

## Blog Post

# Paid Prenatal Leave for Pregnant New Yorkers Has Arrived

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By Megan Coughlin

New York is the first state in the U.S. to pass a law entitling workers to paid prenatal leave. The law, which took effect on January 1, 2025, requires private sector employers, regardless of size, to provide their New York-based employees with 20 hours of paid leave for prenatal healthcare services during their pregnancy, or related to their pregnancy, during any 52-week calendar period. Regarding the first-of-its-kind law, New York State Governor Kathy Hochul stated, “No pregnant woman in New York should be forced to choose between a paycheck and a check-up — and that’s why I pushed to create the nation’s first paid prenatal leave policy.”

## How It Works

The New York State Department of Labor (NYDOL) issued a Guidance, including answers to Frequently Asked Questions, on its website for employers that must comply with the new law. According to that Guidance, the law applies to all employees working for private sector employers, including those on “part-time” or “overtime exempt” status. The Guidance makes clear that paid prenatal leave is in addition to other leave, such as New York State paid family leave and sick leave. Employers cannot require their employees to choose one leave type over another or require them to exhaust one type of leave before using paid prenatal leave. Further, unlike other forms of leave, paid prenatal leave must

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be provided immediately, must be frontloaded, and can be used in hourly increments. Paid prenatal leave starts when the employee first utilizes the leave, and ends 52 weeks later. Unused leave does not carry over to the following 52-week period, and is not required to be paid out upon an employee's separation of employment.

## Scope of Prenatal Leave Protections

The NYDOL notes in its Guidance that the scope of prenatal healthcare services includes an employee's physical examinations, medical procedures, monitoring and testing, and discussions with their healthcare providers related to their pregnancy, as well as fertility treatments and end-of-pregnancy care appointments, but not to post-natal or postpartum appointments. The NY law also includes job restoration rights and protection against retaliation for employees requesting or using paid prenatal leave.

The NYDOL estimates that about 130,000 pregnant women per year will be eligible for paid prenatal leave under the law, with 65,800 of those being hourly workers. While New York is the first state to mandate paid leave prenatal leave, we expect to see other states follow suit, especially given the Equal Employment Opportunity Commission's prioritization of enforcement of the Pregnant Workers Fairness Act (PWFA). The PWFA, a federal law which took effect in June 2023, requires covered employers to provide reasonable accommodations to employees for known limitations related to pregnancy, childbirth, and related medical conditions, but does not require paid leave. Additional states are likely to develop similar laws to further fill in gaps to bolster protection for pregnant workers.

## Implementing Paid Prenatal Leave Policies

New York employers should supplement existing paid time off policies with a Paid Prenatal Leave policy and communicate with employees regarding

how to request leave under the policy. For questions or assistance regarding your company's implementation of a Paid Prenatal Leave policy or compliance with the law, contact your Akerman Labor and Employment attorney.

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