

Paid Family Leave Frequently Asked Questions

- [Eligibility](#)
- [Benefits](#)
- [Paid Family Leave and Family Medical Leave Act \(FMLA\) and the California Family Rights Act \(CFRA\)](#)
- [Voluntary Plans](#)

Eligibility

Who is covered by Paid Family Leave?

Employees covered by State Disability Insurance (SDI) are also covered by Paid Family Leave insurance. If a Voluntary Plan Insurer provides your company's disability insurance coverage in lieu of State Disability Insurance (SDI), then it must also provide Paid Family Leave insurance coverage.

Are self-employed individuals covered by Paid Family Leave?

Yes, but only if they participate in the [SDI Elective Coverage Program](#)

Are government employees covered?

Some [government workers](#), including school employees, may be eligible for Paid Family Leave insurance benefits if they contribute into the SDI program. Also, if you have wages from a private employer during the base period, you might qualify even though your primary employer is a government entity.

Are employees of small businesses covered by Paid Family Leave insurance?

Yes, if employees pay into State Disability Insurance (SDI), they are covered by Paid Family Leave insurance, regardless of the number of employees in the business. Some employees may have their job protected under other laws, such as the federal [Family and Medical Leave Act \(FMLA\)](#) or the [California Family Rights Act \(CFRA\)](#), but these laws do not apply to everyone who is eligible for Paid Family Leave benefits.

May employees receive Paid Family Leave insurance benefits if they work part time?

If you work part time and still suffer a wage loss due to your family care leave, you may receive benefits provided you are otherwise eligible. Paid Family Leave insurance is a wage loss protection program, which means that individuals may be eligible for a portion of the Paid Family Leave insurance benefit if they are suffering a loss of wages and meet the other Paid Family Leave [eligibility requirements](#).

Does an employee have to work a minimum number of hours or days before becoming eligible for Paid Family Leave insurance benefits?

No. Eligibility for Paid Family Leave insurance benefits is based on the earnings shown in your [base period](#) and not a specific number of days or months worked. Wages earned approximately 5 to 17 months before the beginning of your Paid Family Leave insurance claim are included in the base period.

What constitutes a serious health condition for the purposes of Paid Family Leave?

A serious health condition means an illness, injury, impairment, or physical or mental condition of a patient that involves inpatient care in a hospital, hospice, or residential medical care facility. This includes any period of incapacity (e.g., inability to work, attend school, or perform other regular daily activities) or any subsequent treatment in connection with such inpatient care; or continuing treatment by a physician or practitioner Unless complications arise, cosmetic treatments, the common cold, influenza, earaches, upset stomach, minor ulcers, and headaches other than migraine, are examples of conditions that do not meet the definition of a serious health condition for purposes of Paid Family Leave.

When must I submit a claim to bond with a new minor child in order to receive six weeks of benefits?

[Eligibility](#) for up to six weeks of benefits to bond with a new minor child expires at the end of the 12-month period that begins on the minor child's date of birth, adoption, or foster care placement. Therefore, you must complete your bonding prior to the 12-month period ending date and submit your claim timely.

Is a claimant eligible for Paid Family Leave insurance benefits if he/she has to provide care for a sick relative (child, spouse, parent, or domestic partner) that is out-of-state or out-of-the-country?

A claim may be submitted for Paid Family Leave benefits to care for a sick parent who is out of the state or out of the country. Benefits may be payable provided the medical certificate is properly completed, establishes a need for care, and a relative (child, spouse, parent, or domestic partner) is otherwise [eligible](#).

Benefits

Is there a waiting period for Paid Family Leave insurance benefits?

Both Disability Insurance and Paid Family Leave require a seven (7) calendar day non-payable waiting period. The required seven-day waiting period does not need to be taken seven days in a row. For example, if care were provided one day per week, the seven-day waiting period would be served over a seven-week period. Benefits are payable once the seven days have been served and all other eligibility criteria are met. You must be off work at least [eight \(8\) calendar days](#).

Do I need to take all of my Paid Family Leave insurance benefits at one time?

No. The law does not establish a minimum number of hours or days or weeks that an employee must take Paid Family Leave insurance benefits. It only establishes the maximum leave time of [six \(6\) paid weeks within a 12-month period](#).

If I receive six weeks of Paid Family Leave insurance benefits to bond with my newborn and then one of my parents becomes seriously ill later in the year, will I be able to receive Paid Family Leave benefits again since it is for a different reason? You are limited to [6 weeks of benefits within a 12-month period](#) regardless of the reason for the leave.

How will you determine the weekly benefit amount for Paid Family Leave?

We calculate the weekly benefit amount based on the calendar quarter with the highest earnings in the claimants base period. The base period covers 12 months and is divided into four consecutive quarters of three months each. The wages the claimant was paid approximately 5 to 17 months before the claim begins are included in the base period (they must be subject to the SDI tax). The [base period](#) does not include wages paid at the time the claim begins.

NOTE-If the claimant received Disability Insurance (DI) pregnancy disability benefits and then filed a Paid Family Leave insurance claim to bond with a new child, the weekly benefit amount is the same as the SDI weekly benefit amount. There is no new calculation of the weekly benefit amount when the bonding claim follows the DI pregnancy claim. This is true even if the bonding claim does not immediately follow the [DI pregnancy claim](#).

How soon will my employee receive her first check from Paid Family Leave after she mails her claim form?

Most claimants are sent Paid Family Leave checks within two weeks after a properly completed claim is received.

May an employee receive other benefits while also receiving Paid Family Leave insurance? An employee may not receive Paid Family Leave insurance benefits if he or she is receiving or will receive State Disability Insurance, Unemployment Compensation Insurance, or Workers' Compensation benefits for the same period. Other benefits, such as employer paid benefits for baby bonding, may also affect payment of Paid Family Leave benefits.

Can Paid Family Leave Benefits be integrated with unused sick leave?

Yes.

How is the Paid Family Leave insurance benefit affected when an employee receives sick leave benefits and Paid Family Leave at the same time?

Consistent with the Disability Insurance (DI) program, sick leave wages are treated as wages. Paid Family Leave insurance benefits will be reduced by the amount of sick leave wages received, and may

render the employee ineligible for benefits depending on the amount of sick leave wages received and the employee's weekly benefit amount.

If you integrate (coordinate) the sick leave (pay the employee sick leave wages in an amount which is the difference between the Paid Family Leave insurance benefit and the employee's full wage), the sick leave benefits received by the employee will not affect the [Paid Family Leave benefit](#).

Is an employee required by law to use their vacation leave when collecting Paid Family Leave insurance benefits?

The law gives an employer the discretion (option) to require an employee to take up to two weeks of earned but unused vacation leave. Vacation leave may include paid time off. This option does not relieve employers of any collective-bargaining duties they may have with respect to vacation leave.

If an employee has not accumulated two weeks of vacation leave do they have to use their earned but unused sick leave instead?

No. The Paid Family Leave law does not authorize employers to require the use of sick leave in lieu of vacation.

How are Paid Family Leave insurance benefit payments treated for tax purposes?

Claimants should contact the [IRS](#) or their tax advisor to obtain additional information.

For state tax purposes, Paid Family Leave benefit payments are not taxable by California pursuant to Revenue and Taxation Code section 17083.

Can an employee opt out of the Paid Family Leave insurance program?

Paid Family Leave is a component of State Disability Insurance and contributions are mandatory under the California Unemployment Insurance Code.

Relation of the Paid Family Leave Insurance Program to the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA)

What is the difference between Paid Family Leave insurance and employee leave laws?

The FMLA and CFRA are federal and state leave laws, respectively, that allow workers to take up to 12 workweeks of unpaid leave from their jobs in a 12-month period to care for themselves or family members who are ill, or children who are unable to take care of themselves. Paid Family Leave insurance does not change either law in any way and is completely separate from them. It merely provides up to six (6) weeks of paid benefits to workers who suffer a wage loss when they take time off work to care for others.

See the [Department of Labor](#) for more information about FMLA. Contact the [California Department of Fair Employment and Housing](#) at 1-800-884-1684 for more information about CFRA.

Are employees required to take leave under the federal FMLA and the CFRA at the same time they are receiving Paid Family Leave insurance benefits?

Yes, if your company is subject to the provisions of FMLA and CFRA. See [California Department of Fair Employment and Housing](#) for more information about CFRA.

Is a Paid Family Leave claimant's job protected?

The Paid Family Leave program does not protect anyone's job. It simply provides partial wage replacement when an employee cannot work due to the need to care for a child, parent, spouse, or registered domestic partner, or to bond with a new minor child. Some employees may have their job protected under other laws, such as the [FMLA](#) or the [CFRA](#).

Can I use Paid Family Leave back-to-back with my Disability Insurance claim for pregnancy?

Will there be an additional seven-day waiting period for Paid Family Leave? You may apply for Paid Family Leave insurance benefits as soon as you have recovered from your pregnancy-related disability and you are no longer in receipt of State Disability Insurance (SDI) benefits. There is no additional seven-day waiting period for a Paid Family Leave claim for benefits to bond with a newborn when the Paid Family Leave claim follows the SDI pregnancy-related claim. You will automatically be sent a [Claim for Paid Family Leave \(PFL\) Benefits - New Mother, DE 2501FP](#), when your pregnancy-related disability claim ends.

If an employee accrues Paid Time Off (PTO), rather than specific vacation or sick leave, may an employer require that an employee use up to two weeks of PTO prior to the initial receipt of Paid Family Leave insurance benefits?

Yes. The law provides the option for employers to require up to two weeks of earned but unused vacation leave. Vacation leave, as defined in Title 22, California Code of Regulations, section 3302-1, includes paid time off if vested under Labor Code section 227.3.

May an employer require employees who have not accumulated two weeks of vacation leave to use their earned but unused sick leave instead?

No. The [Paid Family Leave law](#) does not authorize employers to require the use of sick leave in lieu of vacation.

Voluntary Plans

As a voluntary plan employer, am I required to approve a request for family care leave?

Paid Family Leave benefits are not a leave program. The voluntary plan paid family leave insurance benefit program is separate from [leave policies](#).

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