



# Leave for Childbirth, Childcare, and Adoption Guidelines

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## Leave for Childbirth, Childcare, and Adoption

This information is intended to assist employees with their leave for childbirth, childcare, and adoption planning. It is recommended that employees call, e-mail, or schedule an appointment with the BSC early in their planning process to discuss leave entitlements, procedures, and options.

## Accrual Usage and Disability Period

- Leave for pregnancy, childbirth and child care is available to permanent, temporary and provisional employees.
- New York State defines the period of disability for an uncomplicated pregnancy as beginning up to four weeks prior to the anticipated date of delivery and continuing up to six weeks after delivery.
- Employees may use sick leave, or other accruals during the disability period.
- Detailed medical documentation is required during the period of disability.
- Beyond the period of disability, employees may charge accrued leave credits (if available) other than sick leave to remain in pay status.
- Spouses may use sick leave credits for the day of delivery and for the convalescent period immediately following hospitalization, generally one week.
- While one parent is on leave for child care, agencies will have the discretion to approve requests from the other parent for periods of vacation or personal leave, and for family sick leave.

## Childcare Leave

- An employee, regardless of gender, is entitled to leave without pay for up to seven months following childbirth, or in connection with adoption. Other accruals may be used, if available, during childcare leave to remain in pay status. However, the use of accruals will not extend the seven-month period. The seven months includes the disability period following birth.

- If both parents are state employees, leave for childcare will be approved for one parent at a time and the parents may elect to split the mandatory seven-month leave into two separate blocks of leave with each parent entitled to one continuous period of leave but not to exceed a combined total of seven months of leave and not to extend beyond seven months from the date of delivery.
- When an employee requests child care leave following, or prior to adopting, documentation of a legal adoption is required to qualify for such leave. Leave may start at any time after the child begins living with the adoptive parents, through the effective date of adoption and beyond, up to seven inclusive months.
- To extend a childcare leave beyond seven months, an employee may be eligible for a Discretionary Leave of Absence. Employees should consult with their agency Human Resources office for more information.

### **Sick Leave at Half Pay (SLHP) – For CSEA and PEF Employees\***

- Permanent or Contingent-Permanent employees with one year of state service are eligible for SLHP after the exhaustion of all accruals **during the disability period**. (Note: This does not apply to spouses; SLHP is for an employee’s illness.)
- Employees accumulate SLHP entitlement based on years of service. This accumulates at the rate of one pay period for each complete 6 months of state service.
- Temporary, provisional or probationary employees who have no permanent status in another position are not eligible for SLHP.

*\*Note: SLHP is also available to non-IPP M/C employees.*

### **Income Protection Plan (IPP) – For M/C Employees**

- This short-term disability program benefit is available to M/C employees who participate in IPP. The disability benefit begins after 14 calendar days or the exhaustion of sick leave credits, whichever is longer from the onset of the disability.

### **Voluntary Reduction in Work Schedule (VRWS)**

- Eligible employees may enter into a written agreement to voluntarily reduce their work schedule and salary which specifies:
  - The duration of the agreement.
  - The percent of salary reduction (30% or less).
  - The method in which the corresponding reduction in work schedule will occur. (You can accrue VR credits while working full time to “bank” paid time off for future use on a fiscal year basis, with agency approval).
- For additional information on VRWS, please reach out to your Agency’s Human Resources Office.

### **Family and Medical Leave Act (FMLA)**

- FMLA is a federal law which provides eligible employees to take unpaid, job- protected leave for specified family and medical reasons, with continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.
- For childcare purposes, eligible employees are entitled to take up to 12 workweeks of FMLA

leave in a 12-month period for the birth of a child and to bond with the newborn child within one year of birth, or the placement with the employee of a child for adoption or foster care and to bond with the newborn child within one year of placement.

- To be eligible for FMLA, an employee must have been employed for 12 cumulative months (52 weeks) and worked a minimum of 1,250 hours of service during the 12 months immediately preceding the date the leave is requested to begin.
- If both parents are state employees, one parent may elect to take the child care leave, they may elect to split the seven-month leave, or they may request concurrent leave, subject to agency discretion.
- Under FMLA, a husband and wife who are employed by New York State are only entitled to take a combined total of 12 weeks for birth, adoption, or foster care placement of a child. The 12 weeks of FMLA runs concurrently with all other options mentioned above.
- Further information on FMLA can be found on the United States Department of Labor's website at <https://www.dol.gov/whd/fmla/fmla-faqs.htm>, and in the employee guide at: <https://www.dol.gov/whd/fmla/employeeguide.htm>

### **Paid Family Leave – For M/C employees**

- For childcare purposes, an employee may be eligible to take job-protected, paid time off to bond with a newborn, adopted, or fostered child.
- To be eligible, full-time employees, who work a regular schedule of 20 or more hours per week are eligible for PFL after 26 consecutive weeks of employment. Part-time employees, who work a regular schedule of less than 20 hours per week are eligible after working 175 days, which do not need to be consecutive.
- PFL can be taken either all at once or in full-day increments.
- Further information regarding Paid Family Leave can be found at: <https://www.cs.ny.gov/pfl/>.

### **Health, Dental, and Vision Insurance Implications While on Leave**

If an employee is receiving a paycheck and charging accruals at 50% or more, they are not on leave and their health, dental, and vision insurance is not affected (the employee share will continue to be deducted from their paycheck).

Employees that go on one of the following leaves are responsible to pay only the employee share of the premium:

- Family Medical Leave Without Pay
- Short-Term Disability
- Paid Family Leave

Employees that go on one of the following leaves are responsible to pay the full share premium (this is both the employee and the employer cost):

- Child Care Leave Without Pay
- Discretionary Leave

Note: Employees enrolled in NYSHIP may continue coverage when they are temporarily removed from the payroll. Generally, if an employee should go on a leave without pay, the employee will be required to pay the full share premium (this is both the employee and employer cost) during this period.

Health Insurance coverage will continue automatically while on a leave without pay. An employee may voluntarily cancel their coverage or suspend coverage.

Canceling coverage will terminate their NYSHIP coverage indefinitely and they will be subject to a late enrollment waiting period to re-enroll. Suspending coverage will terminate their NYSHIP coverage only for the period they are considered on leave. Coverage will resume when they return to the payroll, the first day of the second pay period.

If an employee wishes to cancel or suspend coverage while on leave, they must complete Section 12B on the [Health Insurance Transaction Form](#) (PS-404). Under Qualifying Event, the employee should indicate either “cancel while on leave”, or “suspend while on leave”. The form should be signed and sent to the BSC by either fax to (518) 457-1879, scan and e-mail to: [BSCBenefitsAdmin@ogs.ny.gov](mailto:BSCBenefitsAdmin@ogs.ny.gov), or by mailing to:

BSC Benefits Administration Unit 1220  
Washington Avenue, Bldg. 5, Floor 4  
Albany, NY 12226-1900

If an employee continues coverage while on leave without pay, they will be billed for the employee and the employer shares of the premium (full share) every 28 days from the Department of Civil Service.

Dental and vision coverage is automatically canceled when an employee goes on leave without pay. If the employee wishes to continue NYSHIP dental and/or vision coverage while on leave, they must complete section 11B of the Health Insurance Transaction Form (PS-404), and under enrollment, choose either 1 for individual or 2 for family enrollment, and check off dental and/or vision. Premiums will be billed directly to the employee every 28 days.

**Note:** Employees represented by CSEA, DC-37, or UUP should contact their Employee Benefit Fund for information regarding their dental and vision coverage.

### Covering Newborns/Children Under NYSHIP

An employee may want to change from Individual to Family coverage to cover a newborn. This request to change coverage must be submitted within 30 days of the child’s birth. If both parents work for the State and have Individual coverage, one parent can switch to family coverage to add the child to their NYSHIP coverage. The other parent must continue Individual coverage until the open enrollment period.

If an employee has family coverage, they must remember to add their newborn child within 30 days or they will encounter claim payment delays. The newborn child is not automatically covered. An employee must submit the dependent proof along with a [Health Insurance Transactions Form \(PS-404\)](#).

If the employee is adopting a newborn, they must establish legal guardianship as of the date of birth or file a petition for adoption under Section 115(c) of the Domestic Relations Law no later than 30 days after the child’s birth, for the coverage to be effective on the day the child was born. If the employee is

adopting or have legally adopted a child, they may enroll them in coverage.

### **Rights of Nursing Mothers to Express Breast Milk in the Work Place**

For Information and guidance regarding the rights of nursing mothers to express breast milk in the work place, please see [Policy Bulletin # 2010-02](#), found in the Civil Service Attendance and Leave Manual.

**Updated: 1/24/19**

*Note: This guidance is for informational purposes only and does not replace information found in union contracts or the Civil Service Attendance and Leave Manual.*

