

Fort Hudson Health System
Administrative Policy

Title: New York Paid Family Leave

OBJECTIVE

In accordance with the New York State Paid Family Leave Benefits Law, effective January 1, 2018, Fort Hudson Health System (Fort Hudson) will provide employees based in New York State with time off to care for family members under certain circumstances detailed below. Employees on paid family leave (PFL) will receive partial pay through an insurance policy funded by a small weekly post-tax payroll deduction (set in accordance with state law). Payroll deductions begin on January 1, 2018, or the employee's first day of employment, whichever is later. Pursuant to state law, participation in the PFL program is mandatory for all employees, except for those eligible for a waiver, as explained in the Waiver section below.

In some instances, leave will qualify and be counted as both FMLA and PFL. In these cases, the employee will be required to comply with notice and application procedures under both policies. Please refer to the Family and Medical Leave Act policy.

ELIGIBILITY

A full-time employee (regularly scheduled for at least 20 hours per week) is eligible to take PFL after he/she has been employed by Fort Hudson for 26 weeks.

A part-time employee (regularly scheduled for less than 20 hours per week) is eligible to take PFL after working 175 days.

Time spent on vacation, sick/unscheduled benefit time, or personal time will be counted towards eligibility, provided deductions were taken during that paid time. However, time spent on short-term disability or unpaid leave is not counted.

AMOUNT OF LEAVE AVAILABLE

The amount of PFL available will be phased in over several years. The maximum amount of leave available in a 52 week period is as follows:

2018	8 weeks
2019	10 weeks
2020	10 weeks
2021 & beyond	12 weeks

The 52 week period is counted by measuring backwards from each day for which PFL is taken. PFL may be taken in weekly or daily increments. In the event an employee also collects short term disability benefits for his/her own disability (DBL), the maximum amount of time that can be taken under state law for both DBL and PFL is 26 weeks in a 52-week period.

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At the discretion of Fort Hudson, no more than one related employee may use PFL to care for the same family member at the same time. For example, if both spouses work for Fort Hudson, Fort Hudson may deny PFL to one spouse if both have requested the same period of time off to bond with the same child. However, spouses could take PFL to bond with the child at different time periods.

BENEFIT LEVELS

Employees do not continue to receive their full pay from Fort Hudson during PFL. Rather, after filing a claim with Fort Hudson's PFL carrier, employees will receive a partial wage replacement benefit directly from the PFL carrier. See Applying for Leave Benefits below. Benefit levels are set by state law as a percentage of the employee's weekly income, up to a statewide cap. The levels will be phased in as follows:

Year	% of employee's average weekly wage	Cap*
2018	50%	\$653
2019	55%	
2020	60%	
2021 & beyond	67%	

*The dollar amount of the benefit cap for years after 2018 will be determined annually in the fall by the State and applied in January.

If a continuous PFL leave spans across calendar years, the employee's benefit amount is set at the start of the leave and does not increase during the leave.

QUALIFYING REASONS FOR PFL

Once eligible, employees can apply to take PFL for the following reasons:

- To provide care for a child (regardless of age), parent (including parent-in-law), grandparent, grandchild, spouse and/or domestic partner with a "serious health condition."
 - *Providing care* includes necessary physical care, emotional support, visitation, assistance in treatment, transportation, arranging for a change in care, assistance with essential daily living matters, and personal attendant services. During the leave, the employee must be in close physical proximity to the care recipient.
 - *Serious health condition* means an illness, injury, impairment or physical or mental condition that involves either inpatient care or continuing treatment or supervision by a health care provider. For further detail as to whether a particular condition qualifies as a serious health condition, please consult with Human Resources.

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Please note that ordinarily, unless complications arise, the common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc., do not constitute a serious health condition.

- To bond with a new child following the birth, adoption or placement in foster care.
 - In the case of adoption or placement, leave may be taken prior to the adoption or placement if the employee's absence is necessary for the placement or adoption to proceed. The total leave must be taken within one year of the first day of leave, or within one year of the adoption/placement, whichever is earlier.
 - In the case of a birth, the leave must be taken within the first year following the child's birth.
- To attend to a qualifying exigency arising out of the fact that the employee's spouse, domestic partner, child or parent is on or has been called to military active duty.
 - The definition of qualifying exigency can be found in Fort Hudson's FMLA policy.

PFL is not intended, nor available, for the employee's own disability or serious health condition. Disability and/or FMLA may be available in those circumstances. Please see Fort Hudson's Disability Leave of Absence, Disability Insurance, and FMLA policies for further information.

PFL will run concurrently with leave under the FMLA policy where the leave qualifies under both laws. If an employee whose absence qualifies for both PFL and FMLA declines to apply for PFL benefits (despite being notified he/she is also taking leave for a PFL-qualifying reason), such time will nevertheless count against the employee's PFL allotment.

INTERMITTENT LEAVE

PFL can be taken intermittently (in separate blocks of time) in full-day increments.

EMPLOYEE NOTICE REQUIREMENTS

Employees must provide Fort Hudson with notice prior to the start of any family leave by contacting the Human Resources Department.

- If the need for leave is foreseeable, such as for planned medical treatment or appointments, or to bond with a child, the employee must provide *at least 30 days* advance notice, or as soon as the need for the leave is known.

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- If an employee fails to give 30 days' notice of a foreseeable PFL leave with no reasonable excuse for the delay, the Fort Hudson's PFL carrier may partially deny the leave claim for a period of up to 30 days from the date the notice is given.
- If the need for leave is not foreseeable, such as in the case of a medical emergency, change in circumstances, or lack of advance knowledge, employees are expected to adhere to Fort Hudson's normal and customary call-in procedures.
- If the leave is taken on an intermittent basis, the employee must provide notice to Fort Hudson as soon as he/she is aware of the need for leave **before each day of leave**, unless his/her supervisor/manager is aware the employee will be absent for a specified number of consecutive days.

Whenever possible, the employee is expected to schedule PFL time in a manner that minimizes disruptions to the department and operations of Fort Hudson.

APPLYING FOR LEAVE BENEFITS

In addition to notifying the Human Resources Department of the need for leave, in order to receive income replacement benefits while on PFL, the employee must submit a claim using the *Request for Paid Family Leave* form (PFL-1) to Fort Hudson's PFL carrier, as well as the appropriate certification form (PFL-2, PFL-3, PFL-4, and/or PFL-5) and supporting documentation. The claim forms provide details regarding the documentation that will be required to support the request for PFL benefits. Claim forms are available from Human Resources.

Prior to submitting the *Request for Paid Family Leave* form to the carrier, the employee must provide the form to Human Resources for completion of the employer section. Fort Hudson will return the completed form to the employee who is responsible for timely filing the PFL claim with the carrier. Human Resources will not file a claim on an employee's behalf, but is available to answer questions. **An employee will not receive benefit payments until the claim is fully submitted and approved.** The carrier will pay or deny the claim within 18 days of the submission.

If an employee is seeking payment for a previously taken time off (e.g., an absence due to an unforeseeable emergency), the claim must be filed with the PFL carrier within 30 days of the leave. However, employees are encouraged to file claims as quickly as possible to ensure prompt payment of benefits for qualifying leaves.

Fort Hudson's PFL carrier will make the final determination of whether an employee is eligible for PFL, whether the reason for the leave qualifies under the law, and whether the employee has provided sufficient documentation to support the need for leave. The determination is not made by Fort Hudson.

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If the leave is also for an FMLA-qualifying reason, and the employee is an FMLA-covered employee, the employee must also apply for FMLA leave pursuant to Fort Hudson's FMLA policy.

An employee who is absent from work and whose PFL claim is not fully submitted to or approved by the PFL carrier may be authorized for leave, if eligible, under Fort Hudson's other leave policies (e.g., vacation, sick/unscheduled benefit time, personal time). However, if the employee is not eligible under those policies, or has no paid time off available, the absence may be treated as unexcused and subject to Fort Hudson's attendance policy.

USE OF PAID TIME OFF

Employees who take leave for one of the PFL qualifying reasons above but wish to be paid in full may elect to substitute available vacation, sick/unscheduled benefit time, or personal time for the PFL benefit. As an alternative, employees may elect to supplement their PFL benefit with available vacation, sick/unscheduled benefit time/personal time in any amount necessary to bring their pay to 100% of regular wages.

As an illustration of substitution, an employee who is eligible under this policy can elect to instead substitute full days of vacation, sick/unscheduled benefit, or personal time for their wage replacement benefit. In this instance, the employee will not receive the PFL wage replacement benefit. As an illustration of supplementation, an employee who is eligible to receive 50% wage replacement under this policy can elect to use 0.5 of vacation, sick/unscheduled benefit time, or personal time. In no event can the combination of PFL benefits and paid time off result in the receipt of more than 100% of an employee's regular wages.

When employees utilize Fort Hudson-provided paid time off benefits, the time off will still count against the employee's maximum PFL allotment, and the employee is still required to file a PFL claim with the Fort Hudson's PFL carrier.

Employees are expected to notify Fort Hudson of this election at the time they notify Fort Hudson of the need for PFL leave.

MAINTENANCE OF HEALTH BENEFITS

While on an approved PFL leave, Fort Hudson will maintain health coverage under any group health plan (medical, dental, vision) on the same conditions as coverage would have been provided if the employee had continued to work. Under current Fort Hudson policy, the employee pays a portion of the group health premium. Voluntary benefits (such as AFLAC, voluntary life insurance, medical flexible spending account, or dependent care flexible spending account) are 100% employee paid premiums.

If an employee is receiving paid time off compensation (e.g., vacation, sick/unscheduled benefit time, or personal) while on PFL, Fort Hudson will continue to make payroll deductions to collect the employee's share of the premium for group health plans and

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voluntary benefits. If the employee is not receiving payment from Fort Hudson during his/her PFL absence, or the payment from Fort Hudson does not cover the appropriate deduction(s) at any time during the leave, the employee must pay the premiums due, either in person or by mail, to the Business Office. It is the responsibility of the employee to make these payments during PFL by the 15th day of each month. If the payment is more than 30 days late, the employee's coverage will be dropped for the duration of the leave. Fort Hudson will provide 15 days' notice prior to terminating coverage.

In cases of planned leave requests, Human Resources will review any/all payroll deductions potentially impacted during the leave of absence with the employee to develop a reasonable payment plan prior to the employee's leave.

In cases of unplanned leave requests, Human Resources will review any/all payroll deductions missed with the employee upon the employee's return to work, and a repayment plan will be developed to commence with the first pay check after the employee returns to work.

If an employee does not retain group health plan coverage during a PFL leave, upon return from leave, the employee's group health plan coverage will be reinstated on the same terms as prior to taking the leave. Reinstated group health plan coverage will be effective the date the employee returns from leave.

WAIVER

Certain temporary or part-time employees will be afforded the opportunity to waive PFL benefits, in which case Fort Hudson will not take PFL payroll deductions. Only an employee who meets the following criteria can waive PFL benefits:

- Regular schedule is 20 or more hours per week, but the employee will not work 26 consecutive weeks; or
- Regular schedule is less than 20 hours per week and the employee will not work 175 days in a consecutive 52-week period.

If an employee elects to waive coverage and his/her regular schedule changes such that he/she works for 26 weeks or 175 days in a consecutive 52-week period, the waiver will be automatically revoked. When the waiver is revoked, Fort Hudson may begin deducting contributions from the employee, including any retroactive amounts from the date of hire or an amount necessary to prevent Fort Hudson from paying for coverage, at Fort Hudson's discretion.

RESTORATION TO EMPLOYMENT

Employees who return to work at the conclusion of an approved PFL leave will be restored to the same or to a comparable position (with comparable employment benefits, pay and other terms and conditions of employment) upon their return from leave.

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APPEAL RIGHTS

An employee whose claim for PFL benefits has been denied by Fort Hudson's PFL carrier has the right to appeal the determination through an arbitration proceeding. Appeal information is available from the PFL carrier.

PROTECTION FROM DISCRIMINATION/RETALIATION

Fort Hudson will not discriminate and/or retaliate against any employee for inquiring about, applying for or using PFL benefits. Employees who believe they have experienced discrimination and/or retaliation should immediately notify their supervisor, department head, or Human Resources Manager.

FRAUD

An employee who fraudulently obtains PFL leave, or who uses PFL leave in an improper manner, is subject to disciplinary action, up to and including termination.

QUESTIONS

Employees with any questions about PFL are encouraged to contact the Human Resources Department.