

# FIRST RELIANCE STANDARD

## LIFE INSURANCE COMPANY

A MEMBER OF THE TOKIO MARINE GROUP

First Reliance Standard Life Insurance Company ("FRSL", "We", "Us" or "Our") agrees to provide disability benefits in accordance with the Disability Benefits Law of the State of New York (New York Disability Benefits Law) including any amendatory or supplementary laws which are or may have become effective during the continuance of this Policy, to Insured Persons in exchange for the payment of premium and a signed application.

Coverage is subject to all the terms and provisions of this Policy. All of the provisions of the New York Disability Benefits Law shall be and remain a part of this Policy as fully and completely as if written in this Policy, so far as they apply to disability benefits provided by this Policy.

### POLICY SCHEDULE

<b>POLICYHOLDER:</b>	Saks Incorporated*
<b>POLICY NUMBER:</b>	DBL252526
<b>EFFECTIVE DATE:</b>	January 1, 2020
<b>ANNIVERSARY DATES:</b>	January 1, 2021 and each January 1st thereafter
<b>PREMIUM DUE DATES:</b>	January 1, 2020 and the 1st day of each month thereafter

\*The Policyholder shall include the following affiliated company(s): Hudson Bay Company; Saks Fifth Avenue; Saks Off 5th

### DEFINITIONS

**Chairman** means the Chairman of the Workers' Compensation Board of the State of New York.

**Disability** means an Insured Person's inability to work because of injury or sickness as defined in the New York Disability Benefits Law.

**Insured Person** means a person who is eligible under the New York Disability Benefits Law and who is included in one of the Eligible Classes as described on the following page.

This Policy is signed for FRSL by:

  
Secretary

  
President

### Group New York Disability Benefits Law Insurance Policy Non-Participating

This New York Disability Benefits Law Insurance Policy replaces the New York Disability Benefits Law Insurance Policy issued to you by us.  
It is issued on May 6, 2020.

DBL-0896

**ELIGIBLE CLASSES:**

All Employees eligible under the New York Disability Benefits Law.

**POLICY PROVISIONS**

**The Contract:** This Policy is a contract between the Policyholder and FRSL. The contract consists of this Policy and the Policyholder's application. Any statement made by the Policyholder will be deemed a representation and not a warranty. All time periods described in this Policy begin at 12:01 a.m. and end at 12:00 midnight, at the Policyholder's place of business.

**Termination of This Policy:** FRSL may terminate this Policy at any time by furnishing written notice to the Policyholder and the Chairman stating when the termination will be effective. Such written notice must be provided at least 30 days prior to the effective date of termination, unless the Policy is to be terminated for non-payment of premium. In the event of non-payment of premium, written notice must be given 10 days prior to the effective date of termination. If the Policyholder obtains insurance with another carrier which becomes effective prior to the termination date stated in the written notice, the effective date of the other coverage will become the termination date of this Policy. The Policyholder will owe FRSL any premium which is due up the termination date of this Policy.

**Termination of Eligibility:** If an Insured Person's employment is terminated while this Policy is in force, his or her coverage will end on the earliest of the following dates: (a) the first day that the Insured Person does work for wage or profit for an employer (other than the Policyholder) who is subject to the New York Disability Benefits Law; or, (b) the end of the 4 week period following the date the Insured Person's employment with the Policyholder terminates.

**Changes in This Policy:** No changes to, or waiver of, any provisions of this Policy will be effective unless they are in writing and are signed by the President, a Vice President or a Secretary of FRSL. No agent has the authority to change this Policy or waive any of its provisions.

**Maintenance of Records:** It is the responsibility of the Policyholder to maintain sufficient records of all Insured Persons and to notify FRSL on a timely basis of any changes to those records, such as additions, changes and terminations. FRSL reserves the right to examine these records at the place where they are kept during normal business hours. These records must be maintained for at least 3 years after this Policy terminates.

**Clerical Errors:** Clerical errors will not: (a) terminate insurance which should otherwise be in effect; (b) continue insurance which should otherwise terminate; (c) create insurance which should not be in effect; or (d) change the amount of insurance which should otherwise be in effect.

## **PREMIUM PROVISIONS**

**Payment of Premiums:** It is the responsibility of the Policyholder to pay all premiums required under this Policy when due. Any change in the premium contribution basis must be approved by FRSL. The premium for this Policy must be paid by the Policyholder, or by an authorized agent of the Policyholder. The dates that premiums are due are shown on the Policy Schedule. All premiums due and payable to FRSL should be remitted to FRSL as shown on the premium statement sent to the Policyholder.

**Premium Rate:** The Policyholder will be notified in writing of the premium rate on or before the Effective Date of this Policy, and thereafter, when the premium rate is changed. FRSL may change the premium rate on any Premium Due Date: (a) when coverage is changed under this Policy; (b) on each Policy Anniversary Date; or (c) on the effective date of any amendment to the New York Disability Benefits Law which affects the terms and provisions of this Policy.

**Employee Contributions:** If the total contributions for this coverage by all Insured Persons exceeds the total net premium for this Policy, then the excess will be applied for the sole benefit of the Insured Persons, in accordance with the rules of the Chairman, or applied or disposed of as required by Section 216 of the New York Disability Benefits Law.

**Grace Period:** The Policyholder has a grace period of 31 days after the due date of any premium, other than the first premium, to pay the premium, subject to the Termination of This Policy provision.

## **REQUIRED PROVISIONS**

**Bankruptcy:** We will not be relieved of any of Our obligations under the terms of this Policy in the event the Policyholder becomes insolvent or bankrupt.

**Enforcement:** The Chairman has the right to enforce, in the name of the people of the State of New York for the benefit of the Insured Person, Our liability for the payment of benefits provided by this Policy, in whole or in part, either by filing separate application or by making FRSL a party to the original application. The payment of benefits by the Policyholder or by Us will bar any recovery against the other for the benefit amount paid.

**Notice and Jurisdiction:** Notice to the Policyholder or the Policyholder's knowledge of a Disability of an Insured Person will be considered notice or knowledge to Us, as the case may be. Jurisdiction of the Policyholder shall, for the purposes of the New York Disability Law, be jurisdiction of Us; and, We shall in all things be bound by and subject to the orders, findings or decisions rendered in connection with the payment of benefits under the provisions of the New York Disability Law.

**Statutory Assessments:** FRSL will pay the assessments levied on the total payroll of the Insured Persons as required by Section 214 and 228 of the New York Disability Benefits Law.

# FIRST RELIANCE STANDARD

## LIFE INSURANCE COMPANY

A MEMBER OF THE TOKIO MARINE GROUP  
Home Office: 590 Madison Avenue, 29th Floor, New York, New York 10022

### Rider Family Leave Benefits

This rider amends your New York Statutory Disability Benefits Law (DBL) policy to provide family leave (PFL) benefits as required by law and described below. This rider replaces any previous family leave benefits rider. This rider is subject to all of the provisions of the DBL policy except as specifically modified by this rider. This rider and the DBL policy to which it is attached are governed by the laws of New York State.

This rider is effective at the same time as the DBL policy to which it is attached.

#### I. Definitions

**Arbitration** 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.

**Average Weekly Wage** 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.

**Chair** means the Chair of the NYS Workers' Compensation Board (WCB).

**Child** 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** means a child, parent, grandparent, grandchild, spouse, or domestic partner.

**Foreseeable Qualifying Events** 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** means a child of the employee's child.

**Grandparent** means the parent of the employee's parent.

**Parent** 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** 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** means an illness, injury, impairment, or physical or mental condition, including transplantation preparation and recovery from surgery related to organ or tissue donation, 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** means the average weekly wage of employees in this State for the previous calendar year as reported by the NYS Commissioner of Labor.

**Superintendent** means the Superintendent of the NYS Department of Financial Services.

**Wages** 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).

## **II. Eligibility: Eligible Employees**

**A.** A New York employee of a New York covered employer whose regular employment schedule is 20 or more hours per week will become eligible to receive PFL benefits during employment with such employer if:

- (1) the employee has been in employment of the covered employer for at least 26 consecutive work weeks preceding the first full day leave begins;
- (2) 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 preceding 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
- (3) 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 preceding 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.

**B.** A New York employee of a New York covered employer whose regular employment schedule is less than 20 hours per week will become eligible to receive PFL benefits during employment with such employer if the employee has been in employment of the covered employer and has worked 175 days in such employment preceding the first full day leave begins.

**C.** The use of scheduled vacation time; the use of personal, sick 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 are counted as days/weeks of employment for purposes of determining eligibility to receive PFL benefits during employment, so long as the required PFL premium is paid by the employee during such periods of time.

**D.** Periods of temporary disability taken pursuant to DBL shall not be counted as days/weeks of employment for purposes of determining eligibility to receive PFL benefits during employment.

**E.** An employee who is eligible for both DBL benefits and PFL benefits during the same period of 52 consecutive calendar weeks shall not receive more than 26 total weeks of combined DBL benefits and PFL benefits during that period of time.

**F. FMLA.** 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).

### **III. Premium**

- A.** 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.
- B.** The employer may collect employee premium contributions for PFL while an employee is receiving PFL benefits.
- C.** The employer may not collect employee premium contributions for PFL if an employee is taking DBL leave and has not yet acquired eligibility for PFL benefits.

### **IV. Statutory PFL Benefits**

- A.** An eligible employee may be entitled to benefits for leave taken from work for the following qualifying events:
- (1) To participate in providing care, including physical or psychological care for a family member of the employee made necessary by a serious health condition of the family member;
  - (2) For the employee to bond with the employee's child:
    - during the first 12 months after the child's birth;
    - during the first 12 months after the placement of the child 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
  - (3) Due to any qualifying exigency pursuant to FMLA, arising out of active duty or an impending call or order to active duty in the Armed Forces of the United States for the spouse, domestic partner, child or parent of the employee.
- B.** The weekly benefit for family leave commencing between January 1, 2019 – December 31, 2019 shall be:
- up to 10 weeks during any 52 consecutive week period; and
  - paid at 55% of the employee's average weekly wage, not to exceed 55% of the statewide average weekly wage.

The weekly benefit for family leave commencing on or after January 1, 2020 shall be:

- up to 10 weeks during any 52 consecutive week period; and
- paid at 60% of the employee's average weekly wage, not to exceed 60% of the statewide average weekly wage.

The benefit rate for the employee's period of family leave shall be the rate that is in effect on the first day of family leave taken.

52 consecutive weeks is computed retroactively to the first day for which benefits are currently being claimed. A single claim may not cover more than 52 consecutive weeks.

- C.** Liability of FRSL. The liability for PFL benefits payable for a single qualifying event in a 52-week period shall be the liability of FRSL if FRSL was providing coverage on the first day of family leave.

## **V. Requesting PFL Benefits**

### **A. Foreseeable leave.**

- (1) The employee must provide 30-days advance notice to the employer prior to the first day of leave taken for a foreseeable qualifying event. If 30-days advance notice is not practicable, then notice must be given as soon as practicable.
- (2) The advance notice must include the anticipated timing and duration of the leave for;
  - (a) continuous leave; or
  - (b) intermittent leave. 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. The employee shall advise the employer and FRSL of the schedule of intermittent leave. FRSL may withhold payment pending submission of a request for payment together with the dates of intermittent leave.
- (3) The employee shall advise the employer of any change in the timing and/or duration of the leave.
- (4) If the employee fails to give 30-days advance notice of foreseeable leave to the employer, the employer may request that FRSL delay the payment of benefits to the employee (known as a partial denial) for a period of up to 30 days from when the notice was given.

### **B. Unforeseeable Leave.**

- (1) When the need for continuous leave is unforeseeable, the employee must provide notice to the employer as soon as practicable.
- (2) When the need for intermittent leave is unforeseeable, the employer may require the employee to provide notice as soon as practicable before each day of intermittent leave. The employee shall advise the employer and FRSL of the schedule of intermittent leave. FRSL may withhold payment pending submission of a request for payment together with the dates of intermittent leave.

### **C. Requirements for Filing a Claim.**

- (1) The employee requests PFL benefits by completing the request for PFL which is either the PFL-1 claim form available on the New York State Paid Family Leave website or the format designated by FRSL.
- (2) The employee provides the employer with the request for PFL to complete the employer information section. The employer must complete its section and return the completed request to the employee within 3 business days. FRSL may not deny a claim for failure of the employer to complete its section.
- (3) The employee completes the appropriate certifications or proof of claim documentation. No benefits are required to be paid by FRSL until the completed request for PFL together with the necessary certifications or proof of claim documentation have been submitted to FRSL. (See item G. Certification/Proof of Claim Documentation below for additional information.)



- (4) The employee submits the completed request for PFL together with the necessary certifications or proof of claim documentation to FRSL no later than 30 days from the first day of leave. For a previously unspecified day of intermittent leave, the request for payment must be made within 30 days of the leave. 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 pursuant to Section IV. B. above.
- (5) Once FRSL receives the completed request for PFL together with the necessary certifications or proof of claim documentation, FRSL must pay or deny the claim within 18 days.
- (6) FRSL shall make all reasonable efforts, consistent with the principles set forth in Executive Order 26, issued October 6, 2011, to communicate with respect to the PFL claim in the language identified by the employee in the request for PFL.

**D. Incomplete Request for PFL using the PFL-1 claim form.**

- (1) FRSL may deny a claim for PFL without prejudice within 18 days if:
  - (a) the claim is incomplete; or
  - (b) the certification or proof of claim documentation is insufficient.
- (2) FRSL must notify the employee of each piece of required missing information.
- (3) When a PFL claim is denied without prejudice, the employee must refile within 30 days of the first day of leave. If the employee does not refile the completed request for PFL together with the necessary certifications or proof of claim documentation within 30 days of the first day of leave, FRSL may deny the claim.
- (4) Once FRSL receives the completed request for PFL together with the necessary certifications or proof of claim documentation, FRSL must pay or deny the claim within 18 days.

**E. Advance Request for PFL for Foreseeable Qualifying Events.**

- (1) An Advance Request for PFL for a foreseeable qualifying event shall not be denied on the grounds that the request for PFL is incomplete.
- (2) Within 5 business days of receipt of an incomplete request for PFL, FRSL will provide the employee with:
  - (a) notice that the claim is pending;
  - (b) a list of the required missing information;
  - (c) instructions for how to submit the missing information; and
  - (c) contact information.
- (3) Once FRSL receives a completed request for PFL, FRSL shall provide the employee a confirmation of receipt of the completed claim within 3 business days.
- (4) If a completed request for PFL is received more than 18 days before the occurrence of a qualifying event, FRSL shall send payment to the employee within 5 days following the qualifying event.

**F. Denial of PFL Benefits.** If FRSL denies a request for PFL for reasons other than the claim is incomplete or the certification or proof of claim documentation is insufficient, the employee may not refile. A PFL denial must state the reason, repeat any relevant information filed in the request and include any other information considered by FRSL in making the decision.

**G. Certification/Proof of Claim Documentation.**

- (1) **Certification Updates.** FRSL may require updates to the request for PFL, certifications, or proof of claim documentation for subsequent periods of PFL not covered by the initial documentation during the 52-week period following the initial request for PFL.
- (2) **Bonding Certification.** For PFL taken to bond with the employee's child, the required information to be included in the certification is contained in the PFL-2 form available on the New York State Paid Family Leave website.
- (3) **Certification of a Serious Health Condition.**
  - (a) It is the employee's responsibility to obtain a medical certification from a health care provider and to provide FRSL with the complete and sufficient certification for PFL taken due to the serious health condition of a family member. Failure to provide the certification may result in the denial of PFL benefits.
  - (b) The required information to be included in the certification from the health care provider is contained in the PFL-4 form available on the New York State Paid Family Leave website.
- (4) **Certification Relating to a Qualifying Military Exigency.**
  - (a) It is the employee's responsibility to submit a certification for PFL taken due to a qualifying military exigency. The information to be included in the certification is contained in the PFL-5 form on the New York State Paid Family Leave website.
  - (b) FRSL may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on active duty or called to active duty status, and the dates of the military member's active duty service.
  - (c) If the qualifying military exigency involves rest and recuperation leave, the employee must provide a copy of the military member's rest and recuperation orders, or other documentation issued by the military which indicates that the military member has been granted rest and recuperation leave and the dates of the military member's rest and recuperation leave.
  - (d) FRSL may independently verify the employee's appointments with third parties and may verify the military member's active duty status.

## **VI. Payment of Benefits**

**A.** 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 is received more than 18 days before the occurrence of a qualifying event, FRSL shall send payment to the employee within five days following the qualifying event.

**B.** 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).

**C.** Payment Options. If FRSL offers a choice of method of payment, FRSL 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, FRSL 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.

**D.** If FRSL provides for payment methods in addition to a check, FRSL must provide employees with written notice that meets the requirements of 12 NYCRR 380-5.6(e).

## **VII. Employee Use of Accruals and Employer Request for Reimbursement**

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 during the period of family leave and the employee exercises that option, and the employee does not file a request for PFL benefits with FRSL, the employer may request reimbursement from PFL benefits due by filing its claim for reimbursement with FRSL in accordance with Workers' Compensation Law §205(2)(c).

## **VIII. Dispute Resolution**

**A.** Informal Resolution. The employee and FRSL shall make every effort to informally resolve a denial of PFL benefits.

**B.** Arbitration. 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 of the Workers' Compensation Board. Awards are made in writing and are final and binding on the parties in the case subject to Article 75 of the Civil Practice Law and Rules.

## **IX. Exclusions and Limitations**

(1) Prohibition on concurrent payments. DBL and PFL benefits are not payable concurrently.

(2) No employee shall be entitled to PFL benefits:

(a) For any disability occasioned by the wilful intention of the employee to bring about injury to or the sickness of himself or another, or resulting from any injury or sickness sustained in the perpetration by the employee of an illegal act;

(b) For any day of PFL during which the employee performed work for the employer for remuneration or profit;

(c) For any family leave commencing before the employee becomes eligible for PFL benefits.

**X. Renewal/Cancellation/Termination**


The renewal/cancellation/termination provision of the DBL policy shall apply to this PFL rider. The benefits contained within this PFL rider shall renew or cancel/terminate on the same renewal date or cancellation/termination date as the DBL policy.

**XI. Discontinuance**

If FRSL elects to discontinue all DBL/PFL policies in one or more group sizes (small, medium, large), FRSL 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.

This Policy is signed for FRSL by:

  
Secretary

  
President