS

Labor & Employment Alert
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As we have previously reported, the New York Paid Family Leave Law that took effective January 1, 2018 contains a phased-in system of paid, job-protected leave for eligible workers.

Effective January 1, 2019, the paid leave period under the NY Paid Family Leave will increase from 8 weeks to 10 weeks per year. Also effective January 1, 2019, employees taking NY Paid Family Leave will receive 55% of their average weekly wage (up from 50% in 2018), up to a cap of 55% of the current Statewide Average Weekly Wage (\$1,357.11). In other words, the maximum weekly benefit for 2019 for employees who are on NY Paid Family Leave will increase from \$652.96 to \$746.41. To account for the increase to the benefit, the employee contribution rate will also increase from 0.126% to 0.153% of an employee's gross wages each pay period (capped at the Statewide Average Weekly Wage), which means that an employee's maximum annual contribution will increase from \$85.56 to \$107.97. Employees earning less than the Statewide Average Weekly Wage, however, will contribute less, consistent with their actual wages. Employers may start taking deductions at the new rate on January 1, 2019.

The State has also updated the FAQ section of its website, clarifying that the benefits available to employees who start NY Paid Family Leave in 2018 that extends into 2019 will receive the benefit rate and amount of paid time off that was in effect on the first day of their leave. Thus, for example, an employee who begins their Paid Family Leave in 2018 that extends into 2019 will receive the 2018 rate for benefits while they are taking the leave in 2019. However, with respect to employees who start taking intermittent Paid Family Leave in 2018, the State FAQs provide as follows: *When more than three months passes between days of Paid Family Leave, your next day or period of Paid Family Leave is considered a new claim under the law. This means you will need to file a new Request for Paid Family Leave and that you may be eligible for the increased benefits available should this day or period of Paid Family Leave begin in 2019.* The new FAQs also confirm that employees who have exhausted all of their NY Paid Family Leave in 2018 may be eligible for up to 2 weeks of additional NY Paid Family Leave in 2019 if they experience a qualifying event. The State explains that *the maximum amount of leave in 2019 is 10 weeks in a 52 week period. If you took eight weeks of PFL in the last 52 weeks, and have another qualifying event in 2019, you may be limited to two weeks at the new rate, since it is a rolling calendar. When*

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it has been 52 weeks from your 2018 leave dates, you will accrue a new week of available PFL up to another eight weeks.