

NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES

**Review Standards for
Family Leave Benefits Coverage (PFL)
As of 7/28/17**

Instructions for SERFF Checklist:

- A. In the “General Requirements” section, there are filing description instructions regarding the SERFF submission.
- B. For ALL filings, the “Requirements for All Filings” section must be completed:
- C. Completion of additional sections may be required as follows:
- Policy/Rider – Complete all sections except the section entitled “Application Forms”.
 - Application – Complete the section entitled “Application Forms”.
 - Rates – Complete the section entitled “Premium Rate Requirements”.
- D. For each checklist requirement, enter in the last column the form number(s), page number(s) and paragraph(s) where the requirement is met in the filing or insert a bookmark connecting to the appropriate location in the filing. Items with shaded boxes need not be completed.
- E. Do not make any changes or revisions to this checklist.

| | | | |
|------------------|---------------------------------------|-------------------|-----------------|
| LINE OF BUSINESS | Health - Disability Income | LINE OF INSURANCE | Other |
| CODE | H11G | CODE | H11G.004 |

IF CHECKLIST IS NOT APPLICABLE, OR THE FILING DOES NOT COMPLY WITH ALL STATUTORY AND REGULATORY PROVISIONS STATED BELOW, PLEASE EXPLAIN:

NEW YORK DEPARTMENT OF FINANCIAL SERVICES
Review Standards for Family Leave Benefits Coverage

| REVIEW REQUIREMENTS | REFERENCE | DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS | LOCATION OF STANDARD IN FILING |
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| GENERAL REQUIREMENTS | | <p><i>Note: For the purposes of this checklist, the following terms and acronyms have the meanings provided below:</i></p> <p><i>"Chair" means the Chair of the NYS Workers' Compensation Board.</i></p> <p><i>"DBL" means statutory disability benefits pursuant to Article 9 of the NYS Workers' Compensation Law.</i></p> <p><i>"DFS" means the NYS Department of Financial Services.</i></p> <p><i>"PFL" means family leave benefits pursuant to Article 9 of the NYS Workers' Compensation Law.</i></p> <p><i>"Rider" also includes a stand-alone PFL policy issued in accordance with 11 NYCRR 363.6(b).</i></p> <p><i>"Superintendent" means the Superintendent of Financial Services.</i></p> <p><i>"WCB" means the NYS Workers' Compensation Board.</i></p> <p><i>"WCL" means the NYS Workers' Compensation Law.</i></p> | |
| Compliance with WCL | 11 NYCRR 363.6(c) | Coverage for PFL benefits must comply with the requirements of WCL Article 9. | |
| Compliance with WCB Regulations | 11 NYCRR 363.6(e) | Coverage for PFL benefits must comply with the regulations promulgated by the Chair in 12 NYCRR Parts 360, 361 & 380. | |
| Compliance with DFS Regulation | 11 NYCRR Part 363 | Coverage for PFL benefits must comply with the regulation promulgated by the Superintendent in 11 NYCRR Part 363. | |
| PFL By Rider | 11 NYCRR 363.6(a)(2) | Except as provided in 11 NYCRR 363.6(b), coverage for PFL shall be provided by rider to a DBL policy issued pursuant to WCL Article 9. | |
| SERFF Filing Description | | When completing the Filing Description field on the General Information Tab in the SERFF Filing, identify the file as a PFL submission. Also indicate the form number, approval date, and State Tracking Number of the DBL policy to which the PFL rider will attach. If there is more than one DBL policy, please list the information for all DBL policies. | |

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| Reports | WCL § 208(2) 12 NYCRR 380-7.10 11 NYCRR 363.8 | The issuer shall provide reports to the WCB and DFS as requested. | |
| REQUIREMENTS FOR ALL FILINGS | | | Form/Page/ Paragraph Reference |
| MODEL LANGUAGE REQUIRED | WCL §226 11 NYCRR 363.6(d) | The rider adheres to the Model Language. A stand-alone PFL policy issued in accordance with 11 NYCRR 363.6(b) adheres to the Model Language and must also include the provisions required pursuant to WCL §226. <i>Note: The PFL Model Language is available on the DFS website.</i> | |
| Form Requirements | 11 NYCRR 52.31(b), (d), (e), (f), (l) | The filing must meet the following requirements: <ul style="list-style-type: none"> ◦ The form contains no strikeouts. §52.31(b). ◦ The form is designated by a form number made up of numerical digits and/or letters in the lower left-hand corner of the first page. §52.31(d). ◦ The form is submitted in the form intended for actual use. §52.31(e). ◦ All blank spaces are filled in with hypothetical data. §52.31(f). ◦ If the form contains illustrative material, it does so only for items that may vary from case to case, such as names, dates, and eligibility requirements. §52.31(l). ◦ To the extent permitted in the PFL Model Language, portions of other provisions may be submitted as variable, if suitably indicated by red ink, bracketing or underlining and an explanatory memorandum must be submitted that clearly indicates the nature and scope of the variations to be used. An explanatory memorandum may not use terms such as “will conform to law” or “as requested by policyholder or contractholder” to describe the variable material. §52.31(l). | |
| Signature of Company Officer | IL §3221(a)(2) | The signature, name, and title of a company officer appear prominently on the rider. | |
| | 11 NYCRR 363.6(i) | Regardless of the policy's issue or renewal date, the premium to be charged for PFL shall be based on the amount set by the Superintendent for the applicable portion of the policy period. | |

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| PREMIUMS | 11 NYCRR 363.3(i) & 363.4(a)(5) | The premium rate set by the Superintendent shall be the maximum amount an employer is authorized to collect from each of its employees to fund PFL. | |
| | WCL §209 | The employer is responsible to collect the premium contributions for the statutory PFL coverage from each covered employee. The employer is not required to fund any portion of the statutory PFL benefit. | |
| | 12 NYCRR 380-7.2(b)(4) | An employer may collect employee premium contributions for PFL while an employee is receiving PFL benefits. | |
| | 12 NYCRR 380-7.2(b)(4) | An employer may not collect employee premium contributions for PFL if an employee is taking DBL leave and has not yet acquired eligibility for PFL. | |
| ELIGIBILITY | 12 NYCRR 380-2.5(a) | The rider provides that a NY employee of a covered employer whose regular employment schedule is 20 or more hours per week will become eligible to receive PFL benefits, provided: the employee has been in employment of the covered employer for at least 26 consecutive work weeks preceeding the first full day leave begins; the employee has been in employment of the covered employer during the work period usual to and available during the entirety of 26 consecutive weeks preceeding the first full day leave begins in any trade or business in which the employee is regularly employed and in which hiring from day to day is the usual employment practice; or the employee has been in employment of the covered employer during the work period usual to and available during the entirety of at least 26 consecutive weeks preceeding the first full day leave begins and such consecutive weeks are tolled by the employer during periods of absence that are due to the nonconsecutive nature of that employment and employment is not terminated during those periods of absence. | |
| | 12 NYCRR 380-2.5(b) | The rider provides that a NY employee of a covered employer whose regular employment schedule is less than 20 hours per week will become eligible to receive PFL benefits after working 175 days in such employment preceeding the first full day leave begins. | |
| | WCL § 201(6)(B) & (C) | PFL coverage shall be limited to NY employees meeting the definition of employment in WCL §201(6)(B) & (C). | |

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| Determining Eligibility | 12 NYCRR 380-2.5(d) | The rider provides that in determining eligibility for PFL, the use of scheduled vacation, sick, personal, or other time away from work that has been approved by the employer; or other periods where the employee is away from work but is still considered to be an employee by the employer, shall be counted as days/weeks of employment, as long as the required PFL premium is paid by the employee during such periods of time. | |
| | 12 NYCRR 380-2.5(e) | The rider provides that periods of DBL shall not be counted as days/weeks of employment for determining eligibility for PFL. | |
| | 12 NYCRR 380-2.5(f) | The rider provides that the combination of DBL benefits and PFL benefits shall not exceed 26 weeks within the same period of 52 consecutive calendar weeks. | |
| FMLA | 12 NYCRR 380-2.5(g) | The rider provides that in the event that a period of PFL benefits received by an eligible employee is concurrently designated as leave pursuant to the Family and Medical Leave Act ("FMLA") by an employer, the employer shall comply with the notification requirements pursuant to 12 NYCRR 380-2.5(g). | |
| QUALIFYING EVENTS | WCL § 201(15) 12 NYCRR 380-2.2(a) | The rider includes a description of the events that qualify an employee to take PFL. These events include any leave taken from work by an employee: to participate in providing care for a family member with a serious health condition; to bond with the employee's child during the first 12 months after the child's birth or placement for adoption or foster care, or before the actual placement or adoption of a child if an absence from work is required for the placement for adoption or foster care to proceed; or because of any qualifying military exigency. | |
| NOTICE OF CLAIM/CLAIMS FILING | | | |
| Notice of Foreseeable | 12 NYCRR 380-3.1(a) 12 NYCRR 380-3.2(a) | The rider provides that the employee give the employer at least 30 days advance notice before foreseeable leave is to begin and include the timing and duration of the leave. If 30 days advance notice is not practicable, then notice must be given as soon as practicable. | |

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| Notice of Foreseeable Leave | 12 NYCRR 380-3.4(b) | Where the rider is purchased by a sole proprietor, member of a limited liability company, member of a limited liability partnership, or other self-employed person, the rider must provide that the policyholder give 30 days advance notice to the issuer prior to the first day of leave taken by the policyholder for a foreseeable qualifying event or as soon as practicable. | |
| Notice of Unforeseeable Leave | 12 NYCRR 380-3.1(b) | The rider provides that notice of the need for unforeseeable leave shall be made as soon as practicable. | |
| Notice of Intermittent Leave | 12 NYCRR 380-3.1(c) | The rider provides that the employee should consult the employer on whether the employer may require the employee to provide notice as soon as practicable before each day of intermittent leave. | |
| Schedule of Intermittent Leave | 12 NYCRR 380-4.1(b) | The rider provides that an employee shall advise the employer and issuer of the schedule for intermittent leave. | |
| Filing a Claim | 12 NYCRR 380-5.1 | The rider provides that the employee must complete the Request for PFL in the format prescribed by the Chair (PFL-1 through PFL-5 forms) or give notice of claim in another format designated by the issuer. Any other format used must solicit the same information as that contained in the PFL-1 form. <i>Note: Forms PFL-1 through PFL-5 are claim forms that are available on the WCB website.</i> | |
| | 12 NYCRR 380-5.1(a) | The rider provides that the employee must provide the employer with the Request for PFL so that the employer can complete the employer information. The rider provides that the employer must return the completed Request to the employee within 3 business days. | |
| | WCL §217 12 NYCRR 380-5.1(b) | The rider provides that the employee must submit a completed Request for PFL to the issuer no later than 30 days from the first day of leave. The Request should be accompanied by the information supplied by the employer and any necessary certifications or proof of claim documentation. If the Chair agrees that it was not reasonably possible to furnish the completed request for PFL together with the necessary certifications or proof of claim documentation within 30 days, then it must be submitted as soon as possible within the period of actual leave taken. | |

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| | 12 NYCRR 380-4.1(a) | The rider provides that a claim for PFL is considered complete when the employee submits a Request for PFL together with the necessary certifications or proof of claim documentation to the issuer. | |
| | WCL §217 12 NYCRR 380-4.1(b) | The rider provides that for a previously unspecified day of intermittent leave, the request for payment must be made within 30 days of the leave. | |
| | 12 NYCRR 380-5.4(i) | The issuer on the first day of PFL taken by the employee will be deemed the issuer for the whole period of PFL for a 52 week period from the first day of leave taken, except that when an employee changes employer with a different issuer, the existing issuer's coverage of the employee is terminated, and the employee must become eligible under the new covered employer's coverage. | |
| Certification/Proof | 12 NYCRR 380-4.2 12 NYCRR 380-4.3 12 NYCRR 380-4.4 | The rider provides that the requirements for certifications or proof of claim documentation for a qualifying event must be in the format prescribed by the Chair or any other format that complies with all requirements. | |
| | 12 NYCRR 380-5.1(c) | The rider provides that no benefits shall be required to be paid by the issuer until the completed Request for PFL together with the necessary certifications or proof of claim documentation have been submitted to the issuer. | |
| Alternate, Incomplete, and Advance Requests for PFL | 12 NYCRR 380-5.2 12 NYCRR 380-5.3 12 NYCRR 380-5.4 | The rider provides the steps to be taken where there is an alternate request for PFL, an incomplete request for PFL, or an advance request for PFL for foreseeable qualifying events. | |
| Verification Relating to a Qualifying Military Exigency | 12 NYCRR 380-4.3(c) | The rider provides that an employee must submit a complete and sufficient certification to support the employee's Request for PFL because of a qualifying military exigency. The issuer may verify the employee's appointments with third parties and verify a military member's active duty status. | |
| Employee Must Provide Complete Certification | 12 NYCRR 380-4.2(c) | In the case of a serious health condition of a family member, the rider provides that failure by an employee to provide the issuer with a complete and sufficient certification may result in the denial of family leave benefits. | |

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| Certification Updates | 12 NYCRR 380-6.1(a) | The rider provides that the issuer may require updates to the Request for PFL, certifications, or proof of claim documentation for subsequent periods of PFL not covered by the initial claim documentation during the 52 week period following the initial Request for PFL. | |
| Advance Request for PFL | 12 NYCRR 380-5.3 | The rider provides that an issuer may receive a Request for PFL in advance of a foreseeable qualifying event and will not deny the claim for incompleteness but rather will provide the employee, within five business days, notice that the claim is pending, a list of missing information, instructions for how to submit the missing information, and contact information. Once a completed Request for PFL is received, the issuer shall provide to the employee a confirmation of receipt of a complete claim within 3 business days and must pay or deny the claim within 18 days. | |
| Acceptance or Denial of a Claim | 12 NYCRR 380-5.4(a) | The rider provides that the issuer must pay or deny the claim within 18 days of receipt of a completed Request for PFL with the necessary certification or proof of claim documentation. The rider provides that in the event a completed request is received more than 18 days before the occurrence of a qualifying event, the issuer shall send payment to the employee within five days following the qualifying event. | |
| | 12 NYCRR 380-5.4(a)(1) & (d) | The issuer may deny a claim for any of the reasons specified in 12 NYCRR 380-5.4(d). | |
| | 12 NYCRR 380-5.4(b), (e), (f) | The rider provides that a claim may be denied without prejudice for an incomplete claim or insufficient certification/proof of eligibility. The issuer may not deny a claim for failure of the employer to complete its section. If the employee is eligible at the time of submission of the Request for PFL, the issuer must accept the claim and make payment within 18 days or else will be subject to penalties. | |
| | 12 NYCRR 380-5.4(c) | The rider provides that if the claim is denied without prejudice due to an incomplete claim, the issuer must notify the employee of each piece of required information which is missing. If the claim is not refiled within 30 days from when leave was first taken, the issuer may deny the claim. | |
| Partial Denial of Claim | 12 NYCRR 380-3.5 | The rider provides that when an employee fails to give advance notice of foreseeable leave to an employer, the employer may request that the issuer delay the payment of benefits to the employee for a period of up to 30 days from the date notice is provided. | |

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| Withholding Payment for Intermittent Leave | 12 NYCRR 380-4.1(b) | The rider provides that when the dates for intermittent leave are not specified on the Request for PFL, the issuer may withhold payment pending submission of a request for payment together with the dates of intermittent leave. | |
| BENEFITS | | | |
| Weekly Benefit | WCL § 204(2) | The rider sets forth the amount and duration of the weekly benefit in accordance with WCL §204(2). | |
| Benefit Rate | 12 NYCRR 380-6.1(a) | The rider provides that the benefit rate for the employee's period of family leave is the rate as set forth in WCL §204 that is in effect on the first day of family leave. | |
| Liability of Issuer | 12 NYCRR 380-6.1(a) | The liability for PFL payable for a single qualifying event in a 52-week period shall be the liability of the issuer providing coverage on the first day of family leave. | |
| Maximum Benefits in a 52 Consecutive Week Period | WCL §204(2) 12 NYCRR 380-2.4(b) 12 NYCRR 380-6.2(d) | PFL benefits shall not exceed the maximum benefit amount and the maximum number of weeks in a 52 consecutive week period pursuant to WCL §204(2). | |
| 52 Consecutive Weeks | 12 NYCRR 380-2.8 12 NYCRR 355.9(a)((8)) | The rider provides that 52 consecutive weeks is computed retroactively to the first day for which benefits are currently being claimed. In no event may a single claim cover more than 52 consecutive weeks. | |
| Additional or Enhanced Benefits | 11 NYCRR 363.6(r) | Any additional or enhanced benefits beyond those specified in WCL §204(2) are set forth in the rider separately from the benefits specified in WCL §204(2). Additional or enhanced benefits are limited to an increased percentage in the weekly benefit amount and/or an increased duration of the benefit period specified in WCL §204(2). | |
| When Payments Due | 12 NYCRR 380-5.4(a) WCL § 208 | The rider sets forth when payment of PFL benefits must be made. The first payment of benefits shall be paid within 18 days of receipt of a completed Request for PFL with the necessary certification or proof of claim documentation. Thereafter, PFL benefits shall be paid biweekly. In the event a completed Request for PFL benefits is received more than 18 days before the occurrence of a qualifying event, the issuer shall send payment to the employee within five days following the qualifying event. | |

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| Method of Payment | 12 NYCRR 380-5.6(a) | The rider provides that payment of PFL benefits may be made in the same manner as the employee is paid wages from the employer (such as debit card, direct deposit, or check). | |
| Employee May Choose Method of Payment | 12 NYCRR 380-5.6(c) & (d) | The rider provides that if the issuer offers a choice of method of payment, the issuer will contact the employee upon the receipt of the Request for PFL and may require the employee to choose between debit card or direct deposit as the method of payment, unless the employee certifies the need for payment by check. If the employee fails to choose a method of payment, the issuer may elect to make payment using either a debit card or a check. The employee may elect at a later time to change the default method of payment. | |
| Written Notice Regarding Payment | 12 NYCRR 380-5.6(e) | The rider provides that for payment methods in addition to a check, the issuer must provide employees with written notice that meets the requirements of 12 NYCRR 380-5.6(e). | |
| EMPLOYER REIMBURSEMENT | | | |
| Employee Use of Accruals and Employer Request for Reimbursement | WCL §205(2)(c) 12 NYCRR 380-6.2(a) | The rider provides that where an employer provides an option to employees to charge all or part of unused accruals or other paid time off to receive full salary and the employee exercises that option, and the employee does not file a request for PFL benefits with the issuer, the employer may request reimbursement from PFL benefits due by filing its claim for reimbursement with the issuer in accordance with WCL §205(2)(c). | |
| DISPUTE RESOLUTION | | | |
| Informal Resolution | WCL §217 12 NYCRR 380-5.4(g) | The rider provides that the employee and issuer should make every effort to informally resolve a denial of PFL benefits. | |
| Arbitration | WCL §§ 221, 226(7) 12 NYCRR 380-9.1 | The rider provides that in the event an informal resolution is unsuccessful, any party may seek a formal resolution through arbitration. Any claim-related dispute, including eligibility, benefit rate, and duration of family leave, is subject to arbitration pursuant to procedures promulgated or approved by the Chair. | |

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| EXCLUSIONS/ LIMITATIONS | | | |
| When benefits are not payable | WCL § 205 | The rider describes the circumstances for which PFL benefits are not payable in accordance with WCL § 205. | |
| Prohibition on Concurrent Payments | WCL § 205(4) 11 NYCRR 363.6(h) 12 NYCRR 380-2.2(c) 12 NYCRR 380-2.4(c) | The rider provides that DBL benefits and PFL benefits shall not be payable concurrently. | |
| Waiting Period | 11 NYCRR 363.6(j) | The rider provides that, where applicable, a sole proprietor, a member of a limited liability company, a member of a limited liability partnership, or other self-employed person who elects coverage under Article 9 of the WCL shall be subject to a waiting period of 2 years from the effective date of this rider before PFL benefits are payable. During the 2 year waiting period, premium contributions for PFL coverage shall be payable. | |
| RENEWAL/ CANCELLATION/ TERMINATION | 11 NYCRR 363.6(a)(3) | The rider provides that the benefits contained within the rider shall renew or cancel/terminate on the same renewal date or cancellation/termination date as the DBL policy. | |
| DISCONTINUANCE | 11 NYCRR 363.6(l) & (m) | The rider provides that if the issuer elects to discontinue all DBL/PFL policies in one or more group sizes (small, medium, large), the issuer will provide written notification of the proposed discontinuance to the Superintendent, in accordance with 11 NYCRR 363.6(l) and (m), at least 90 days prior to the date of discontinuance of the coverage. This notification shall be in addition to the notification to the employer required in the underlying DBL policy. | |
| DEFINITIONS | | | |
| Arbitration | 12 NYCRR 355.9(a)(1) | The rider includes a definition of <i>Arbitration</i> which means the submission of a dispute to one or more impartial persons (as selected by the Chair) for a final and binding decision, known as an award. | |

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| Average Weekly Wage | 12 NYCRR 355.9(a)(2) | <p>The rider includes a definition of <i>Average Weekly Wage</i> which means for the purpose of computing the PFL benefit, the amount determined by dividing either the total wages of the employee in the employment of his last covered employer for the eight weeks or portion thereof that the employee was in such employment immediately preceding and including his last day worked prior to the first day of PFL, or the total wages of the last eight weeks or portion thereof immediately preceding and excluding the week in which PFL began, whichever is the higher amount, by the number of weeks or portion thereof of such employment.</p> <p>For a sole proprietor, a member of a limited liability company, a member of a limited liability partnership, or other self-employed person who elects coverage under Article 9 of the WCL, <i>average weekly wage</i> shall be determined by computing such person's total net income in the 52 week period immediately preceding the period of leave and dividing such total wages by 52.</p> | |
| Chair | 11 NYCRR 363.3(a) | The rider includes a definition of <i>Chair</i> which means the Chair of the NYS Workers' Compensation Board. | |
| Child | WCL § 201(16) | The rider includes a definition of <i>Child</i> which means a biological, adopted, or foster son or daughter, a stepson or stepdaughter, a legal ward, a son or daughter of a domestic partner, or the person to whom the employee stands in loco parentis. | |
| Family Member | WCL § 201(20) | The rider includes a definition of <i>Family Member</i> which means a child, parent, grandparent, grandchild, spouse, or domestic partner. | |
| Foreseeable Qualifying Events | 12 NYCRR 380-3.1(a) | The rider includes a description of <i>Foreseeable Qualifying Events</i> which include an expected birth, placement for adoption or foster care, planned medical treatment for a serious health condition of a family member, the planned medical treatment for a serious injury or illness of a covered service member, or other known military exigency. | |
| Grandchild | WCL § 201(21) | The rider includes a definition of <i>Grandchild</i> which means a child of the employee's child. | |
| Grandparent | WCL § 201(23) | The rider includes a definition of <i>Grandparent</i> which means the parent of the employee's parent. | |

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| Parent | WCL § 201(19) | The rider includes a definition of <i>Parent</i> which means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child. | |
| Providing Care | 12 NYCRR 380-2.1(b) | The rider includes a description of <i>Providing Care</i> which may include 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. | |
| Serious Health Condition | WCL § 201(18) | The rider includes a definition of <i>Serious Health Condition</i> which means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, or residential health care facility, or continuing treatment or continuing supervision by a health care provider. | |
| Statewide Average Weekly Wage | 11 NYCRR 363.3(m) | The rider includes a definition of <i>Statewide average weekly wage</i> which means the average weekly wage of employees in this State for the previous calendar year as reported by the NYS Commissioner of Labor. | |
| Superintendent | Financial Services Law §202 | The rider includes a definition of <i>Superintendent</i> which means the Superintendent of the NYS Department of Financial Services. | |
| Wages | 11 NYCRR 363.3(o) | The rider includes a definition of <i>Wages</i> which means the money rate at which employment with a covered employer is recompensed by the employer as more fully set forth in 12 NYCRR 357.1 and in the case of a self-employed person, the person's self-employment income as defined in 26 U.S.C. § 1402(b). | |
| APPLICATION FORMS | | <i>Note: The application form developed by the issuer must comply with the following requirements.</i> | |
| Fraud Warning Statement | IL §403(d) | The application contains the prescribed fraud warning statement. | |
| Enhanced Benefits | 11 NYCRR 363.6(r)(2) | The application affirmatively states that PFL coverage is provided at the benefit amounts and duration required under WCL §204(2). Any additional or enhanced benefits must be elected separately on the application. | |
| Certification | 11 NYCRR 363.6(q) WCL §§203-b & 203-c | If the rider includes additional or enhanced benefits beyond those specified in WCL §204(2), the application includes a certification that the policyholder will extend the protections of WCL §§203-b & 203-c for the additional or enhanced benefits. | |

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| Sole Proprietor Opt-In | WCL § 212(1) & (4)(b) 11 NYCRR 363.6(j) | For issuers that opt to issue coverage to a sole proprietor, a member of a limited liability company, a member of a limited liability partnership or other self-employed person, the issuer shall subject the applicant to a waiting period of 2 years before benefits are payable. | |
| | 11 NYCRR 363.6(k) | For issuers that opt to issue coverage to a sole proprietor with employees, a member of a limited liability company with employees, a member of a limited liability partnership with employees or other self-employed person with employees, such policyholder shall be covered under the same policy that covers the policyholder's employees. | |
| PREMIUM RATE REQUIREMENTS | | | |
| Community Rating | 11 NYCRR 363.4(a)(1) | Statutory PFL coverage is community rated. | |
| | 11 NYCRR 363.4(a)(1) & (2) | The community rate for statutory PFL premiums is established by the Superintendent and applies statewide to all policies. | |
| | 11 NYCRR 363.4(a)(5) | On or before June 1, 2017 and on or before September 1 of each year thereafter, the Superintendent will publish the community rate for PFL premiums for the policy benefit period beginning on the following January 1. | |
| | 11 NYCRR 363.4(a)(5) | The community rate for statutory PFL premiums shall be the maximum employee contribution. | |
| Rate Submission Requirements | 11 NYCRR 363.4(c)(1) & (2) | Each issuer must file and maintain a current rate manual for PFL coverage that includes the information required by 11 NYCRR 363.4(c). Such information must be included in separate rate manual pages for each of the three group sizes referenced in 11 NYCRR 363.5(g)(1). | |
| | 11 NYCRR 363.4(c)(3) | The rate manual pages for PFL coverage must be separately maintained from the rate manual pages for all other types of insurance including disability benefits provided pursuant to Article 9 of WCL. | |
| | 11 NYCRR 363.4(c)(4) | The rate manual pages for PFL coverage must be included as part of a rate filing submitted to the Superintendent. The rate filing shall include an actuarial memorandum that includes justification of the schedules referenced in 11 NYCRR 363.4(c)(1)(iii) and (iv). | |

NEW YORK DEPARTMENT OF FINANCIAL SERVICES
Review Standards for Family Leave Benefits Coverage

| REVIEW REQUIREMENTS | REFERENCE | DESCRIPTION OF REVIEW STANDARDS REQUIREMENTS | LOCATION OF STANDARD IN FILING |
|--------------------------|----------------------|---|--------------------------------|
| Actuarial Qualifications | 11 NYCRR 52.40(a)(1) | <ul style="list-style-type: none"> a. Member of the Society of Actuaries or member of the American Academy of Actuaries; and b. Meet the "Qualification Standards of Actuarial Opinion" as adopted by the American Academy of Actuaries. | |
| Actuarial Certification | 11 NYCRR 52.40(a)(1) | <p>Regarding the schedules referenced in 11 NYCRR 363.4(c)(1)(iii) and (iv),</p> <ul style="list-style-type: none"> a. The filing is in compliance with all applicable laws and regulations of the State of New York. b. The filing is in compliance with Actuarial Standard of Practice No. 8 "Regulatory Filings for Rates and Financial Projections for Health Plans" as adopted by the Actuarial Standards Board. | |