

## EMPLOYER TOOLKIT

# The Paid Family Leave Act



# About Paid Family Leave

## Disclaimer

The Department of Employment Services (DOES) has provided this toolkit as a public service. It is designed to provide employers with an overview of their rights and responsibilities under the District of Columbia's Paid Family Leave (PFL) Program. It is intended as general information only and does not carry the force of a legal opinion. Liability and eligibility determinations will be made on a case by case basis. DOES reserves the right to update the material and information as necessary. The Universal Paid Leave Amendment Act (UPLA) of 2016 and related regulations remain the official sources for information related to the PFL program.

## About DOES

### Mission Statement

The Department of Employment Services (DOES) mission is to connect District residents, job seekers, and employers to opportunities and resources that empower fair, safe, effective working communities.

### Vision

The Department of Employment Services provides comprehensive employment services to ensure a competitive workforce, full employment, life-long learning, economic stability, and the highest quality of life for all District residents.

### Connect With Us

#### DEPARTMENT OF EMPLOYMENT SERVICES (DOES)

Office of Paid Family Leave (OPFL)  
4058 Minnesota Avenue, NE  
Suite 3700  
Washington, DC 20019

Phone: (202) 899-3700  
Email: [does.opfl@dc.gov](mailto:does.opfl@dc.gov)

**[DCPaidFamilyLeave.dc.gov](http://DCPaidFamilyLeave.dc.gov)**



In the end,  
this levels  
the playing  
field for small  
businesses.  
Many of us  
want to offer  
Paid Family  
Leave to our  
workers, but  
we just can't  
afford to do so  
on our own.

-DC SMALL  
BUSINESS OWNER

# Top Things DC Employers Should Know About Paid Family Leave

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**REPORTING.** Your business will be required to submit quarterly wage reports in a similar fashion to the UC30 wage report submitted for unemployment insurance taxes.

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**RECORD KEEPING.** You must keep payroll records for at least three years that include each worker's name and Social Security number (or individual taxpayer identification number), pay period dates, wages for each pay period, and dates of employment.

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**BENEFITS DISTRIBUTION.** Paid Family Leave benefit payments will be issued to eligible individuals directly from the Department of Employment Services.

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**EMPLOYER EXEMPTION.** The law does not provide any exemptions for employers.

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**EMPLOYEE ELIGIBILITY.** Part-time and full-time employees who work in DC are eligible.

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**PROVISION OF BENEFITS.** Employers can determine whether or not their sponsored paid leave benefits run concurrently with their workers' use of the District's Paid Family Leave program. However, an eligible individual's right to the District's Paid Family Leave benefits shall not be diminished by an employer's paid leave policy.

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**UNEMPLOYMENT INSURANCE TAX RATE.** Paid Family Leave contributions and unemployment insurance contributions are separate. Employers pay taxes based on the associated rates for each program respectively.

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**DEFINING REGULATIONS.** DC is using public input in the development of proposed regulations for benefit rules.

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**IMPLEMENTATION.** Based on final regulations, the DC Department of Employment Services' Office of Paid Family Leave will develop an infrastructure to manage the benefit for employers and employees, and to ensure that employers and all stakeholders are part of the process.



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# Understanding The Paid Family Leave Act

Enacted in February 2017, the Universal Paid Leave Act of 2016 created the Paid Family Leave (PFL) program in the District. It provides self-employed individuals and workers of covered employers with:



## 8 WEEKS

parental leave to bond with a new child, including adopted and foster children



## 6 WEEKS

family leave to care for a sick family member



## 2 WEEKS

personal medical leave



**The purpose of this toolkit is to provide employers with an overview of the PFL program. It will also provide key information on employers' responsibilities under the Act. As the program develops, further versions of this toolkit will be published on the OPFL website.**

All District of Columbia private sector employers must participate in this program, and almost every DC worker will be eligible to receive benefits. The program is funded by covered employers through a 0.62% payroll tax on covered worker wages. Covered employers include all DC employers subject to DC Unemployment Insurance (UI) tax and self-employed individuals who choose to opt in to the program. In general, covered workers include all workers who (predominately) work in DC and no more than 50% in another jurisdiction.

The PFL program is administered by the Office of Paid Family Leave (OPFL) within the Department of Employment Services (DOES). Workers will apply for PFL benefits, receive their eligibility determinations, and benefit awards from OPFL.

Employers and workers will use an online portal to interact with OPFL and receive information. Employers will use the portal to pay contributions and record worker wages. Workers will use it to file and monitor their benefit claims. Self-employed individuals will use it for paying contributions, recording their income, and filing for benefits.

## Tax Collection Deadline

In general, employers will use the same portal and reporting/filing schedule as they currently do for District Unemployment Insurance (UI).



## Helpful Links

If you have any questions about PFL or related business requirements, please visit the following links:

Department of Employment Services: <https://does.dc.gov>

Office of Paid Family Leave: <https://dcpaidfamilyleave.dc.gov>

Office of Human Rights: <https://ohr.dc.gov>

Department of Consumer and Regulatory Affairs: <https://dcra.dc.gov>

Office of Tax and Revenue: <https://otr.cfo.dc.gov>



# Chapter 1

## **COVERED EMPLOYERS**

# Covered Employers

## Which Employers are Covered Under the Law?

Under the UPLA, a covered employer is anyone who controls the wages, hours, or working conditions of a worker and is required to pay Unemployment Insurance (UI) tax in DC for its workers. It also includes self-employed individuals who opt into the PFL program (See Chapter 2).

A covered employer can be an individual, general contractor, subcontractor, association, corporation, business trust, or another group of persons. It doesn't include the federal government, the District Government, or any employer in the District that DC cannot tax under federal law or treaty.

An employer may be a covered employer even if they are not directly controlling a worker if they are indirectly controlling a worker through an agent. For example, an employer may be a covered employer if they use a staffing or temp agency.

Non-Profits may be considered a covered employer if they are required to pay UI tax in DC for their workers. This includes non-profits who choose to self-insure and reimburse instead of paying quarterly UI taxes.



Employers who are not covered employers under these rules don't need to take any action in notifying DOES that they are not liable for the program.

## What If I'm a New Business?

New businesses must first register with the Department of Consumer and Regulatory Affairs (DCRA) and the Office of Tax and Revenue (OTR). Afterwards, DOES will issue a determination on UI liability. If an employer is subject to UI, then they will receive information on PFL liability and registration. Employers are required to alert DOES about ownership changes. Successor employers may need to re-register with DOES.

# What are Employers Required to Do?

## Covered Employers have 4 Main Responsibilities:

1. Register/Update their DOES account on the Employer Self-Service Portal (ESSP)
2. Provide notice about PFL to their workers
3. File reports and pay contributions
4. Keep records

## How Should Employers Provide Their Workers with Notice of PFL?

Covered employers must provide their workers with notice of the PFL program at 4 times:

1. Always (physical poster)
2. Annually to all workers (paper or electronic form)
3. At the time of hiring (paper or electronic form)
4. At the time PFL is needed by a worker (paper or electronic form)

Covered employers must keep a physical poster (provided by DOES) at each worksite in a conspicuous place where labor notices are customarily posted. Employers must also send a poster to covered workers who work remotely or predominately telework so that they can hang the posters at their individual worksites. Posters will be available on the DOES and OPFL websites for employers to print in standard sizes and display at their worksites.

For PFL, a worksite is a location where business is conducted or where services or industrial operations are performed. Some businesses may be required to post multiple posters in the same physical building. For example, if a company has several departments on multiple floors with separate break areas, then the company likely will need posters for each separate department's common space.

If an employer's business activities result in workers working at many different places throughout the region, then the notice must be posted in the District location where workers report every day. For example, a plumbing company's workers may spend their time at customers' homes, but each morning the workers are required to check in at the office for their assignments. In this case, the poster should be in that central area of the office, even if workers are only there once a day.



Employers will need to comply with notice requirements no earlier than January 1, 2020.

## COMPLIANCE CHECK

- ☒ **Cookie Co. hangs their PFL poster in the break room with other employment law posters.**
- ☒ **Urban Farms keeps their PFL poster in the room where workers receive their work assignments every morning and store their belongings for the day.**
- ☒ **Johnson, Smith, & Jones, has multiple locations in the District, so they only post a notice in their headquarters.**  
Employers are required to post a notice at each worksite.

If a covered worker becomes a non-covered worker for any reason, then the employer is required to notify the worker of the loss of PFL eligibility.



## Notice Requirements Continued

In addition to always displaying the poster, covered employers must also annually provide their workers with the PFL notice. While the poster must be in a physical format, the annual notice may be sent out by electronic or digital means. For instance, a company with several hundred workers can choose to send an annual email to remind their workers of their PFL rights.

Covered employers must also provide notice to new workers within 30 days of hiring. This notice can also be in the form of an email or similar means. Some companies may find it easier to include it in paper form as part of their new-hire packet. Others may prefer to include it as part of their online onboarding process.

Lastly, an employer must provide the PFL notice whenever they are aware leave is needed. Employers are aware leave is needed when they receive direct notice from an employee that PFL leave may be necessary. This notice doesn't need to be a formal request or even in writing. Employees also don't need to be aware that their leave event qualifies for PFL or even know if they will take time off work yet. Therefore, it is important for employers to know what may be a qualifying PFL leave event so that employees are well informed of their options. If an employee is unable to give direct notice because of an emergency, then a family member, coworker, or another person may provide direct notice. It will be considered direct notice from the employee if it is clear that the employee intends, or would intend, for their employer to know about the leave event.

For this type of notice, who an employer and an employee are may vary depending on the situation. An employer is anyone an employee believes has supervisory power. For example, a restaurant worker may tell their shift manager without realizing there is a formal HR office they should contact.

In this case, it is still the shift manager's responsibility to provide the notice or direct the employee to the correct person.

If an employee is unable to give direct notice because of an emergency, then a family member, coworker, or another person may provide direct notice. It will be considered direct notice from the employee if it is clear that the employee intends, or would intend, for their employer to know about the leave event.

## COMPLIANCE CHECK

☒ **Alex receives a call that a family member was in a car accident. Before running out the door, Alex tells her coworker, Brian, to tell their manager. The manager is unsure if Alex will file for PFL leave or even if the event qualifies. He decides to email Alex the PFL notice just in case.**

☒ **Benjamin doesn't show up to work one morning and does not return his manager's calls. The next day, a family member contacts his job to let them know he is hospitalized. His manager doesn't take any steps to give Benjamin or his family the PFL notice.**

Although Benjamin didn't tell his manager himself, his manager should consider this direct notice from Benjamin.

☒ **Desha comes to work late after a doctor's appointment. Her supervisor asks how it went and Desha responds that her doctor advised her to get major surgery. Her supervisor doesn't give her the PFL notice.**

Even though Desha didn't specifically request leave from work, her supervisor received direct notice from Desha that she will likely need leave from work for a PFL event.

# How Do Employers Prove Notice?

Employers have the burden of proving compliance with the PFL notice requirements. Violations of the notice requirements may result in a civil penalty of:

- **\$100 for each covered worker who didn't receive individual notice; and/or**
- **\$100 for each day that a covered employer failed to post the notice in a conspicuous place at each worksite.**

Covered employers can establish compliance for providing individual notice to their workers by showing email receipts or signed statements from their workers acknowledging delivery.



The notice requirements only apply to covered workers. However, there's no harm in providing notice to all workers in case any may be misclassified as non-covered workers.

## What is the Online Portal?

Covered employers will be required to use a single online portal where they can access information related to Paid Family Leave (PFL) as well as access the Employer Self-Service Portal (ESSP) used for Unemployment Insurance (UI). Employers will use the online portal to:

- **File wage reports (Similar to the UC-30)**
- **Pay contributions**
- **Receive notifications**
- **Verify worker wage information**
- **Update business information, including changes in ownership**

Businesses with 5 workers or less who do not have computer access may request paper registration, communication, and filing from OPFL.



**Prior to July 1, 2019 employers should update their contact information in ESSP to ensure they receive important communication related to tax requirements. On July 1, employers will log into the portal and see information related to both PFL and UI.**

## Will Third-Party Administrators (TPAs) and Payroll Service Providers Have Access to the Online Portal?

Like ESSP, employers will be able to grant TPAs, payroll service providers, and related agents, access to the online portal so they can file wage reports and pay contributions.

## What are the Recordkeeping Requirements?

Employers must create and maintain records for all covered workers for information related to PFL. The records must contain:

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### COVERED WORKER WAGE INFORMATION

- **Their name and social security number (or tax identification number);**
- **The beginning and ending dates of each pay period;**
- **The wages they were paid for each pay period;**
- **Method of payment;**
- **Their earnings; and**
- **The dates they were paid their wages.**

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### COVERED WORKER PFL INFORMATION

- **The dates they took parental, medical, or family leave;**
- **Copies of leave notices they gave their employer regarding PFL; and**
- **Records of disputes between them and their employer regarding PFL.**

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### COVERED EMPLOYERS MUST ALSO MAINTAIN RECORDS OF:

- **Copies of all required written PFL notices given to workers; and**
- **Documents describing worker benefits, including short- and long-term disability policies, sick leave, vacation leave, and other employer paid and unpaid leave policies and practices**

The recordkeeping requirements for PFL are similar to the recordkeeping requirements for District Unemployment Insurance and FMLA. These records may be used in the case of worker disputes involving reported wages or access to leave.

Employers must keep all employee records related to PFL for three (3) years. If requested, these records must be available for inspection, copying, and transcription by DOES, including records stored on computers. These records must be kept confidential and may only be released to parties other than authorized DOES representatives when required by law to do so.



# Chapter 2

## **SELF-EMPLOYED INDIVIDUALS**

# Self-Employed Individuals

## Which Self-Employed Individuals are Eligible for PFL?

Self-Employed individuals may opt into PFL if they carry on a trade or business as a:

- **Sole proprietor,**
- **Independent contractor, or**
- **A member of a partnership**

To opt in, an individual can be self-employed anywhere. However, to be eligible for benefits the individual must earn self-employment income for work performed more than 50% of the time in DC during some or all of the 52 calendar weeks before his or her qualifying event. In other words, self-employed individuals must work at least half of the time in DC for some part of the year before they need paid leave.

## Can an Individual Opt In If They Also Work for an Employer?

An individual can enter the PFL program as both a self-employed individual and a covered worker. A person may work for a covered employer but also have a business. Alternatively, a person may work as a freelancer but work part-time for a covered employer. Regardless, individuals have the option of opting in and including their self-employment income in their benefit calculations. Their reported self-employed income will be added to the wages reported by their covered employer. However, self-employed individuals that work for a non-covered employer, will only receive benefits based on their self-employment income.



Some businesses owners with employees may be considered both Covered Employers and Self-Employed.



A wide range of individuals may be considered self-employed including: Ride-sharing drivers, bloggers, photographers, food-delivery workers, consultants, caregivers, artists, graphic designers, etc.



## When Can a Self-Employed Individual Opt In?

There are three (3) times self-employed individuals can opt into PFL:

- 1. The first 90 days of program commencement in 2019,**
- 2. Every November and December (Starting in 2020), or**
- 3. Within 60 days of the commencement of their self-employment in DC.**

Self-employed individuals that don't opt in when they are first eligible must remain in the program for three (3) years if they opt in later.

When the PFL program begins on July 1, 2019, self-employed individuals will have until September 28 (90 days) to decide to opt in. After opting in, individuals will report and pay a contribution on their earnings in that quarter (July 1 through August 30).

In 2020 and every year after, self-employed individuals can also enroll into the program every November and December. Similar to health insurance and other benefit programs, November and December will serve as the general open enrollment period.

For individuals who are not self-employed during the first 90 days PFL starts or during general open enrollment periods, they may opt in when they commence self-employment in DC. Commencement of self-employment for PFL is when you first receive self-employment income for work performed in DC that must be reported as self-employment income to the Internal Revenue Service (IRS).

You are liable  
for earnings  
made during  
the quarter that  
you opt in.

For more information on self-employment and small businesses, please visit  
<https://www.irs.gov/businesses/small-businesses-self-employed>

## What are Some Examples of Commencing a Business?

**ANDRE** works full time as an IT manager, but for the past years he has occasionally made and sold artwork in DC to close friends. Originally it was just a hobby, but he decides to devote more time and resources to making art. So he creates an official website to sell his art and carefully tracks all of his expenses and profits for tax purposes. His new income will be considered self-employment income and will allow him to be eligible for PFL. He will not have to wait until a general open enrollment period, even though he has sold his art for years because it was not his trade or business, nor was he required to report the income as self-employment income to the IRS.

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**BRITTNEY** works full time at a restaurant. On weekends, she occasionally mows lawns and does general handyman work for extra money. After saving up, she decides to quit her job and run a food truck business. The date that she earns taxable income from her food truck business determines the date of her eligibility, not the first time she received income for yard work.

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**CHANCE** works full time as a nurse for his primary income. He also works as a dog walker every weekend and pays self-employment taxes to the IRS on the income. He quit his nursing job and decided to work full time on his dog walking business. He can't opt in based on the first time he earns income from his full time dog walking business because he was already self-employed for PFL purposes when he was a part-time dog walker. He must wait until a general open enrollment period.

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**DERRICK** is self-employed as a consultant when he accepts full time employment at a company. He stops working as self-employed after accepting the job offer. If he chooses to return to work as a self-employed individual, then he will be eligible to enroll in PFL when he first begins to receive self-employment income again. Although he previously was self-employed, his self-employment status "resets" when he becomes a worker and stops being self-employed.

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**EBONY** is the sole proprietor of a DC tutoring business and chooses not to opt into PFL. Later she starts a website developer business and quickly begins earning income. She can choose to opt in when she begins receiving money for her new business without waiting for a general enrollment period. But she is now required to also report the income from her tutoring business. She also can't opt out for 3 years because she did not opt in when she was originally eligible.

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Self-Employed individuals must earn reportable IRS self-employment income to commence a business for PFL purposes, but the amount does not matter. They are not required to continue to earn income to remain in the program, but it may affect their benefit calculations.

# Eligibility and the Online Portal

## How Do Self-Employed Individuals Prove Eligibility?

To opt in, individuals must provide documents to prove their self-employment. This can be done by providing a copy of their DC business license or occupational license.

An individual can also submit:

- **Contracts,**
- **Tax documents,**
- **Billings from or payments to a DC address (including electronic billings),**
- **Documents demonstrating that work was performed at a specific site in DC, or**
- **Similar documentation that demonstrates self-employment in DC.**

## Online Portal

Like all other covered employers, self-employed individuals will need to register and use the online portal. The online portal will be used to:

- **Report self-employment income,**
- **Pay quarterly contributions,**
- **Receive notifications from DOES, and**
- **File a PFL claim.**

Self-employed individuals without computer access can request paper registration, communication, and filing from DOES.





If a self-employed individual hires a worker, then the self-employed individual may be considered a covered employer and may need to pay contributions for the worker.

## How Much Do Self-Employed Individuals Pay for the PFL Program?

Like all covered employers, self-employed individuals pay a 0.62% flat tax rate. Self-employed individuals will pay a tax on their total gross earnings from all of their self-employed businesses that they perform work for at least 50% of the time in DC.

For more information on gross income, please see: <https://www.irs.gov/businesses/small-businesses-self-employed/what-is-taxable-and-nontaxable-income>

For more information on quarterly contributions, please see Chapter 4, Reporting Wages and Paying Contributions.

# Leaving PFL

## How Can Self-Employed Individuals Leave the PFL program?

Self-Employed Individuals can exit the PFL program in three (3) ways:

1. **Opting Out during a general open enrollment period (November/December);**
2. **Requesting Removal due to changes in their eligibility; or**
3. **Termination due to late payments**

## What is Opting Out?

Self-employed individuals may choose to leave the program and not pay further contributions by opting out. They can do this by opting out of the program during general open enrollment periods during November and December of each year, beginning in 2020. However, self-employed individuals who did not opt in when they were first eligible for the program cannot opt out for three (3) years after joining.

**Example:** Belinda has been self-employed for several years before PFL began. However, she chose not to opt into PFL until November 2021. She cannot opt out until November/December 2024.



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**Self-employed individuals who opt out can't apply for paid leave benefits for at least one (1) year after opting back into the program. In addition, self-employed individuals who opt out of the program two (2) or more times can't opt back in for five (5) years, starting from the date of their last opt out.**

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## What is Removal?

Self-employed individuals who are no longer eligible for the program can request to be removed. They don't need to wait until an open enrollment period to request removal. DOES has the discretion to approve or deny a removal request. To request removal, at least one of the following changes in eligibility must occur:

- **The individual's primary place of business is moved outside of DC and there is no intention to earn self-employment income in DC within the next 52 weeks;**
- **The individual accepted employment for an employer (covered or non-covered) and has no intention to earn self-employment income within the next 52 weeks;**
- **The individual has no intention to earn income from work performed more than 50% of the time in DC; or**
- **The individual has no intention to earn any income within the next 52 weeks.**

DOES may request additional information to support an eligibility change. For example, a person claiming to no longer be self-employed because they accepted a new job may need to show a signed offer letter from their new employer.

Unlike opting out, removal doesn't impose restrictions or penalties for self-employed individuals seeking to re-enroll. Individuals are able to opt in again when they resume self-employment in DC and can file a claim for benefits when needed. However, an individual may need to provide documentation when they re-enroll. This documentation may be a termination letter from an employer, a new business license, tax documents showing no DC-sourced self-employment income, etc.

## What is Termination?

Unlike the other two (2) ways of leaving PFL, termination is not optional. Termination may occur when a self-employed individual misses a quarterly contribution payment or defaults on a payment plan. If this happens, then a self-employed individual can't opt in again until he or she has paid all past due amounts, including interests and penalties.

For more information, see Chapter 4, Reporting Wages and Paying Contributions.



# Chapter 3

## **COVERED WORKERS**

# Covered Workers

## Workers Eligible for Paid Family Leave Benefits

Covered employers are only required to file reports and pay contributions for covered worker wages. In fact, most of a covered employer's obligations under UPLA are only related to covered workers.

### Which Workers are Covered Workers for PFL?

- **Workers who spend more than 50% of their work time for that employer working in DC; or**
- **Workers whose employment for the employer is based in the District, and they:**
  - Regularly and customarily spend their work day at the DC site of the covered employer and not more than 50% of their work time for that covered employer in another jurisdiction.
  - Any work time spent at another worksite outside of the District is incidental in nature; is temporary or transitory in nature; or consists of isolated transactions.



Covered workers may include part-time workers, full-time workers, temporary workers, and seasonal workers.





## What are Some Examples of Covered Workers?

**ALLEN** works full-time for a non-covered employer in DC. On weekends, he works part-time for a covered employer in DC. Even though he works more than 50% of the time for a non-covered employer, he is still a covered worker because when he works for the covered employer he is working at a DC worksite. Therefore, he would still be a covered worker even if his non-covered employment was outside of DC.

**BRENDA** works full time at a coffee shop chain in DC. About once a month, she helps cover shifts at the Virginia location for a few hours per weekend. She is still a covered worker because she doesn't spend more than 50% of the time in Virginia and her work there is temporary.

**DONOVAN** was recently hired by a tech firm in DC but their office is undergoing renovations. He spends his first two months working in their Virginia location until his new office is ready. He is still a covered worker because his time spent outside of DC was transitional and temporary.

**CORRINE** is an attorney at a national law firm in DC. She recently was assigned a case that requires her to spend seven (7) months in Indiana. When the litigation is over, she will resume working at the DC office, as she has for several years. While she is in Indiana, she will still be a covered worker because her time there will be temporary.

**ERIC** works for a District-based florist as a delivery driver. Depending on his work assignments, he spends more than half of his time in Virginia delivering flower arrangements to various locations. He is still a covered employee for PFL because his time spent in Virginia is all isolated transactions.

**FRED** teleworks several days a week for his DC employer at his house in Maryland. He does the same work at his home office that he does in DC. He is still a covered employee despite spending more than half the time at home because his work in Maryland is incidental.

Many DC labor laws define covered workers as workers who work more than 50% of the time for a covered employer in DC.

Examples:  
Accrued Sick  
and Safe  
Leave Act and  
Minimum Wage  
laws.



Non-covered PFL workers may still have protections under similar laws, such as FMLA, DC FMLA, and the Pregnancy Discrimination Act.

## Are Covered Workers for UI also Covered Workers for PFL?

If a covered employer pays Unemployment Insurance (UI) tax on a worker for any quarter of a calendar year, then the worker is automatically considered a covered worker for PFL for that quarter. Employers can rebut this presumption by providing information that shows:

The employee spends more than 50% of his or her work time in another single jurisdiction outside of DC.

Employers must also show that any work time spent outside of DC is not:

- **Incidental in nature,**
- **Temporary or transitory in nature, or**
- **Consist of isolated transactions.**

Presumption rebuttals for covered employees will be decided on a case-by-case basis.

## What are Some Special Cases?

**BUSINESS OWNERS:** Owners who are on their company's payroll and pay themselves as workers, are considered covered workers. They will be liable for the PFL tax and eligible for benefits.



# Chapter 4

## **REPORTING WAGES AND PAYING CONTRIBUTIONS**

# Quarterly Filings

## Covered Employers and Self-Employed Individuals

Every quarter, covered employers and self-employed individuals must file a wage report and pay 0.62% on that quarter's wages or income. Wage reports and contributions are due the day after a quarter ends. Reports and contributions will be considered late and subject to penalties if they are not filed by the last day of the month following the close of a quarter.



**Covered employers will be required to file wage reports and pay contributions on July 1, 2019 for wages paid between April 1 through June 30, 2019. Self-employed individuals who opt in between July 1 and September 28 will be required to file reports and pay contributions by October 31 for income earned between July 1 and September 30.**

|           | START DATE | END DATE     | DUE DATE  | FINAL DEADLINE |
|-----------|------------|--------------|-----------|----------------|
| Quarter 1 | January 1  | March 31     | April 1   | April 30       |
| Quarter 2 | April 1    | June 30      | July 1    | July 31        |
| Quarter 3 | July 1     | September 30 | October 1 | October 31     |
| Quarter 4 | October 1  | December 31  | January 1 | January 31     |



Household employers and other annual filers for Unemployment Insurance can file annually for PFL.



## How Are Contributions Calculated?

For covered employers, the reported wages for their covered workers will be the same gross wages they report for their quarterly Unemployment Insurance (UI) filings, including tipped wages. Note: UI taxes up to the first \$9,000 of wages. PFL contributions do not have a cap on the amount of wages/earnings subject to the tax.

For self-employed individuals, the reported income will be their gross self-employment earnings from the previous quarter or beginning in the quarter that they first opt in.

### Understanding How To Calculate Wage Contributions



#### FOR EMPLOYERS:

Worker Wages X .0062 =  
Contribution



#### FOR SELF-EMPLOYERS:

Gross Earnings X .0062 =  
Contribution

#### CONTRIBUTION EXAMPLE:

Janet's consulting firm has 5 employees that make \$50,000/year  
 $\$50,000 \text{ annual salary} \times 5 \text{ employees} = \$250,000/\text{yr in wages}$   
 $\$250,000 \times .62\% \text{ PFL tax rate} = \$1,550/\text{yr PFL tax}$   
 $\$1,550/4 = 387.50 \text{ quarterly tax (PFL tax is assessed quarterly)}$

Contributions remain the same regardless of:

- The size of the employer,
- The number of their workers claiming PFL benefits, or
- Existing employer-provided PFL programs, including short-term disability plans, FMLA, DC FMLA, paid sick leave, and similar programs.

## Do Employers Withhold Contributions from Their Workers' Wages?

The contributions are 100% employer funded. Although, employers pay contributions based on their workers' wages, employers cannot deduct the contributions from payments to their workers.

## How Do Employers File Wage Reports and Pay Contributions?

Using the online portal, covered employers and self-employed individuals will be able to report their workers' wages or their income and pay contributions for the previous quarter. Covered employers will mostly follow the same steps for this process as they currently do for UI on ESSP.

## What Happens If an Employer Misses a Payment?

If an employer is more than 30 calendar days late on a payment, then they may be subject to interest and penalties. If an employer has difficulty making a payment, then they may have the option to start a payment plan. DOES may recover the funds through various collections procedures. Penalties may be waived for good cause.

## What Happens If a Self-Employed Individual Misses a Payment?

If a self-employed individual is more than 30 calendar days late on a payment, then he or she may be subject to interest and penalties. If a self-employed individual has difficulty making a payment, then he or she may have the option to start a payment plan.

Self-employed individuals are not subject to the same collection procedures as covered employers. Instead, they will be terminated from the program and may not opt back in to the program until they pay all outstanding contributions. Penalties may be waived for good cause.

## What if a business disagrees with a late filing/payment notice?

If an employer or self-employed individual feels they received a late notice in error or if they would like to explain a late filing/payment, then they can respond to the notice by filing an internal administrative appeal. This is an informal appeal and allows DOES to "pause" the late filing/payment clock while they consider the response.

## What if there is a portal outage or an emergency that keeps a business from timely filing?

If large amounts of businesses are unable to timely file or pay contributions because of events outside their control, then DOES may extend deadlines for all self-employed individuals and covered employers by 30 days. However, these extensions are reserved for extreme events.



An employer's late payment has no effect on their workers' right to claim benefits.



# Chapter 5

## **OVERVIEW OF PAID LEAVE AND BENEFITS**

# District Leave Law Comparison

## Quick Overview of Key Differences and Similarities

The chart below provides a top level summary on the laws. Please visit the Office of Human Rights for more guidance. <https://ohr.dc.gov>

|                               | ACCRUED SICK AND SAFE LEAVE ACT(ASSLA)                                                                                                              | FMLA / DC FMLA                                                                                        | UPLA (PAID FAMILY LEAVE)                                                              |
|-------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------|
| <b>PURPOSE</b>                | Paid leave accrual for absences related to routine medical care + short-term illnesses (cold, flu, dental issues) + leave to care for family member | Job protected leave for parental bonding, caring for self or family member's serious health condition | Paid leave for parental bonding, caring for self or family member's serious condition |
| <b>PAID LEAVE</b>             | Yes                                                                                                                                                 | No                                                                                                    | Yes                                                                                   |
| <b>FUNDING SOURCE</b>         | Employer                                                                                                                                            | N/A                                                                                                   | Employer Tax                                                                          |
| <b>DETERMINATIONS MADE BY</b> | Employer                                                                                                                                            | Employer                                                                                              | DOES                                                                                  |
| <b>AMOUNT OF LEAVE</b>        | Days (range determined by size of employer)                                                                                                         | Up to 12 weeks / Up to 16 weeks                                                                       | 8, 6, or 2 weeks depending on type of leave                                           |
| <b>COVERED EMPLOYERS</b>      | Varies based on number of employees                                                                                                                 | Varies based on number of employees                                                                   | Not based on number of employees                                                      |
| <b>EMPLOYEE ELIGIBILITY</b>   | Accrued based on number of hours worked                                                                                                             | Accrued based on number of hours worked                                                               | No accrual requirement (but benefit amount is based on reported wages)                |

## How are PFL Benefits Different than Existing Benefits under FMLA and DC FMLA?

FMLA and DC FMLA provide unpaid, job-protected leave to workers who need leave to care for themselves or a family member with a serious health condition, or to bond with a new child. Workers do not have access to this leave unless they have worked for an employer for a certain amount of hours within 12 months. FMLA provides up to 12 weeks of leave a year and DC FMLA provides up to 16 weeks every 24 months.

PFL provides paid leave benefits for the same events. However, worker eligibility for PFL is portable, and not dependent on the length of time working for a certain employee. PFL also provides different leave amounts depending on the event: 8 weeks to bond with a new child, 6 weeks to care for a family member, and 2 weeks for self-care. Workers may only receive benefits for a maximum of 8 weeks per year of total leave.

## How are PFL Benefits Different than Existing Benefits under Accrued Sick and Safe Leave Act?

The Accrued Sick and Safe Leave Act (ASSLA) is intended to provide workers with paid sick days for short-term illnesses and routine medical care for themselves or to care for a family member. It also provides leave for domestic violence related reasons. Workers can only accrue up to seven (7) paid days a year, depending on the size of their employer.

PFL is intended to be used for serious health conditions for both workers and their family members, as well as leave to bond with a new child.

## Do Employers Still Need to Comply with Other Leave Laws?

PFL doesn't change requirements of other laws. If an employer is required to provide leave or accommodations under FMLA, DC FMLA, ASSLA, the Americans with Disabilities Act (ADA), etc., then they must still comply with those laws.

## Do Employers Make PFL Benefit Determinations?

No, unlike ASSLA, DC FMLA, and FMLA, employers do not make leave determinations for their workers for PFL benefits. Instead, DOES will receive claims (including medical documentation) from the workers and determine their benefits. DOES will determine leave amounts for personal medical leave or leave to care for a family member based on the doctor's recommendation. Just like disability insurance claims, employers can't appeal claim determinations. However, employers will be able to provide any fraud-related information that they believe DOES should be aware of when processing a worker's claim.



Employers will receive a notification if a worker's claim is approved or denied, so that the employer can prepare for his or her absence.

## Can Employers Change Their Own Paid Leave Programs?

UPLA doesn't impose any restrictions on employers' own paid leave plans. Employers are free to adjust their existing plans. However, employers can't interfere with their covered worker's right to access benefits from the District's PFL program.

# PFL Qualifying Events

## What are the Benefits?

PFL provides workers with paid leave for up to:

- 8 weeks to bond with a new child,
- 6 weeks to care for a family member with a serious health condition, and
- 2 weeks to care for a worker's own serious health condition

## What Qualifies for Bonding Leave?

Also called Parental Leave, workers can go on bonding leave after:

- The birth of a child,
- The placement of a child from adoption or foster care into their household, or
- The placement of a child into their household that they legally assume and discharge parental responsibility over.



Like all qualifying leave events, bonding claims apply equally to both women and men.

## What Qualifies for Personal Medical leave?

A worker must have a serious health condition to qualify for personal medical leave. In general, a serious health condition is a physical or mental illness, injury, or impairment that requires inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or supervision at home by a health care provider or other competent individual.

Routine appointments like annual physical exams, eye exams, and dental exams are not considered treatment for a serious health condition.

In general, a serious health condition for FMLA/DCFLMA will likely be a serious health condition for PFL purposes.



Employers and workers are encouraged to consult with their short-term disability insurance providers for information on how PFL interacts with their plans.

## What Qualifies for Family Medical Leave?

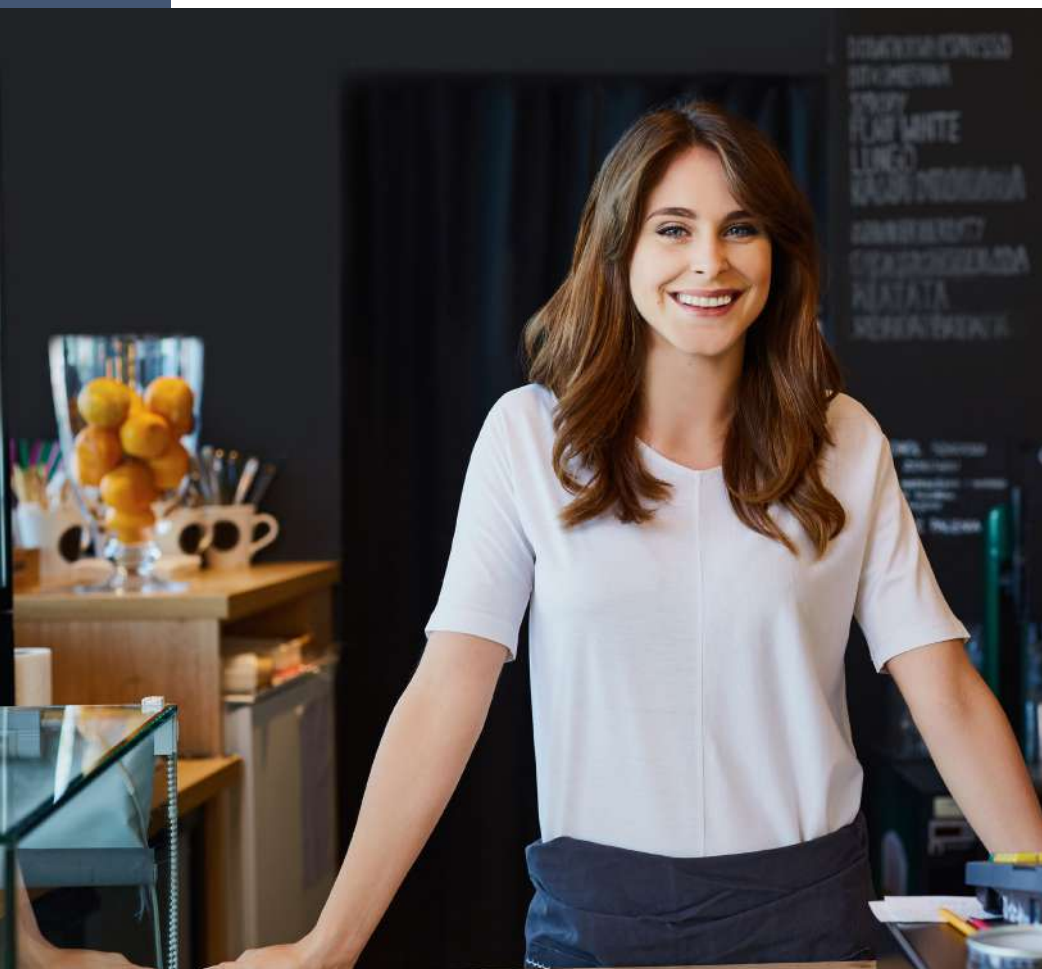
Workers can take leave to care for a family member who has a serious health condition (the same conditions that qualify for personal medical leave).

A qualifying family member can be a:

- **Biological, adopted, foster, or step child (including a child of a domestic partner); a legal ward; or someone that a worker acts as parent to;**
- **Biological, foster, or adopted parent, a parent-in-law, a stepparent, a legal guardian, or other person who acted as a parent to the worker when the worker was a child;**
- **A domestic partner or spouse;**
- **A grandparent; or**
- **A sibling.**

## How Much is the Benefit?

Covered workers will receive benefits determined on a sliding scale based on their reported income, up to 90% of their average weekly wage and a max of \$1,000, for each week they are on leave. Employers are not required to pay the difference between the PFL benefit and their worker's salary. However, employers can choose to coordinate their own paid leave with District' PFL to help their workers's receive 100% wage replacement.



”

Paid Family Leave creates a better work environment for everyone. Workers are more willing to stay with an employer who supports them, and less employee turnover means lower training and hiring costs for business owners.

-DC SMALL  
BUSINESS OWNER

## How Do Workers Become Eligible for the Benefit?

Workers don't have to work a certain amount of time to accrue eligibility for the benefit. However, workers must have reported wages to receive benefits. If a worker files a claim in the middle of a quarter, then none of the worker's earnings during that time period will be reflected in his or her approved benefits. For example, a worker who starts working in DC and immediately files for benefits a few days later, would receive \$0 in benefits because he or she would not have any wage information in the PFL tax system until the end of his or her first completed quarter.

## What if a Worker Works for Multiple Covered Employers?

For employers, a covered worker working for multiple covered employers has no effect. Each covered employer is still obligated to fulfill all of their responsibilities under the law, including filing wage reports and paying contributions. However, the covered worker would need to provide notice of leave to each of their applicable employers. After the worker submits a claim, DOES will average the reported wages to calculate his or her benefits so that the worker does not receive more than the maximum benefit amount.

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# Connect With Us

## DEPARTMENT OF EMPLOYMENT SERVICES

Office of Paid Family Leave (OPFL)  
4058 Minnesota Avenue, NE  
Suite 3700  
Washington, DC 20019

Phone: (202) 899-3700  
Email: [does.opfl@dc.gov](mailto:does.opfl@dc.gov)

Facebook: [facebook.com/DCDeptofEmploymentServices](https://facebook.com/DCDeptofEmploymentServices)  
Twitter: [twitter.com/DOES\\_DC](https://twitter.com/DOES_DC)

**[DCPaidFamilyLeave.dc.gov](https://DCPaidFamilyLeave.dc.gov)**

