

# Colorado Family and Medical Leave Insurance Program (FAMLI)

## Frequently asked questions.

New York Life Group Benefit Solutions (NYL GBS) is here to help you manage the state of Colorado's Family and Medical Leave Insurance program (CO FAMLI), also called Colorado Paid Family and Medical Leave (CO PFML), by providing private plan administration for clients who have chosen not to participate in the state-run program. This guide answers the most common asked questions about the law and how New York Life Group Benefits Solutions plans to administer this benefit.

**Q: When does CO FAMLI become effective?**

**A:** CO FAMLI will be in effect for benefits as of January 1, 2024.

**Q: What are the qualifying leave reasons for CO FAMLI wage replacement benefits?**

**A: Medical Leave**

- › If you receive treatment for, or need time to recover from, your own serious health condition, including pregnancy.

**Family Leave**

- › If you care for a family member who has a serious health condition.
- › If you bond with a new child during the first year of birth, adoption, or foster care placement.
- › If you have an immediate safety need as a result of sexual assault, domestic violent, harassment or stalking (safe leave).
- › If you need to make arrangements for a family member's military deployment.

**Q: How long can you receive CO FAMLI?**

- A:**
- › Up to a maximum of 12 weeks per year for each leave type.
  - › Up to 4 additional weeks of leave time for pregnancy or childbirth related complications.
  - › Total leave time: Up to a maximum of 12 (all leave types) or 16 weeks (pregnancy/childbirth complications) in a 12-month period.

**Q: What are the requirements for someone to be eligible for CO FAMLI?**

**A:** Most Colorado employees can become eligible to take paid leave if they have earned at least \$2,500 in wages in Colorado within a year. The \$2,500 can include earnings from all Colorado employment.

**Q: Are there any circumstances where one could have a qualifying leave reason and be excluded from CO FAMLI benefits?**

- A:** One may not be eligible to receive CO FAMLI benefits even when they have a qualifying event if:
- › They do not meet the eligibility requirements for CO FAMLI.
  - › They are receiving unemployment insurance or workers compensation benefits for the same time period and qualifying reason.
  - › They have already used their available CO FAMLI time.



**Q: How can CO FMLI time be taken?**

**A:** For all eligible leave reasons, one may take continuous, intermittent, and reduced schedule leave. Intermittent leave may be taken in increments of either one hour or shorter periods if the time take is consistent with the increments the employer uses to measure employee leave. However, benefits are not payable until the employee accumulates at least eight hours of CO FMLI benefit when taking intermittent leave sporadically. Meaning, after the eight-hour threshold has been met, benefits will be payable in increments of 1 hour for any time taken after for each intermittent leave.

**Q: Can one take time off after the CO FMLI effective date, January 1, 2024, for events that started prior to the effective date?**

**A:** Yes. The most common situations where this applies are bonding with a new child, taking care of one's own chronic medical condition or caring for a family member with a serious health condition. As one example, parents who have had a baby in 2023 will be eligible to take CO FMLI leave to bond with their child anytime within the first 12 months after a birth, adoption or foster care placement, even if they use some employer-sponsored leave or unpaid FMLA leave in 2023 when the child first arrives. CO FMLI time will not be approved for any dates missed prior to January 1, 2024.

**Q: How much does an employee have to pay for CO FMLI?**

**A:** Typically, both employers and their employees are responsible for funding the CO FMLI program. The premiums are set for two years to 0.9% of the employee's wage, with 0.45% paid by the employer and 0.45% paid by the employee. Employers may not withhold more from employees than the amount permitted under the state plan even if they are offering a private plan. An employer may choose to pay the full cost of the CO FMLI program or withhold less than 0.45% from employees. These rates will hold true through 2024 and the yearly rate will be set by the state.

**Q: How are CO FMLI weekly benefits calculated?**

**A:** Individuals whose earnings are less than 50% of the state average weekly wage, will qualify to receive 90% of their average weekly wage. Individuals whose earnings are more than 50% of the state average weekly wage will receive 90% of 50% of the state average weekly wage plus 50% of their earnings above 50% of the state average weekly wage, capped at a maximum benefit amount. For 2024, the maximum weekly benefit amount will be \$1,100.

**Q: Does CO FMLI provide job protection?**

**A:** An individual who has worked for the employer for at least 180 days is entitled to return to the same position, or an equivalent position, upon their return from CO FMLI leave. The 180 days of employment do not need to be completed consecutively. Employers may not interfere with employees' rights under CO FMLI, and may not discriminate or retaliate against them for exercising those rights.

**Q: Will the employer continue to pay for benefits when an employee takes CO FMLI leave?**

**A:** Yes. Employers must maintain health care benefits for employees while they are on CO FMLI leave, and the employer may require the employee continues to contribute to the cost of the benefits at the level they did prior to leave.

**Q: Does one need to exhaust their PTO while on CO FMLI?**

**A:** Employees are not mandated to use accrued vacation, sick leave, or other paid time off prior to or while using CO FMLI. However, employees and employers can come to a mutual agreement to use their accrued paid time off to supplement their benefits in order to make them whole, without exceeding their average weekly wage.

**Q: Are the CO FAMLI benefits taxable?**

**A:** Yes, even though contributions for CO FAMLI are withheld post-tax, the benefit payments received are anticipated to be taxable income which should be reported on a personal tax return. Federal taxes are not automatically withheld from fully insured benefit payments, but an individual can request voluntary tax withholding if they want. CO FAMLI benefits are not subject to State income tax, therefore it is not optional for individuals to request voluntary tax withholding. Tax documents needed for personal tax return filing will be provided to individuals that receive benefit payments.

**Q: How do you calculate "12 weeks" of benefits if one doesn't work a 5-day work week?**

**A:** One is always provided the equivalent of 12 weeks of benefits, but the exact bank of hours available is determined on their normal work schedule. If they work 3 days a week, 8 hours per day, total of 24 hours per week, they will be allowed a total of 288 hours of leave time (24 hours x 12 weeks). Another example is, if they work 5 days per week, 8 hours a day, total of 40 hours per week, they will be allowed 480 hours of leave time (40 hours x 12 weeks).

**Q: How does one file for CO FAMLI under an equivalent plan with New York Life Group Benefit Solutions?**

**A:** We provide the same filing options for CO FAMLI as we do for other disability or leave offerings.

› **Phone:** 888.842.4462 or 866.562.8421 (español)

› **Online:** [myNYLGBS.com](https://myNYLGBS.com) (please note if employer does not provide an eligibility feed for any product, recommend initially reporting leave via phone or email)

› **Email:** [AbsenceManagement@newyorklife.com](mailto:AbsenceManagement@newyorklife.com)

› **Mail:** New York Life Group Benefit Solutions, P.O. Box 29050, Phoenix, AZ 85038

**Q: How do I learn more about CO FAMLI?**

**A:** For the most up-to-date information, visit: <https://famli.colorado.gov/>

Colorado state leave regulations were obtained from publicly available information: <https://famli.colorado.gov/>. The information is believed to be factual, and its accuracy cannot be guaranteed. Please consult applicable state websites for the most current state leave regulation information.

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51 Madison Avenue  
New York, NY 10010

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