

**✦ Paid Family Leave
FACT SHEET #5
CARING FOR A FAMILY MEMBER**

Workers who participate in the State Disability Insurance Program (SDI) are entitled to a maximum of six weeks of partial pay each year while taking time off from work to bond with a newborn baby, newly adopted or foster child, or to care for a seriously ill parent, child, spouse or registered domestic partner.

1. How does the Paid Family Leave Law (PFL) define “seriously ill”?

The PFL provides benefits to an individual to provide care for a parent, child, spouse or registered domestic partner with a serious health condition. A serious health condition is an illness, injury, impairment or physical or mental condition that involves either:

- An overnight stay in a hospital, hospice or residential care facility; *or*
- Continuing treatment by a health care physician or practitioner.

2. What is the definition of “continuing treatment”?

The serious health condition requiring “continuing treatment” must involve at least one of the following:

- a condition causing incapacity for more than three consecutive calendar days that requires:
 - two or more visits to a health care provider, or
 - one visit, accompanied by a regimen of continuing treatment and supervision;
- incapacity caused by pregnancy and/or prenatal care;
- a condition causing incapacity that continues over an extended period of time and requires periodic visits to a health care provider, and which may cause occasional or periodic, rather than continuous, incapacity;
- a permanent or long-term period of incapacity due to a condition for which treatment may not be effective (such as terminal cancer) where the patient is under the supervision of, but not necessarily being actively treated by, a health care provider;
- absences to receive multiple treatments for
 - restorative surgery, or
 - a condition which would likely cause a period of incapacity of more than three consecutive calendar days if not treated.

“Treatment” includes examinations to determine if a serious health condition exists and the evaluation of that condition.

3. Can I receive Paid Family Leave benefits while I take time off from work to care for my toddler when he gets an ear infection?

Treatments for routine conditions, such as the flu or ear infections, and cosmetic treatments or surgery, do not generally qualify as serious health conditions.

4. My mother is being treated for severe depression and alcoholism by a social worker and a psychologist. Are they considered “health practitioners”? Can I receive Paid Family Leave benefits to help her recovery?

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Yes. The term “health care provider” includes licensed medical doctors, clinical psychologists, clinical social workers, optometrists, dentists, podiatrists, licensed nurse practitioners and nurse-midwives and chiropractors (depending on the treatment provided). You are entitled to PFL benefits to care for your mother if her physician provides medical certification of your mother’s serious health condition and certifies that her condition warrants your care.

5. Do I need to provide a medical certificate to take Paid Family Leave to care for my seriously ill father?

When applying for PFL benefits to care for a seriously ill family member, you are required to file a medical certificate with the Employment Development Department (EDD) which establishes that your family member has a serious health condition that warrants your care. This diagnosis is not provided to your employer. The certificate must identify the serious medical condition involved, including the following:

1. The date, if known, on which the condition commenced;
2. The probable duration of the condition;
3. An estimate of the amount of time that the physician or practitioner believes the employee is needed to care for the child, parent, spouse, or registered domestic partner; and
4. A statement that the serious health condition warrants your participation in caring for your family member.

6. I need to take care of my mother with dementia, who requires ongoing care. Can I take leave a few hours at a time? Do I have to satisfy the seven-day waiting period each time I take leave?

The law does not establish a minimum number of hours, days or weeks that an employee can take off work to receive PFL benefits. For example, caregivers can receive PFL benefits when they take leave once a week to care for a family member with a serious health condition, or take two weeks of leave, return to work, and take four weeks of leave later. This is known as “intermittent leave.”

During intermittent leave, only the days on which you actually provide care for your family member will count toward the seven-day waiting period, which does not need to be consecutive. For example, if you care for your mother every Friday, you would serve the seven-day waiting period over seven weeks. Once you have satisfied the seven-day waiting period, you will receive PFL benefits for any subsequent days you miss work to care for your mother.

Caregivers only need to satisfy the seven-day waiting period once in a twelve-month period, unless they wish to establish a claim to provide care for a *different* care recipient.

7. My father lives outside California. Can I still get Paid Family Leave benefits to care for him?

You may be eligible to receive PFL benefits even if your father (or other family member needing care) does not live in California. As long as you can obtain a medical certificate from your father’s treating physician which establishes that your father has a serious health condition and that you are needed to provide physical care or psychological comfort to him, you will be eligible to receive PFL benefits. Keep in mind, however, that your father’s physician or health care provider must be licensed or certified in the state or country where your father is being treated for the medical certification to be considered valid by the EDD.

8. My father has cancer and needs care. My brother is unemployed and lives nearby, but he is unwilling to care for our father. My sister and I both work, but would like to care for our father. Can I

receive Paid Family Leave benefits while taking care of my father?

Yes, you can receive PFL benefits, because your brother, although available, is unwilling to care for your father. However, you and your sister can both receive PFL benefits *if* your father needs 16 hours or more of care per day. No more than one individual can claim benefits for one eight hour period. The EDD will certify up to three individuals who are “able and available” to provide care for the same care recipient, in a 24-hour period.

9. I only work part-time, but need to miss work to care for my mother, who was in an accident. Am I still entitled to Paid Family Leave benefits? How is the waiting period satisfied?

Both part-time and full-time workers are entitled to receive PFL benefits. If you earned at least \$300 that was subject to SDI tax over the past 12 months, provide the necessary documentation, and are needed to care for your mother, you are eligible to receive benefits. As a part-time worker, your waiting period will be satisfied after you have missed work to provide care for your mother for either seven partial or seven full days.

10. Can I receive Paid Family Leave benefits to care for my spouse’s mother, who is seriously ill?

No. The PFL program only provides benefits when you take leave to care for your own parents, child, spouse, or registered domestic partner.

11. I am not a U.S. citizen. Can I still apply for Paid Family Leave benefits?

You are eligible to receive PFL benefits if you pay into the SDI program. You do not have to be a U.S. citizen.

12. My employer says he cannot hold my job for me if I take Paid Family Leave. What can I do?

Your job may be protected pursuant to the Family and Medical Leave Act and the California Family Rights Act, which are federal and state leave laws. These and other laws also protect workers from discrimination and retaliation for exercising their rights. Consult with an attorney or legal advocate to learn more about your rights under these laws. You may also contact one of the following organizations:

Questions?
Asian Law Caucus 415-896-1701
California Women’s Law Center 213-637-9900
Equal Rights Advocates 800-839-4372
The Legal Aid Society–Employment Law Center 800-880-8047
Outside California 415-593-0033

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