



NEW JERSEY PAID FAMILY & MEDICAL LEAVE:



WHAT EMPLOYERS &
HUMAN RESOURCES
NEED TO KNOW

NEW JERSEY DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

Whether you are a business operator, worker, job seeker, student, or person seeking or receiving benefits, the staff of the Department is here to assist you.

We're committed to providing quality service and helping New Jersey's skilled and productive workforce enable employers statewide to compete successfully in the world marketplace.





NOW MORE THAN EVER, **EMPLOYEES NEED TIME TO GIVE AND RECEIVE CARE.**

NJ Paid Family & Medical Leave benefits can cover:

- Serious illness (physical or mental) or injury
- Pregnancy and childbirth
- Bonding with a new child
- Caring for a loved one
- Coping with domestic or sexual violence

NJ PAID FAMILY & MEDICAL LEAVE IS MADE UP OF:

- **NJ TEMPORARY DISABILITY INSURANCE (TDI)**
- **NJ FAMILY LEAVE INSURANCE (FLI)**

These programs are different from the federal Family and Medical Leave Act (FMLA), which offers unpaid, job-protected leave for specified family and medical conditions. We'll explain how this law, and other forms of job-protected leave, relate to our benefit programs.

HOW CAN THESE PROGRAMS HELP YOUR BUSINESS?

NJ Paid Family & Medical Leave:

- Supports employee health
- Boosts employee morale and job satisfaction
- Helps with employee retention which reduces turnover costs
- Increases labor force participation, especially for women
- Allows small businesses that cannot afford private plans to compete with larger organizations

WHICH EMPLOYERS ARE COVERED UNDER THE LAW?

New Jersey employers must participate in State plans and deduct payroll taxes for employees, or provide private plans that meet State requirements

- only out-of-state employers and the federal government are exempt
- Temporary Disability is optional for local government and municipalities (i.e. school districts)

For more information on private plans, see:

<https://myleavebenefits.nj.gov/labor/myleavebenefits/employer/index.shtml?open=PrivatePlan>



WHICH EMPLOYEES ARE ELIGIBLE?

For your employee's claim to be approved they must:

- Work for a covered employer
- Have worked 20 weeks earning at least \$200 weekly or have earned a combined total of \$10,000 in the base year.
 - ▶ The standard base year refers to the first four of the last five completed calendar quarters before the claim starts.

WHAT BENEFITS DO EMPLOYEES RECEIVE?

- As of July 1st, 2020, benefits are 85% of an employee's average weekly wage with a maximum of \$881 per week
- **For Temporary Disability Insurance:** up to 26 weeks of benefits, as certified by a medical professional
- **For Family Leave Insurance:** up to 12 weeks of benefits if taken consecutively, 56 days of benefits if taken intermittently

THE EMPLOYER ROLE

- The employer's role in the application process changed recently: no longer an "employer portion"
- Must display TDI and FLI posters in a workplace location clearly visible to employees
- Provide written notice of TDI and FLI when an employee is hired, requests information, or notifies an employer of their need for leave
- Report employee's quarterly earnings to the state
- We advise that you keep track of notifications that an employee is receiving benefits, and check for accuracy
 - ▶ If you notice any discrepancies or incorrect payments, please report them to the division in a timely manner - contact our **customer service center** at **(609) 292-7060** or submit corrected statements via fax to **(609) 984-4138**.

HOW EMPLOYERS CAN HELP EMPLOYEES UTILIZE THEIR BENEFITS

- Keep them informed – use our employer toolkit and share our resources:
myleavebenefits.nj.gov/employerkit
- We encourage you to assist employees with their application, but it is their responsibility to submit a complete application
- Direct them to myleavebenefits.nj.gov to file their claim

FORMS REQUESTED

- If we do not get all requested information from the employee, you may be required to supply some information.

These items include:



E10 Request for Employer Information: Last physical date of work, wages, or payments to employee during disability or family leave period



E20 Request for Additional Wage Information: Employee's quarterly wages to establish valid claim

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- Failure to complete these documents may result in denial of benefits for the employee and a monetary penalty for you

PAID-TIME OFF PRIOR TO DISABILITY AND FAMILY LEAVE

- Employers are not prohibited from requiring employees to use accrued paid time off before claiming Temporary Disability Insurance benefits. The State of NJ may only require state employees to use up two weeks of accrued sick time before receiving Temporary Disability Insurance benefits, although the State of NJ may not require state employees to use their last week of sick time before receiving Temporary Disability Insurance benefits.
- Employees may choose to use accrued paid time off before claiming Family Leave benefits, although employers cannot require it. If an employee chooses to use paid time off before claiming Family Leave Insurance benefits, it will not reduce the maximum duration of benefits to which the employee is entitled.




FAMILY LEAVE FOR PART-TIME EMPLOYEES

- Employees with multiple jobs may collect Family Leave benefits if they only take leave from one employer, provided that they do not exceed their usual work schedule in their other job.
- The employee's weekly benefit rate will be based only on wages from the employment from which they are taking leave. (As of July 1, 2020)

EXPERIENCE RATING: IS OUR COMPANY/ ORGANIZATION CHARGEABLE?

- For Temporary Disability Insurance claims, benefits are charged against the experience rating account of the last employer the applicant worked for prior to the start of their claim. The law provides no alternate criteria for liability such as length of employment, if work was considered full- or part-time employment, amount of earnings, or circumstances surrounding separation with the last employer.
- For Family Leave Insurance claims, there is no charge against the employer's experience rating

HOW DO I FILE AN APPEAL?

- An employee or employer who disagrees with a determination can file an appeal
 - It must be in writing and received within 10 days of the mailing date of the determination
 - See our employer information at myleavebenefits.nj.gov for the online form
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QUALIFYING REASONS FOR NJ PAID FAMILY & MEDICAL LEAVE

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Let's review the scenarios for which an employee may receive Temporary Disability or Family Leave benefits

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ILLNESS OR INJURY: TEMPORARY DISABILITY INSURANCE



- If employee cannot work due to a serious health condition, including illness or injury, or a mental health condition
- Includes COVID-19 illness or quarantine, or if at high risk for COVID-19 due to underlying health condition
- May receive up to 26 weeks of benefits, as certified by a medical professional
- With employer approval, employees who have been unable to work due to a disability can transition back into the workplace on a partial schedule and still receive partial Temporary Disability Insurance benefits (as of June 2020)

BENEFITS FOR NEW PARENTS: TEMPORARY DISABILITY AND FAMILY LEAVE INSURANCE



- For pregnancy and childbirth recovery, a birth parent can typically receive 4 weeks of benefits prior to the delivery date and 6-8 weeks for recovery (with complications, a doctor may certify more benefits)
- Then, the birth parent can receive Family Leave benefits to bond with their new child, within a year of the birth; up to 12 consecutive weeks or 56 intermittent days
- Typical benefits for a birth parent without complications:
 - ▶ 4 weeks for pregnancy + 6 weeks for recovery + 12 weeks for bonding = 22 weeks total

BONDING WITH A NEW CHILD: FAMILY LEAVE INSURANCE



- Either parent can receive Family Leave benefits to bond with a child within a year of the child's birth, adoption, or foster placement
 - ▶ Up 12 consecutive weeks
 - ▶ Up to 56 intermittent days

CARING FOR A LOVED ONE: FAMILY LEAVE INSURANCE

- If an employee cannot work because they must care for a loved one with a serious health condition, including illness, injury or a mental health condition (includes COVID-19)
 - Also covers care for a loved one coping with domestic or sexual violence
 - A medical provider must certify the need for care
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Who is a considered a “Family Member” in the law?

- Child (biological, adopted, foster, stepchild),
 - Spouse (includes domestic partner and civil union partner)
 - Parent
 - Siblings
 - Grandparents
 - Grandchildren
 - In-laws
 - Any blood-relation to the claimant
 - Any other individual with a close association equivalent of a family relationship
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Claims may be filed for

- 12 consecutive weeks
- Up to 56 intermittent days

COPING WITH DOMESTIC OR SEXUAL VIOLENCE: FAMILY LEAVE OR TEMPORARY DISABILITY INSURANCE

- An employee can apply for Family Leave benefits to cope with domestic or sexual violence
- Coping with domestic or sexual violence includes many things, such as:
 - ▶ Seeking medical attention, therapy, victim advocacy, or legal services
 - ▶ Escaping abuse, such as staying in a domestic violence shelter
 - ▶ Attending a court date
 - ▶ Recovering at home

Can receive Family Leave benefits for

- ▶ 12 consecutive weeks
 - ▶ Up to 56 intermittent days
- An employee could receive Temporary Disability benefits for a medical condition resulting from domestic or sexual violence for up to 26 weeks, as certified by a medical provider

JOB PROTECTION

Temporary Disability and Family Leave Insurance are partial wage replacement programs and they do not provide job protection. However, during the period in which they are receiving TDI or FLI benefits, employees may be protected under the following laws:

Federal Family and Medical Leave Act (FMLA)

- ▶ Employees can receive up to 12 weeks of unpaid, job-protected leave to:
 - Bond with a newborn, newly adopted, or foster child
 - Care for a spouse, child, or parent with a serious health condition
 - Care for their own illness or injury
- ▶ Generally applies to employers with 50 or more employees within 75 miles
- ▶ NJDOL does not enforce this law, USDOL does.
- ▶ For more information, see dol.gov/agencies/whd/fmla.

JOB PROTECTION (continued)

New Jersey SAFE Act

- ▶ Employees can receive up to 20 days of unpaid, job protected leave to cope with domestic or sexual violence
- ▶ Generally applies to employers with 25 or more employees and government agencies
- ▶ For more information on the SAFE Act, visit https://nj.gov/labor/forms_pdfs/lwdhome/AD-289_9-13.pdf.

JOB PROTECTION (continued)

New Jersey Family Leave Act (NJFLA)

- ▶ Employees can receive up to 12 weeks of unpaid, job protected leave to:
 - Care for or bond with a new child
 - Care for a family member, or someone who is the equivalent of family, with a serious health condition (including a diagnosis of COVID-19), or who has been isolated or quarantined because of suspected exposure to a communicable disease (including COVID-19) during a state of emergency
 - Provide required care or treatment for a child if their school or place of care is closed due to a public health emergency (like COVID-19)
- ▶ Generally applies to employers with 30 or more employees, or government entities regardless of size
- ▶ NJDOL does not enforce this law, the NJ Division on Civil Rights does.
- ▶ For more information, contact the NJ Division on Civil Rights at **(973) 648-2700** or visit njcivilrights.gov.

JOB PROTECTION (continued)

- Please note that if an employee is pregnant or just had a baby, they can:
 - ▶ Take up to 12 weeks of job-protected leave for pregnancy and recovery from childbirth under the FMLA
 - ▶ Take an *additional* 12 weeks of job-protected NJFLA leave to bond with or care for their baby
 - Must have their doctor certify that they are fit to return to work or they have exhausted their FMLA leave (whichever is earlier).

RETALIATION

- It is unlawful for an employer to retaliate against an employee for taking or seeking to take their Temporary Disability or Family Leave benefits. If retaliation occurs, an employee has the right to take private legal action.

Retaliation includes, but is not limited to:

- Firing an employee
- Reducing their salary
- Increasing oversight on their job duties
- Changing their workplace responsibilities
- Excluding them from meetings

CONTACT US

ONLINE HELP WITH MY CLAIMS:

Need Help?

Customer Service: 609-292-7060

Mailing Address:

**New Jersey Department of Labor &
Workforce Development
Division of Temporary Disability Insurance
P.O. Box 287 | Trenton, NJ 08625-0397**

Fax Number: 609-984-4138

Debit Card Help: 1-866-213-4074

WEBSITE

myLeaveBenefits.nj.gov

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**THANK
YOU**
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Please see our employer toolkit for resources,
including printable handouts, our podcast, and more:

myleavebenefits.nj.gov/employerkit