New York Life Group Benefit Solutions

Colorado Family & Medical Leave Insurance (CO FAMLi) Onboarding

Getting Prepared for Go-Live
Topics
Preparing for CO FAMLI Go-Live.

- Claims Process – Employee Steps
- Employee Communications and Forms
- Contributions and Billing
- Claims Process – Employer Expectations
Contributions and Billing
Contributions and NYL Premium Payment

- If you are withholding contributions from Employees, work with your payroll team or payroll provider to ensure that contributions withheld are not sent to the state. These contributions instead will help fund your NYL GBS equivalent plan premium/fee as we are providing the coverage.

- Employees may contribute up to the amount they would have, if in the state program. The state rate is 0.9% of gross wages and employees may contribute half of this amount – or 0.45% of gross wages up to the Social Security Wage base cap of $168,600 for 2024. The state rate may change in future years.

- “Covered payroll” or “Covered earnings” for the purposes of CO FAMLI fully insured premium means “gross wages” which includes pre-tax amounts and will include typical employer compensation.

This information is current as of 11/26/2023: https://famli.colorado.gov/employers/employer-faqs
CO FAMILI will be a line item on the bill received for other coverages (STD, LTD, Life, etc.)

The rate will be expressed as a “per $100 of covered payroll” rate. For PFML, the “covered payroll” is the employee gross wages per the state definition.

CO FAMILI (CO PFML) will begin to display on bills issued after 1/1/2024.

If you have billing questions, please first contact your account team. Your account manager may request help from our revenue management team if needed to assist.
Still Waiting for State Refund?

- The FAMLI Division plans to reach out to all employers once their private plans are approved to coordinate their refund as long as the employer submitted their plan for approval on or before October 31, 2023.

- If you have had employees leave your employment since 1/1/2023, you can provide the state with the information about these employees so they will provide them their refund (you do not need to refund employees no longer working for you).

- NYL GBS unfortunately does not have insight into the details of the refund process. If you have not heard yet from the state and are concerned about coordinating your refund, or you generally have questions about the refund process, please contact the state here:

  For individual FAMLI account-specific questions:
  1-866-CO-FAMLI
  (1-866-263-2654)
  Monday–Friday 8 a.m.–4 p.m.

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CO FAMLII Taxability

CO Department of Revenue has released some taxation guidance, however because the IRS has not yet provided guidance, there is a chance future IRS guidance will supersede state guidance.

☐ FAMLII premiums should be considered post-tax deductions that do not reduce an employee’s taxable income.

☐ Employers should report such deductions on IRS form W-2 in Box 14, and list “FAMLII” as the label.

☐ The FAMLII Division will issue IRS form 1099-G to each employee who receives FAMLII benefits, and the benefits paid will be reported in Box 1, which is labeled “unemployment compensation.” Per IRS instructions, this box is also used for governmental paid family leave programs.

☐ The FAMLII Act makes it clear that benefits are not subject to state income tax.

☐ Until the IRS provides guidance, there is an assumption that benefits are subject to federal taxation.

This information is current as of 11/26/2023: https://famlii.colorado.gov/employers.
Claims Process – Employee Steps
For certain types of leave, the employee will be asked to provide certification to support leave. When someone is out for their own medical condition, NYL GBS will assist in trying to contact the health care provider for needed medical documentation.

Inform Employer of need for leave and receive paperwork for all applicable leave types. NYL GBS Filing instructions provided.

Employee files leave request with NYL GBS via phone, paper or online (if file feed is provided).

Upon completed application being received, NYL GBS makes claim decision, communicates decision and begins to issue payments (if approved).
Employees can file for CO FAMILI in the same ways they can for Short Term Disability Benefits:

**FASTEST METHODS:**
- Online: [www.myNYLGBS.com](http://www.myNYLGBS.com) (If group has file feed or Leave Administration services)
- Phone: (888) 842-4462 or (866) 562-8421 (español)

**Paper method**
- Email: AbsenceManagement@newyorklife.com
- Mailing Address: New York Life Group Benefit Solutions
  P.O. Box 81077
  Cleveland, OH 44181

If they are going to take leave for their own condition, we will intake the information for both CO FAMILI and Short Term Disability.

When intermittent leave is used – employees will need to call (or use portal) and report each day used.

For initial launch only – **we can intake CO FAMILI claims effective 12/11/23. Benefits will not be payable until the go live date, 1/1/24.**
Information an Employee Should Have Before Filing:

• Employee contact details (name, birth date, home address, Social Security number, phone, email, etc.)

• Basic leave/claim details (reason for being out of work, dates of planned leave, whether leave is continuous, intermittent or reduced schedule)

• Work schedule details

• Information about any other benefits being requested if any (workers compensation, unemployment, etc.)

• Information about health care provider, hospitals (if applicable) and their contact information.
What If An Employee Already Used Leave in 2023 for this Event?

- CO FAMILI is a new entitlement available on 1/1/2024 and it does not consider the time taken before the program goes into effect. This may mean an employee initially experienced an event in 2023, used time to be off work, returned to work and now will qualify for a new entitlement which they want to use.

- Most commonly, new parents may want to request additional bonding leave when the program goes live. Bonding leave may be used within 12 months of the birth or placement of a new child. Even if other leave types were taken and exhausted in 2023 due to birth or placement of new child, CO FAMILI will be a new available entitlement.
  - If a birthing parent tries to claim the additional 4 weeks for pregnancy/childbirth complications, they will be required to obtain medical certification to support the complications.

- Taking new CO FAMILI leave entitlement for events which began prior to 1/1/2024 is not isolated to only bonding scenarios. However, for other leave types, an individual may be required to provide more medical certification to support the need for leave as of January 1, 2024.
For Employees Out on Leave as of 1/1/24

- If an employee is already on Short Term Disability (STD) or leave being administered by NYL GBS as of 1/1/24, and we will be administering the CO FAMLI, the employee will need to notify us to file for CO FAMLI benefits. After 1/1/2024, we will begin to assume offsets on STD claims but we still need an employee to confirm their intent to file CO FAMLI.

- The state does not permit forcing an employee to take CO FAMLI leave. Therefore, a new leave will need to be initiated by the employee so that we are compliant with state regulations.

- If they are filing for CO FAMLI for the same reason they are currently out for, we may have certification paperwork to support their leave already. They will still be sent blank certification documents as part of an automatically generated acknowledgement letter sent after intake. If medical documentation has already been received by NYL GBS, we do not need new certifications and we will let the employee know.

- Once an employee chooses to file a CO FAMLI leave with NYL GBS (as early as 12/11/23), their case will be set up.

- If a case is filed with a leave beginning 1/1/24 or later, this will trigger an acknowledgement letter to the employee which will contain blank certification documents.

- If a case is filed with a portion of leave time starting prior to 1/1/2024 and ending sometime in 2024, the employee will receive two different acknowledgement letters. One letter will be triggered at the time of filing and address any leaves/benefits which are applicable prior to 1/1/2024, and the second one will be triggered when CO PFML leave is to start (1/1 or later).

- A claimant filing a CO FAMLI leave will also trigger an employer confirmation outreach to confirm eligibility, accurate average weekly wage, and work schedule details for CO FAMLI.
CO FAMILI Certification

**Medical Leave**

Documentation of own serious health condition from health care provider that includes:
- Health care provider first and last name, specialty and contact information
- Patient first and last name
- Approximate date on which condition commenced or need for leave was created
- Estimation of duration of condition and frequency of leave (frequency required for intermittent leave)
- Sufficient information to support that you have a serious health condition

**Family Leave - Bonding**

Birth:
- Copy of birth certificate;
- Application for birth certificate
- Document from health care provider confirming birth; or
- Other vital records showing birth.

Foster or Adoption:
- Copy of court order confirming placement;
- Proof claimant is licensed or certified foster parent and child has been placed in their care.
- Documentation from child placement agency, state and country department of human services.
- Court indicating a kinship or emergency placement.
- Any other reasonable information or documentation necessary to adjudicate the claim for benefits.

**Family Leave – Care of Family Member**

Documentation of family member’s serious health condition from health care provider that includes:
- Health care provider first and last name, specialty and contact information
- Patient first and last name
- Claimant’s first and last name (person requesting leave)
- Approximate date on which condition commenced or need for leave was created
- Estimation of duration of condition and frequency of leave (frequency required for intermittent leave)
- Sufficient information to support that the patient has a serious health condition

**Safe Leave**

- Safe Leave Attestation Form
- Any other information of documentation to help adjudicate the claim for benefits.

**Military Exigency Leave**

- Military Exigency Leave Attestation Form
- Any other information of documentation to help adjudicate the claim for benefits.

- Claims will remain in pending status for up to 60 days to allow for proof of loss to be received per state requirements.
- NYL GBS will attempt to accept any reasonable documentation to support leave requests.

This information is current as of 11/26/2023: https://famli.colorado.gov/
Claims
Process –
Employer
Expectations
What to Provide Employees Upon Notice of Leave

CO FAMILI notice requirements:
- When you learn an employee has had an absence, and/or experiencing a qualifying leave event, and may be eligible for CO FAMILI benefits, you should provide the workplace notice within 5 days.

Here are additional best practice recommendations of information to provide:
- Instructions on how to file with New York Life Group Benefit Solutions (Intake flyer)
- CO FAMILI Frequently Asked Questions Flyer and/or Benefit Calculation Flyer
- Any specific information about coordination with other company benefits or paid time off
- All other existing information you would provide for applicable FMLA, or other leaves.
### Information We Will Ask You to Verify

**Employer Information Needed to Ensure Appropriate Administration**

We will email you a template to complete upon a new request for leave from one of your employees:

<table>
<thead>
<tr>
<th>Information We Will Request</th>
<th>Why We are Requesting</th>
</tr>
</thead>
<tbody>
<tr>
<td>Confirmation that employee has worked for you for 180 days</td>
<td>Job protection in CO requires an employee to work for 180 days for you, not just be employed for 180 days.</td>
</tr>
<tr>
<td>Confirmation of type of Leave Request (Continuous, Intermittent, Reduced Schedule) and start and end date for leave</td>
<td>Helps to ensure information reported to us aligns with what is reported to employer</td>
</tr>
<tr>
<td>Leave Reason</td>
<td>Ensure employees reported the same leave reason to employer and NYL GBS</td>
</tr>
<tr>
<td>Confirmation employee earned at least $2,500 working in Colorado in the past year</td>
<td>This is the true eligibility threshold for CO FAMLI</td>
</tr>
<tr>
<td>Employee’s average weekly wage</td>
<td>Not contained in a feed and needed for benefit calculation</td>
</tr>
<tr>
<td>Employee’s Work Schedule</td>
<td>Needed benefit for calculation and especially important for intermittent leaves</td>
</tr>
<tr>
<td>If intermittent or reduced schedule leave, confirmation of any paid company holidays which may fall during leave</td>
<td>These days are unpaid under FAMLI for intermittent or reduced schedule leaves unless they are scheduled to work the holiday.</td>
</tr>
<tr>
<td>Will you be requesting employer reimbursement? (if yes, we will confirm dates for reimbursement)</td>
<td>We need to know if Employers want reimbursement before we start paying claims.</td>
</tr>
<tr>
<td>CO FAMLI Leave History</td>
<td>This is primarily for future employers primarily and future benefit entitlements</td>
</tr>
</tbody>
</table>
CO FAMLII Employer Reimbursement

If an employer is extending pay to employees from a source which is not an accrued paid leave bank (state defines this as “Separate bank of time off solely for the purpose of paid family and medical leave”) an employer may request Employer Reimbursement payments for the period of time they are providing wage continuation.

If an employer is not reimbursed or is reimbursed an amount less than that which it paid an employee, it may not recoup from the employee the difference between the amount it paid and the amount it was reimbursed.

Example

Company paid leave plan for parental leave which provides 100% of pay, or a salary continuation program which is providing full salary when someone is out.
This must be requested before the claim is approved and checks are issued to an employee.
Average Weekly Wage & Average Work Schedules

**Average Weekly Wage**

- To determine an employee's average weekly wage – take the highest quarter of wages in the base period or alternative base period and divide by 13.
- Base period is the first four of the five most recently completed calendar quarters, alternative base period is the last four quarters immediately before benefit year.
- If an individual has not completed at least four quarters, you may take the highest quarter of earnings they have completed and divide by 13 to get to an average weekly wage.
- Please note average weekly wage could be different than the current weekly earnings amount.

**Determining Work Schedules**

- Employers will need to report the hours regularly worked each week.
- If this is variable information (shifts adjust regularly), look back at the 4 weeks prior to leave, add up the total hours worked, and divide by 4.
- Employees may ask us to account for all work they perform from all employers to determine their regular work schedule – if this occurs, their work schedule may be a higher number of hours than you report.

This information is current as of 11/26/2023: https://famli.colorado.gov/employers.
All leave types under CO FAMLİ may be taken intermittently and on reduced schedule. There is no benefit waiting period for any leave type.

- Intermittent leave can be taken in increments of one hour or shorter periods of time. Intermittent leave and reduced schedule leave availability is based on the individual’s average workday hours, which is part of why work schedule confirmation is important.
- Holidays are payable on continuous leaves. However, for intermittent and reduced schedule leaves, holidays are not payable. You as the employer will need to confirm the holiday pay date and hours for intermittent and reduced schedule leaves.
- Employees should do their best to share anticipated intermittent leave schedule if at all foreseeable – they should notify both you and NYL of this.
- They will need to confirm with both you and NYL each day of leave taken to ensure accurate payment.
- NYL will send notification to both employee and employer of approved additional intermittent and reduced schedule leave time.
- Best practice will be to assume they will have additional days approved as long as certifications support this.

This information is current as of 11/26/2023: https://famlı.colorado.gov/employers.
Changes to CO FAML1 claims after filing

CO FAML1 claims can be adjusted after initial filing for these reasons:

1. Increase or decrease in regular work schedule
   • If this occurs, the employee needs to report their work schedule change to us within 10 days of it occurring and we may request verification.
   • Most likely to occur on intermittent or reduced schedule leaves

2. 7/1 change of the state average weekly wage
   • On July 1 every year, the state average weekly wage will change and any inflight claim is required to be recalculated with the new amount. No request needs to be made. This may increase employee's benefit payments.

3. Due to outcome of an appeal
   • If an employee requests a review of a claim previously closed or denied, and we overturn a decision, this will potentially change claim details.

This information is current as of 11/26/2023: https://faml1.colorado.gov/employers.
CO FAMLİ Reporting

- Private Plan statutory reporting for CO FAMLİ is a carrier obligation and NYL GBS will be reporting to the state on behalf of our clients.

- Our understanding is that other reporting to the state for CO FAMLİ will not be regularly required from an employer.

- Employers with our private plan administration have access to details about CO FAMLİ through the Employer Reporting functionality available through www.myNYLGBS.com similar to other products like leave and disability

  - CO FAMLİ is contained within Absence Reporting

  - No CO FAMLİ reporting details will be available until after claim intake has started, and payment details will not display until after 1/1/2024, when benefits go-live.

This information is current as of 11/26/2023: https://faml.colorado.gov/employers.
Employee Communications and Forms
Employee Facing Materials

1. Workplace Notice (NYL GBS specific – provided during implementation)
2. Intake Flyer (provides instructions how to file)
3. Colorado Family and Medical Leave Insurance (CO FAMLI) Claim Forms
4. Colorado Family and Medical Leave Insurance (CO FAMLI) Frequently Asked Questions
5. Colorado Family and Medical Leave Insurance (CO FAMLI) Benefit Calculation Flyer
Colorado state leave regulations were obtained from publicly available information at 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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