

LET'S
TAKE
A LEAVE

Speakers



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Paid Leave Oregon—An Overview

What is it?

- A paid family and medical leave program for employees working in Oregon.
- Employers and employees share contributions to a fund through payroll contributions collected by the Department of Revenue and administered by the Oregon Employment Department—unless they have received approval for an equivalent plan.
- Went into effect January 1, 2023 (for premium collection/contribution) and September 3, 2023 for leave benefits.

Paid Leave Oregon—An Overview

Which employers are covered?

- All employers with one or more employees working in Oregon
 - 25 employees or less → not required to contribute toward premiums
 - 25 employees or more → must contribute 40 percent of the total 1 percent contribution rate, and employees pay 60 percent; employers are permitted to pay more, if they wish to do so
- Few exceptions:
 - Federal government
 - Tribal government (may opt in)

PARTICIPATE ONLY

PARTICIPATE & PAY

Paid Leave Oregon—An Overview

How much are contributions and how are they shared?

- Contributions are based upon a percentage of employee wages.
- The rate for 2023 is 1% of up to \$132,900 in wages.
 - Employees pay 60% of the set contribution rate, and
 - Large employers (25+ employees) pay 40%.
- For example, if an employee made \$1,000 in wages, the employee would pay \$6 and the employer would pay \$4 for this paycheck if they were considered large. Employers may choose to pay the employee portion as a benefit for their employees

Paid Leave Oregon—An Overview

Employee Eligibility

- When the employee earned at least \$1,000 in wages in Oregon, for any employer or combination of employers, in the base year or alternate base year.

Your **base year** is the first four of the last five completed calendar quarters before your benefits start.

Your **alternate base year** is the last four completed calendar quarters before your benefits start. Paid Leave only uses the alternate base year if you did not have \$1,000 of wages in the base year.

A **calendar quarter** is a three-month period ending March 31 (quarter 1), June 30 (quarter 2), Sept. 30 (quarter 3) or Dec. 31 (quarter 4).

Table 1: Base year/alternate base year

Paid Leave Oregon—An Overview


What kinds and amounts of leave is available?

- Up to 12 weeks of paid leave to:
 - Care for and bond with a new child within the first year after birth, adoption, or foster placement;
 - Recover from a serious health condition;
 - Care for a family member with a serious health condition;
 - Use for safe leave (such as medical treatment for assault; counseling or other victim services related to domestic violence, sexual assault or stalking of themselves or a minor dependent; or relocation for health and safety reasons).
- Where the need for leave involves the employee's pregnancy, childbirth, or related medical condition, an additional 2 weeks of paid leave will be available under the program.

Paid Leave Oregon—An Overview

Posting/Notice Requirements

- Must post the model notice in the workplace AND must provide a copy to any employee working remotely.
- Employees may be required to share the following details:
 - The type of leave they are taking (medical, family, safe)
 - Why they need to take leave (their covered life event)
 - When and for how long they expect to take leave. If they don't know exactly when or how much leave they will take, they can give you an estimate
- Employers can't ask for any other information about their leave.



What you need to know

Starting in September 2023, Paid Leave Oregon will serve most employees in Oregon by providing paid leave for the birth or adoption of a child, a serious illness of yours or a loved one, or if you experience sexual assault, domestic violence, harassment, or stalking.

What benefits are provided through Paid Leave Oregon and who is eligible?
Employees in Oregon that have earned at least \$1,000 in the prior year may qualify for up to 12 weeks of paid family, medical or safe leave in a benefit year. While on leave, Paid Leave Oregon pays employees a percentage of their wages. Benefit amounts depend on what an employee earned in the prior year.

Who pays for Paid Leave Oregon?
Starting on January 1, 2023, employees and employers contribute to Paid Leave Oregon through payroll taxes. Contributions are calculated as a percentage of wages and your employer will deduct your portion of the contribution rate from your paycheck.

When do I need to tell my employer about taking leave?
If your leave is foreseeable, you are required to give notice to your employer at least 30 days before starting paid family, medical or safe leave. If you do not give the required notice, Paid Leave Oregon may reduce your first weekly benefit by 25%.

How do I apply for Paid Leave?
In September 2023, you can apply for leave with Paid Leave Oregon online at paidleave.oregon.gov or request a paper application from the department. If your application is denied, you can appeal the decision with the Oregon Employment Department.

What are my rights?
If you are eligible for paid leave, your employer cannot prevent you from taking it. Your job is protected while you take paid leave if you have worked for your employer for at least 90 consecutive calendar days. You will not lose your pension rights while on leave and your employer must keep giving you the same health benefits as when you are working.

How is my information protected?
Any health information related to family, medical or safe leave that you choose to share with your employer is confidential and can only be released with your permission, unless the release is required by law.

What if I have questions about my rights?
It is unlawful for your employer to discriminate or retaliate against you because you asked about or claimed paid leave benefits. If your employer is not following the law, you have the right to bring a civil suit in court or to file a complaint with the Oregon Bureau of Labor & Industries (BOLI). You can file a complaint with BOLI online, via phone or email:

Web: www.oregon.gov/boli
Call: 971-245-3844
Email: help@boli.oregon.gov

Learn more about Paid Leave Oregon
Web: paidleave.oregon.gov
Call: 833-854-0166
Email: paidleave@oregon.gov

State of Oregon
Employment Department

Paid Leave Model Notice Poster

Paid Leave Oregon

Reinstatement Rights

- After taking PLO, an employee has the right to return to their prior job, similar to FMLA/OFLA protections. The employee must have worked for their employer for 90 days to have these rights.
- Employers with fewer than 25 employees do not have to reinstate if the employee's position no longer exists.

Paid Leave Oregon—An Overview

Coordination with Other Leaves—the Concurrency Question

- If the employee takes PLO and they have available FMLA and/or OFLA, then the leaves will run concurrently. In that circumstance, the total amount of leave available to the employee is limited to 16 weeks in the same benefit year (12 paid by PLO and four (4) unpaid via OFLA) or up to 18 where pregnancy/childbirth is involved.
- However, PLO benefits for events which are not covered by OFLA (such as Safe Leave) do not draw down an employee's OFLA entitlement. Additionally, there is an exception for leave taken under the Oregon Military Family Leave Act (which provides up to 14 days of leave)—although it counts against OFLA, it is not subject to the 16–18-week limit even if a Paid Leave benefit year has begun.
- Likewise, if the employee does not have available OFLA/FMLA leave available, and/or has exhausted their OFLA/FMLA leave benefits, then they may take PLO additionally.

Place of Performance Determination

DETERMINING PLACE OF PERFORMANCE

Step 1: Does the employee perform work in one state, or primarily work in one state, but sometimes works in another state (not on a regular basis)?

1. **Yes**, they work entirely in Oregon. You report all wages earned for that employee to Oregon and pay Paid Leave Oregon contributions.
Stop, don't go further.
2. **Yes**, they work entirely in another state besides Oregon. Do not report any wages earned by this employee to Oregon or pay any contributions for Paid Leave Oregon.
Stop, don't go further.
3. **No**, they perform and regularly work in and outside of Oregon. **Go to Step 2.**

Place of Performance Determination

Step 2: Is there a base of operation where the employee physically starts work and returns to work?

- 1. Yes, the base of operation is in Oregon.** You report all wages earned for that employee to Oregon, and pay Paid Leave Oregon contributions.
Stop, don't go further.
- 2. Yes, the base of operation is outside of Oregon.** Do not report any wages earned by this employee to Oregon or pay any contributions for Paid Leave Oregon.
Stop, don't go further.
- 3. No, there is no base of operation. Go to Step 3.**

Place of Performance Determination

Step 3: Do you direct or control the work from Oregon and the employee works in Oregon?

1. **Yes**, I direct or control work from Oregon and the employee performs work in Oregon. You report all wages earned for that employee to Oregon, and pay Paid Leave Oregon contributions. **Stop, don't go further.**
2. **No**, I direct or control work from outside of Oregon, and the employee works in the state where the direction or control occurs. Do not report any wages earned by this employee to Oregon or pay any contributions for Paid Leave Oregon. **Stop, don't go further.**
3. **No**, I do not direct or control the work from anywhere. **Go to Step 4.**
4. **No**, I direct or control work in a state the employee does not work. **Go to Step 4.**

Place of Performance Determination

Step 4: Is the employee an Oregon resident?

1. **Yes.** You will report all wages earned for that employee to Oregon, and pay Paid Leave Oregon contributions.
2. **No.** Do not report any wages earned by this employee or pay any contributions for Paid Leave Oregon.

Paid Leave Oregon—An Overview

What about hybrid employees in Washington?

- It depends on where each employee in your business works. Paid Leave Oregon uses the same localization standards as the federal unemployment insurance program and Washington Paid Leave Program.
- If your employee works regularly or primarily in Oregon, and any work done outside of Oregon is minor, you will collect employee contributions and pay employer contributions to Paid Leave Oregon on all wages earned in Washington and Oregon.
- However, if they don't work with regularity in Oregon, or work exclusively in Washington, then their time would be considered "localized" to Washington and you would need to report and contribute through Washington's Paid Family and Medical Leave Program.

Washington Paid Family and Medical Leave—An Overview

Which employers are covered?

- All Washington employers of any size, including out-of-state employers with Washington employees, are required to participate
- Few exceptions:
 - Self-employed individuals (may opt in)
 - Federal employees
 - Federally recognized tribes (may opt in)
 - People who work temporarily in WA (e.g. utility worker helping after storm)

Washington Paid Family and Medical Leave—An Overview

- Employee eligibility
 - Eligibility after 820 hours of employment
 - Self-employed workers can opt in and be eligible after 820 hours, provided they agree to pay in for at least three (3) years
 - Qualifying period—two options:
 - First four (4) of the last five (5) completed calendar quarters, or
 - Last four (4) completed calendar quarters

Washington Paid Family and Medical Leave—An Overview

- What kinds and amounts of leave is available?
 - Family Leave: Up to 12 weeks of paid leave per year for...
 - Bonding after the birth, adoption or foster placement of a child under 18; or
 - To participate in providing care, including physical or psychological care, for family member's serious health condition; or
 - Certain military assignments
 - Short leave deployments
 - Military events
 - Post-deployment activities
 - Medical Leave: Up to 12 weeks of paid leave per year for employee's own "serious health condition" as defined by FMLA


Washington Paid Family and Medical Leave—An Overview

- If both scenarios occur in same year:
 - Employee's leave entitlement is capped at 16 weeks
 - Cap is lifted to 18 weeks if employee has a serious health condition associated with pregnancy that results in incapacity
 - Same protection/reinstatement rights as FMLA (no reinstatement rights for employers with less than 50 employees)

Washington Paid Family and Medical Leave—An Overview

Posting/Notice Requirements

- In addition to the general posting requirement, unlike Oregon, Washington requires a specific notice be provided to an employee within five (5) days of an employer learning they had a qualifying event.

 Washington
Paid Family & Medical Leave
Employment Security Department

Employer requirement to provide notice to employees

Employers with employees working in Washington state must provide the following notice to employees who may be eligible for Paid Family and Medical Leave the later of:

- Five business days after an employee's seventh consecutive day of absence due to family or medical leave, or
- Five business days after an employer becomes aware that the employee's absence is due to family or medical leave.

Paid Family and Medical Leave

Statement of Employee Rights

You may qualify for Paid Family and Medical Leave
As of Jan. 1, 2020, Washington employees who have worked 820 hours or more in the qualifying period and experience(d) a qualifying event have access to Paid Family and Medical Leave.

Employees who have missed work due to family or medical reasons may be eligible for paid family or medical leave for the following qualifications:

- Care for and bond with a child younger than 18 following birth or placement
- Care for yourself or a family member experiencing a serious health condition
- Certain military-connected events.

Paid Family and Medical Leave requires that you give your employer(s) written notice at least 30 days in advance of when you plan to take leave. However, if the reason you need leave was not foreseeable, you may notify your employer(s) as soon as possible.

The Paid Family and Medical Leave Benefit Guide provides information on how to apply for benefits and submit weekly claims. It also explains your rights and responsibilities under the law. Download the guide at www.paidleave.wa.gov/benefit-guide.

For more information about how to apply, contact us at 833-717-2273 or visit www.paidleave.wa.gov.

Important information for when you apply

Employee name: _____ Date: _____

Employer UBI #: _____ This employer offers supplemental benefits: Y _____ N _____

Note: Except during the waiting week, employees cannot use employer provided paid time off at the same time as Paid Family and Medical Leave, unless the employer chooses to offer a "supplemental benefit." Supplemental benefits can be used along with Paid Family and Medical Leave to provide additional pay while an employee receives partial wage replacement through Paid Leave benefits. Employees may accept or reject supplemental benefit payments.

Employer signature: _____ Employer phone number: _____

EMPLOYER NOTICE TO EMPLOYEE
UPDATED SEPTEMBER 2020

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Washington Paid Family and Medical Leave—An Overview

No Concurrency Requirement in Washington

- Under Washington's program, it is totally up to the employee if and when they make use of their paid leave benefits, and there is no obligation to use them concurrently with available FMLA leave. Employers, however, remain entitled under the FMLA, to designate leave and have it apply concurrently if the employee is eligible for FMLA while using their Washington Paid Family and Medical Leave Benefits.

Washington Paid Family and Medical Leave—An Overview

Reinstatement Rights

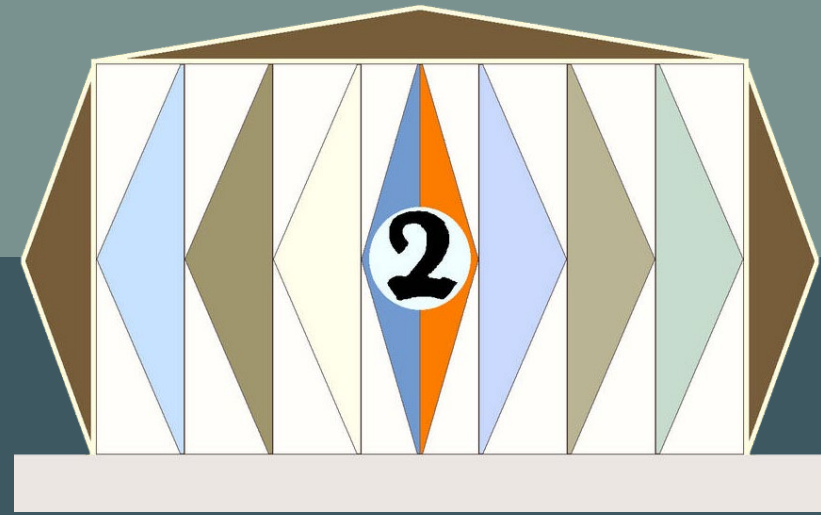
- Reinstatement rights only apply to employers with at least 50 WA employees.
- The reinstatement rights otherwise mirror FMLA eligibility requirements -- 12 months with this employer, 1250 hours in the previous 12 months with this employer, etc.

LET'S
TAKE
A LEAVE

Kris is a new employee in Oregon who is not yet eligible for OFLA but is eligible for PLO. Kris takes 10 weeks of PLO to care for a serious health condition of their child. Because Kris is not yet eligible for OFLA, the 10 weeks of PLO leave does not count against their OFLA/FMLA entitlement. In June 2024, Kris needs additional leave to care for their own serious health condition. By this point, Kris is OFLA eligible. How much leave is Kris entitled to?

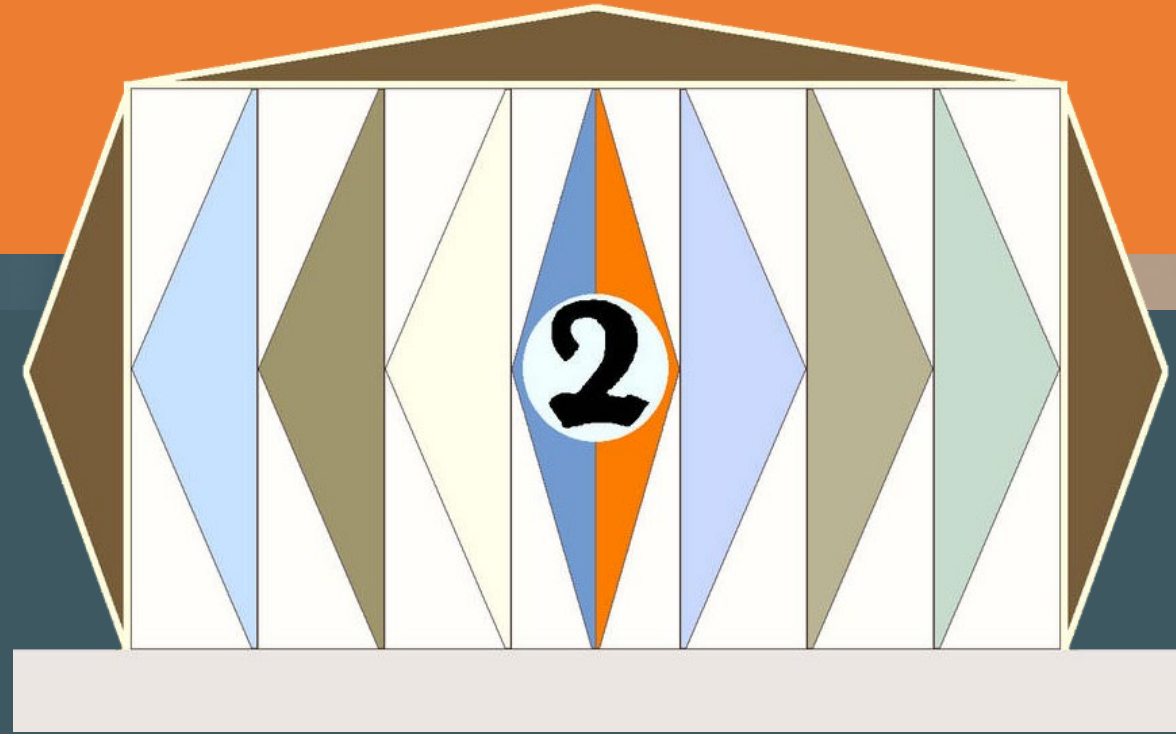


Kris is entitled to 2
additional weeks of PLO,
plus 12 weeks of unpaid
OFLA.



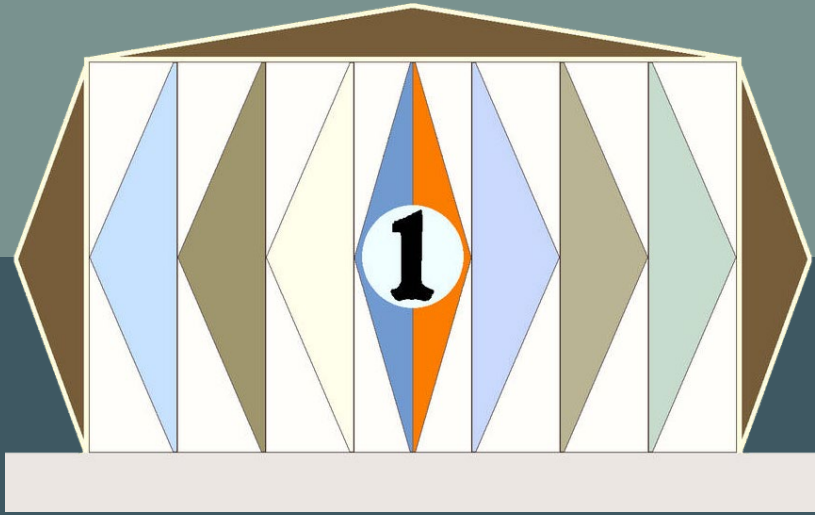
Kris is entitled to 2
additional weeks of PLO
and up to 4 more weeks
of unpaid OFLA.

And the answer is...

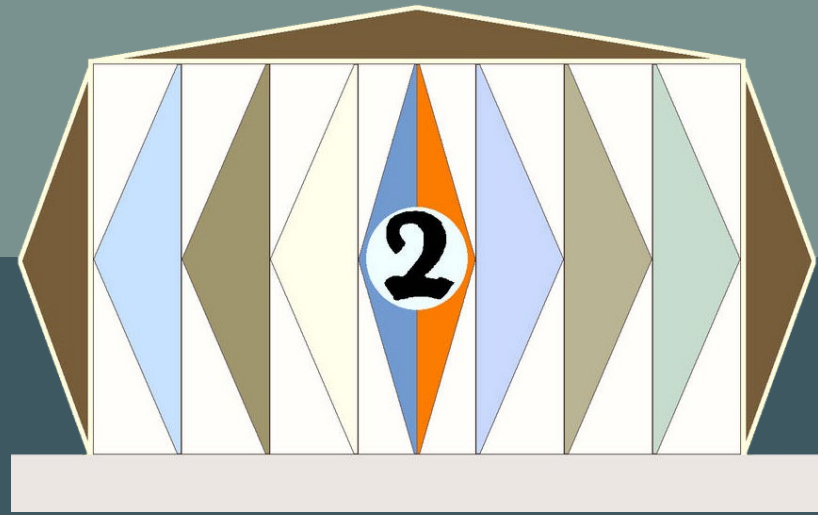


**Kris is entitled to 2 additional weeks
of PLO and up to 4 more weeks of
unpaid OFLA.**

You receive a letter from Paid Leave Oregon notifying you that one of your employees has filed for PLO benefits. The employee has not requested OFLA or FMLA. Do you need to offer OFLA or FMLA?

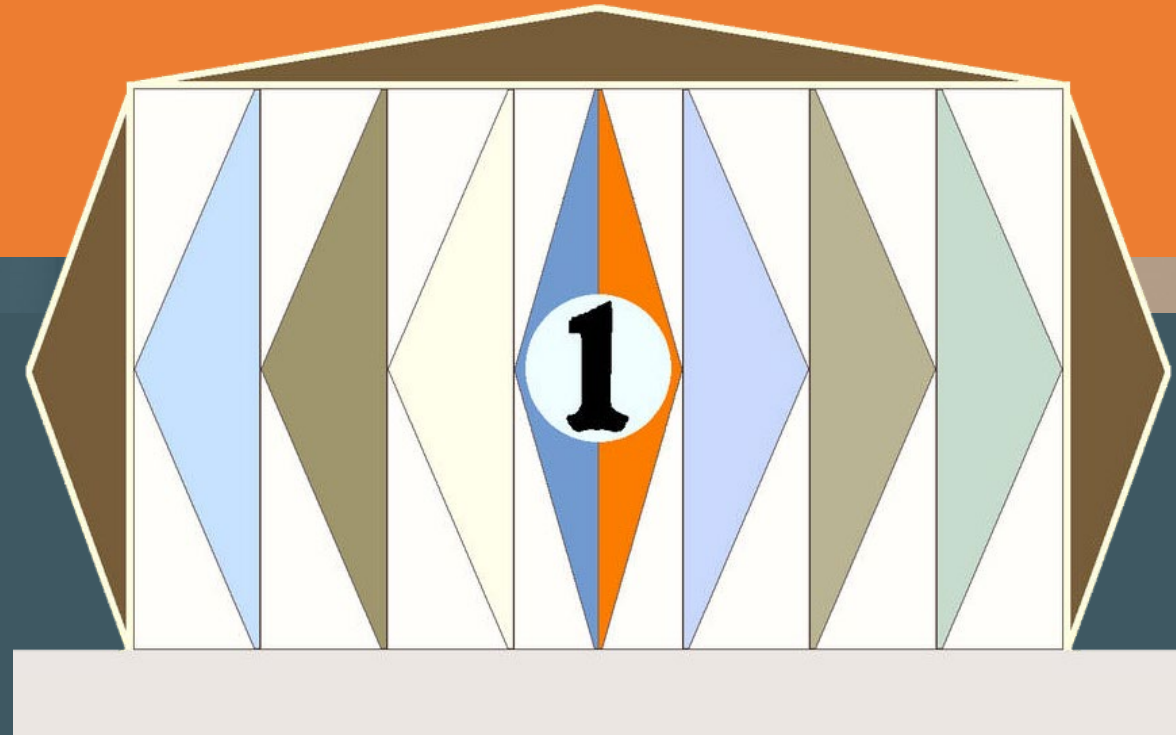


Yes. The employer is responsible to properly designate and apply OFLA/FMLA so that it will run concurrently.



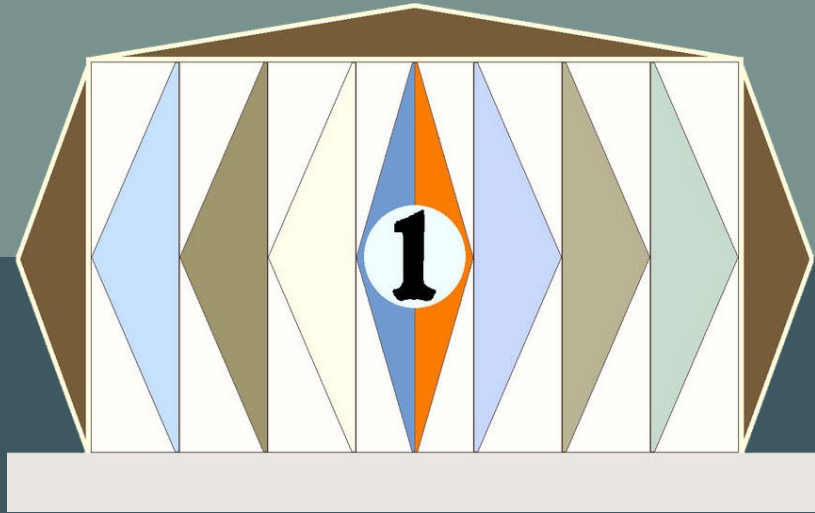
No. It is the employee's responsibility to specifically request OFLA and FMLA.

And the answer is...

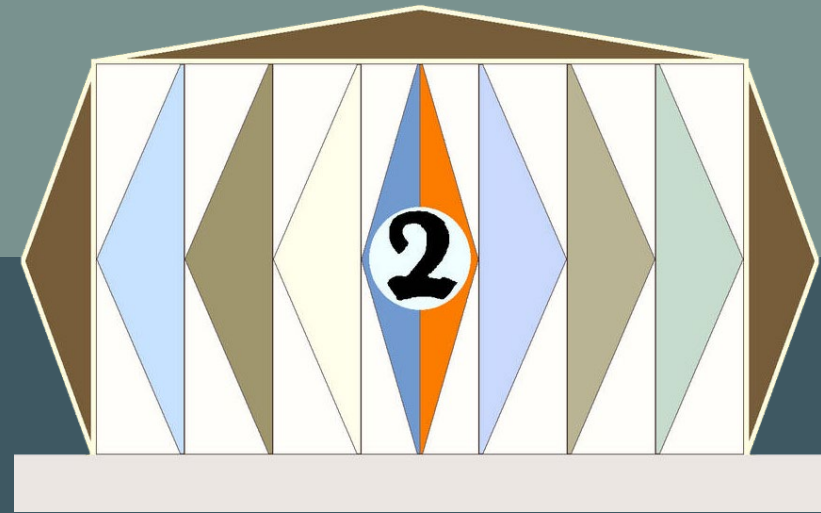


Yes. The employer is responsible to properly designate and apply OFLA/FMLA so that it will run concurrently.

Teresa is a store clerk who lives and works in Oregon. On January 1, 2024, Teresa tells you that her spouse was in a car accident, and she needs 10 weeks off to care for him, beginning immediately. The company uses a look-forward leave year for all leaves. Teresa is eligible for OFLA, FMLA, and PLO and has not taken any leave in the past 12 months. Can you require Teresa to take the 10 weeks of leave concurrently under all three leave laws?

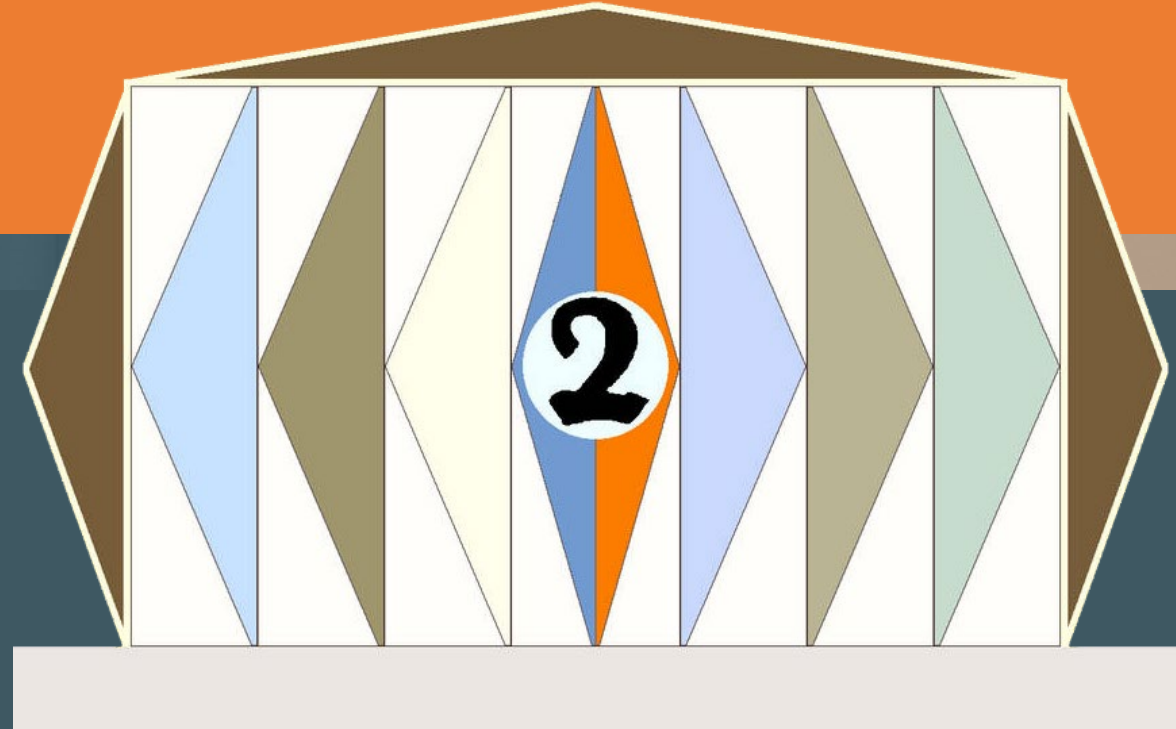


Yes, you can require Teresa to take OFLA, FMLA, and PLO concurrently.



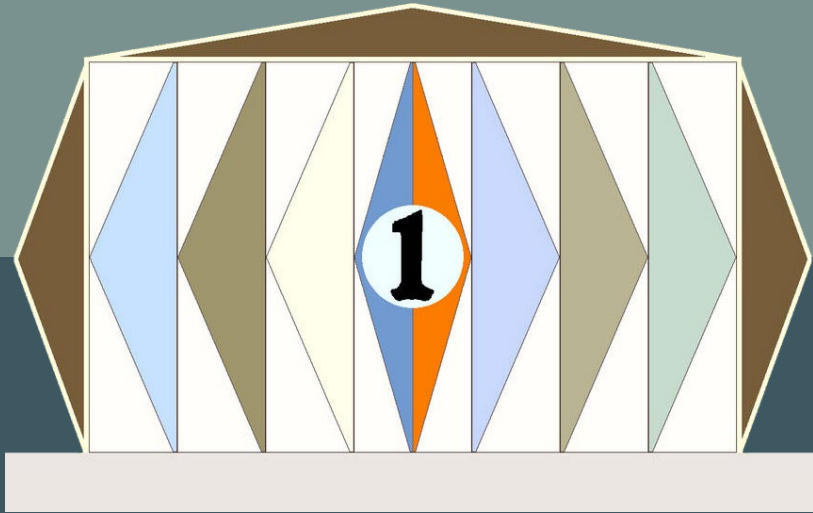
No, you cannot *require* concurrent PLO leave. But if Teresa chooses to take PLO, that leave runs concurrent with OFLA and FMLA.

And the answer is...

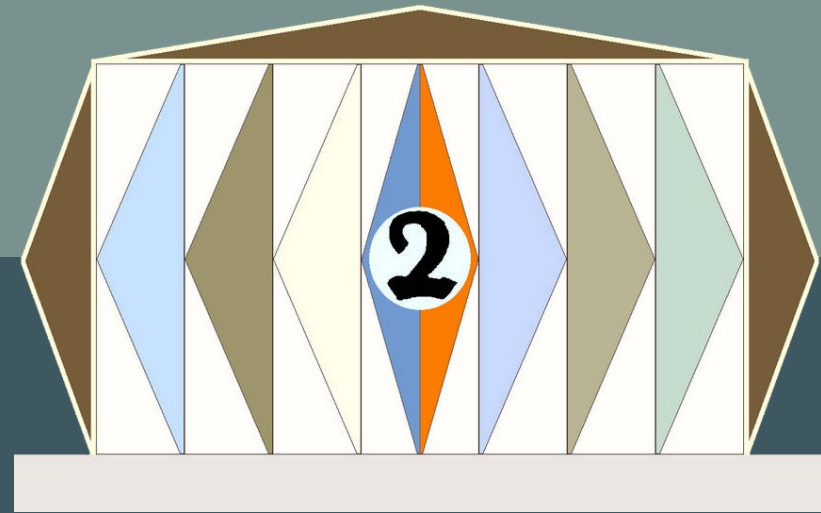


No, you cannot *require* concurrent PLO leave. But if Teresa chooses to take PLO, you can run that leave concurrent with OFLA and FMLA.

Teresa does not apply for PLO, but uses 10 weeks of unpaid OFLA/FMLA leave. In June 2024, Teresa applies for PLO and tells you that she needs an additional 12 weeks of leave to care for her own serious health condition. How much additional leave is Teresa entitled to?

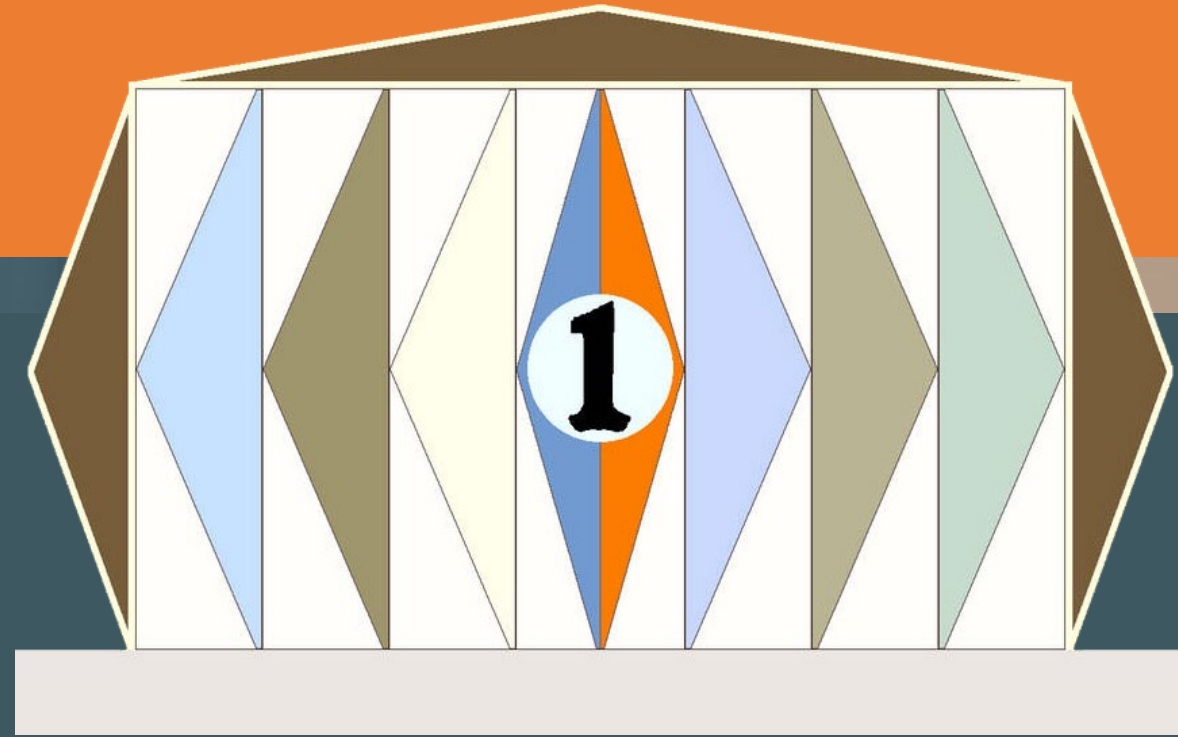


Teresa is entitled to 12 additional weeks of paid leave, for a total of 22 weeks of leave during the calendar year.



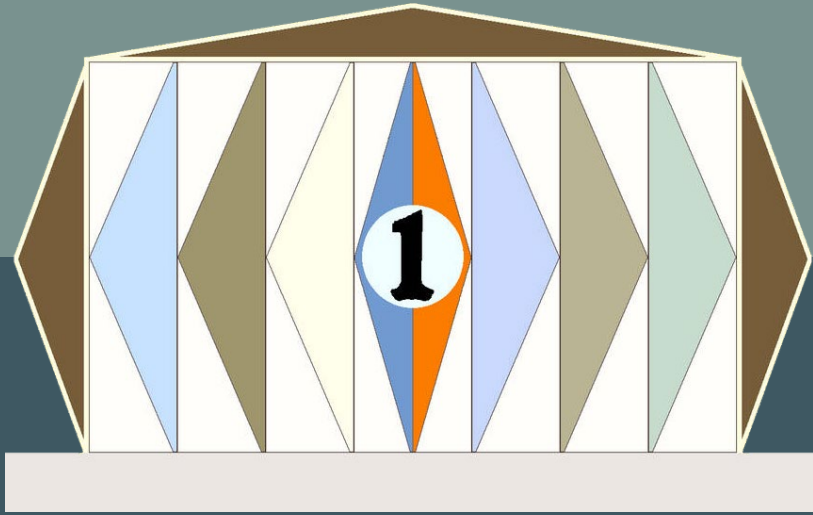
Teresa is entitled to six (6) additional weeks of leave, all of which is paid.

And the answer is...

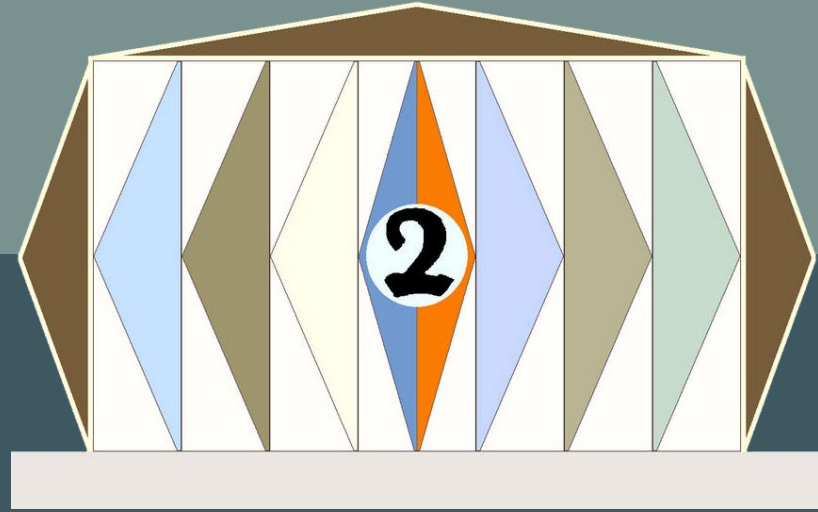


Teresa is entitled to 12 additional weeks of paid leave (which would run concurrent with OFLA), for a total of 22 weeks of leave during the calendar year.

Same facts as example 1. In January 2025, Teresa tells you that she needs additional leave for her own serious health condition. How much additional leave, if any, is Teresa entitled to?

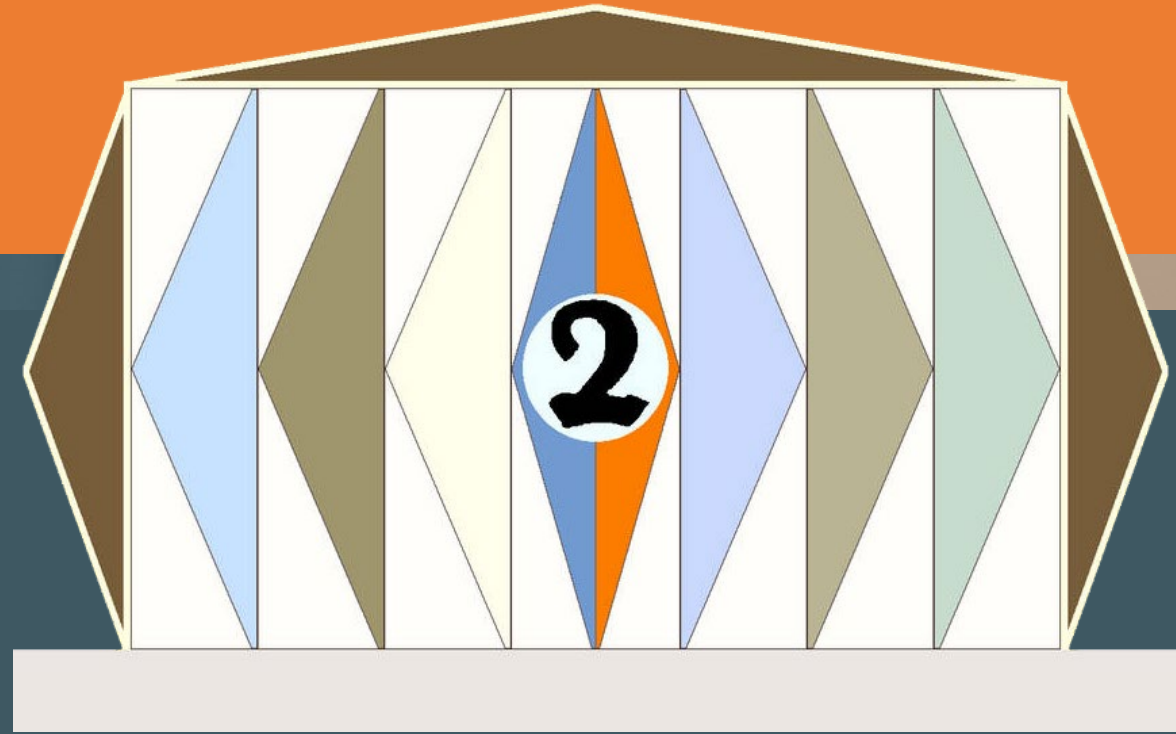


None.
Teresa has exhausted all available leave.



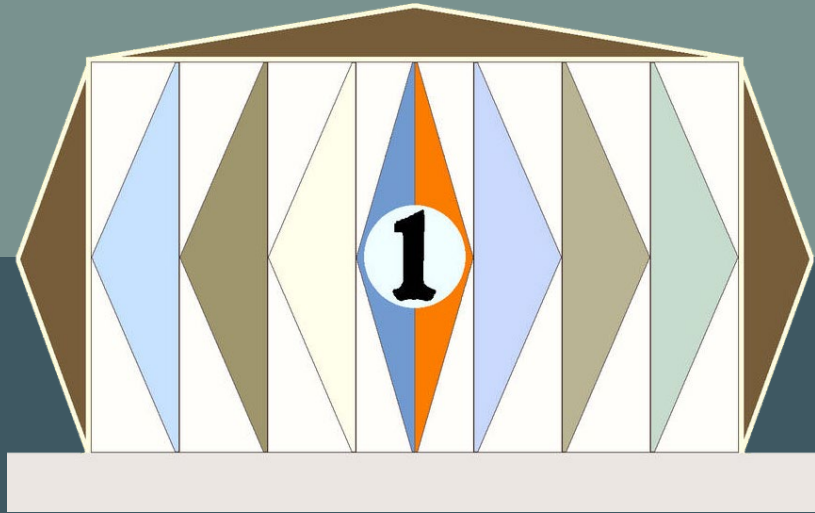
Teresa is entitled to four (4) additional weeks of unpaid OFLA leave. She may also be entitled to additional unpaid leave as a disability accommodation.

And the answer is...

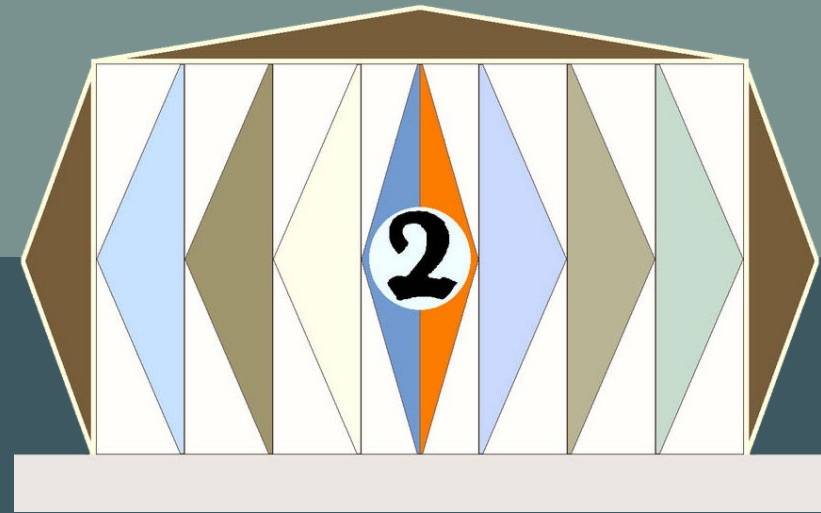


Teresa is entitled to 4 additional weeks of unpaid OFLA leave. She may also be entitled to additional unpaid leave as a disability accommodation.

In January – May 2024, Taylor takes 16 weeks of PLO and OFLA/FMLA to care for their own serious health condition. In July 2024, Taylor lets you know they need to take additional leave for limitations related to pregnancy. How much additional leave is Taylor entitled to?

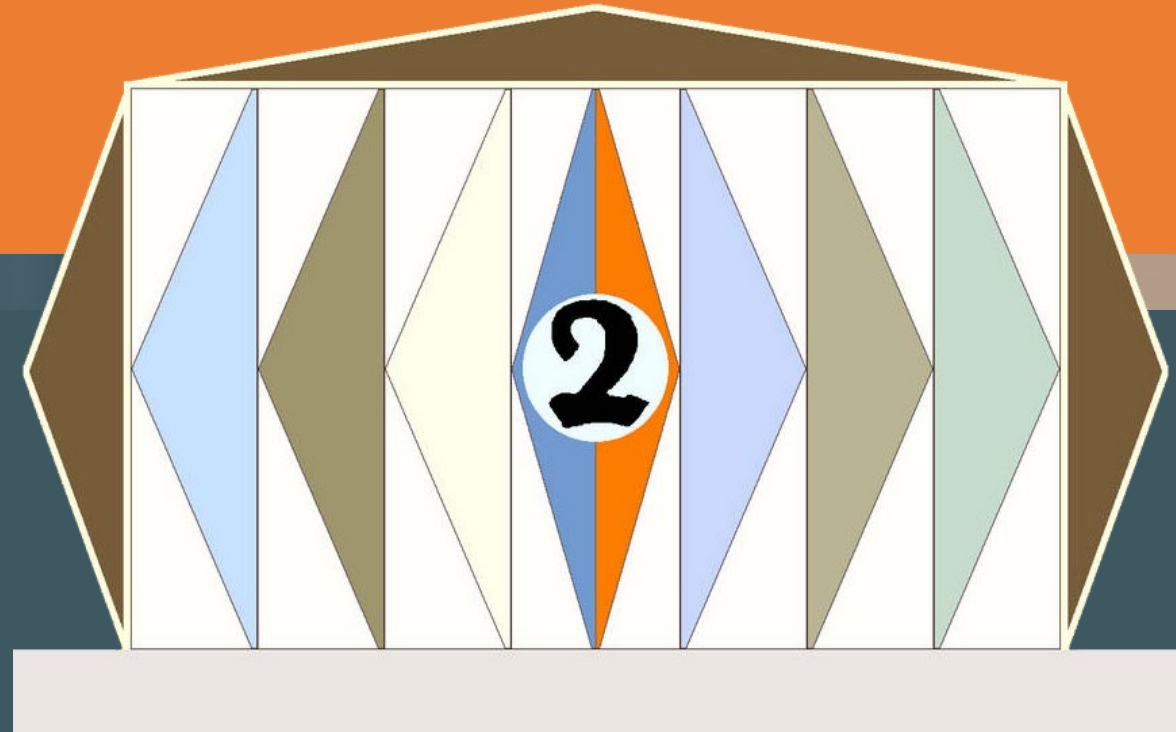


None. Taylor has exhausted all available leave.



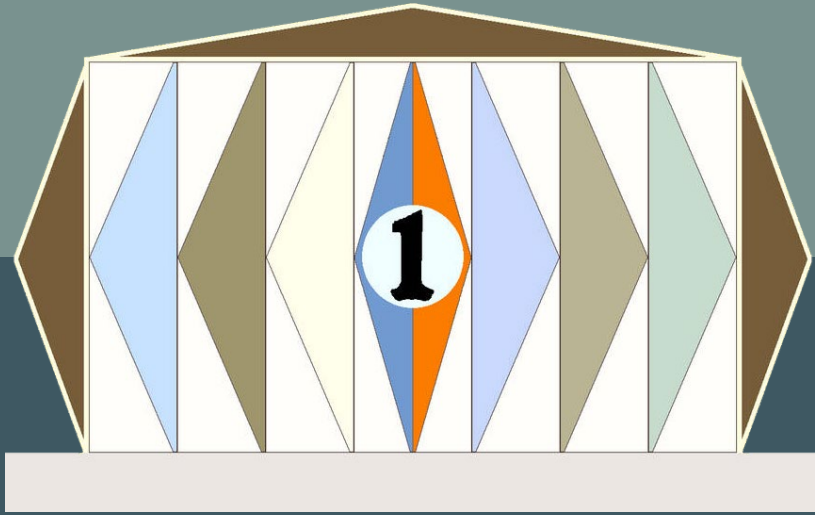
At least 2 additional weeks of leave because the ordinary 16-week PLO and OFLA cap expands to allow for two additional weeks of pregnancy-disability leave.

And the answer is...

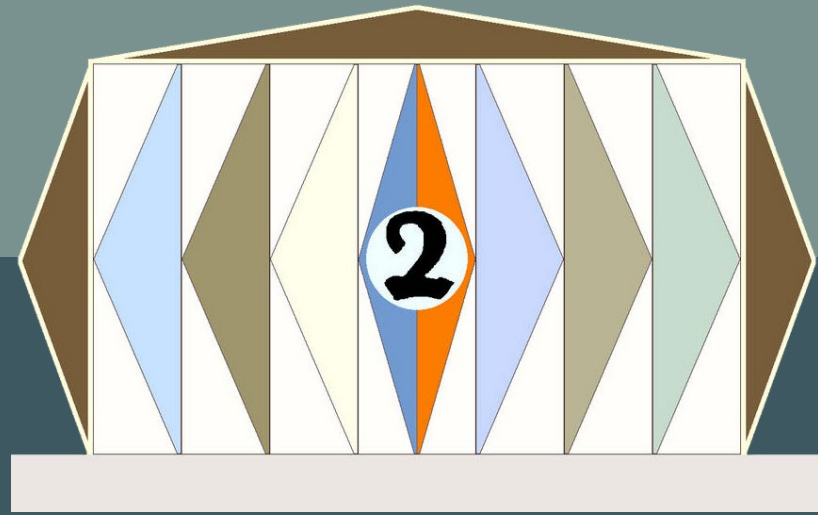


At least two additional weeks of leave because the ordinary 16-week PLO and OFLA cap expands to allow for two additional weeks of pregnancy-disability leave.

Fast forward to July 2025, Taylor applies for intermittent parental PLO leave. In the past, your company has not allowed intermittent leave for OFLA and FMLA. Is the employer required to allow intermittent parental leave under PLO now?

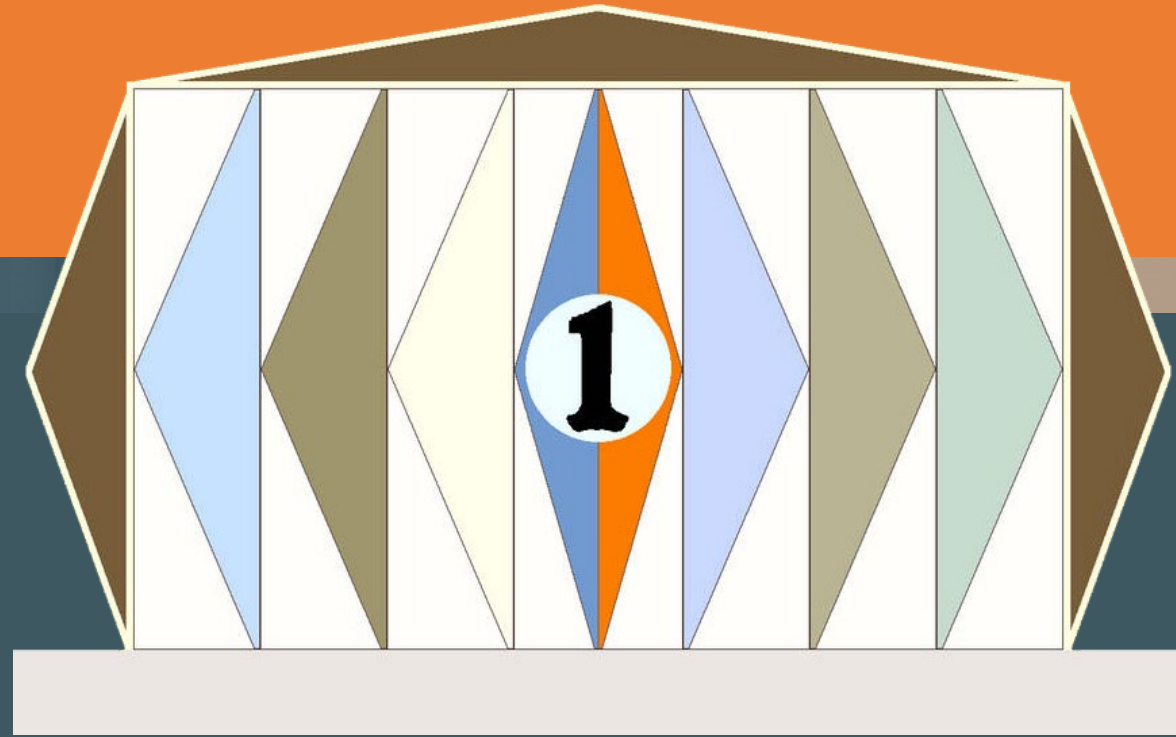


Yes, PLO must be allowed to be taken intermittently.



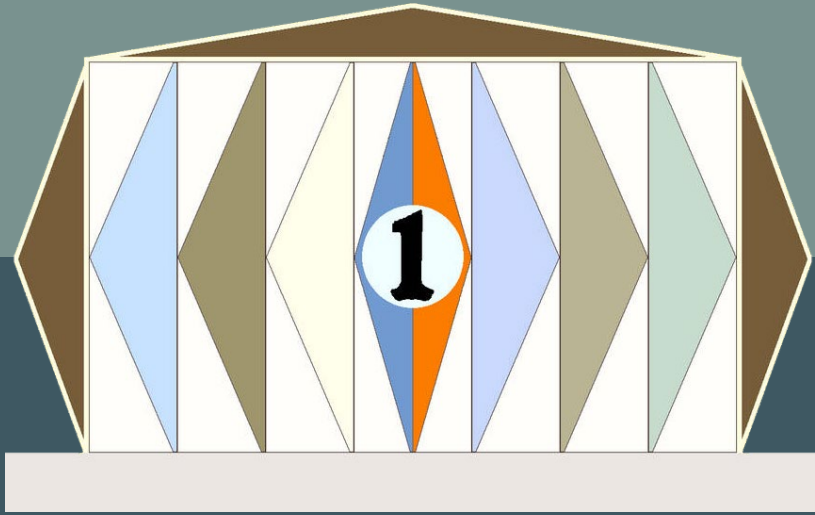
No, PLO cannot be taken intermittently for parental leave.

And the answer is...

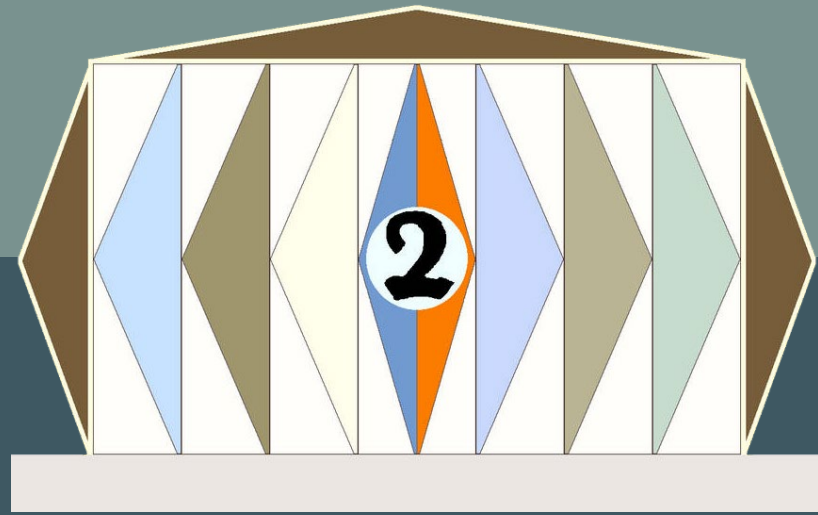


Yes. PLO may be taken intermittently
in increments of not less than one
full day.

Sam, a full-time accounting assistant for a Washington-based company with 26 employees total. He lives in Oregon and regularly works from home 3 days per week. Sam breaks his leg while playing baseball one evening after work and will be recovering from emergency surgery for the next 3 weeks. For purposes of paid leave, are Sam's wages and hours reportable to Oregon or Washington?

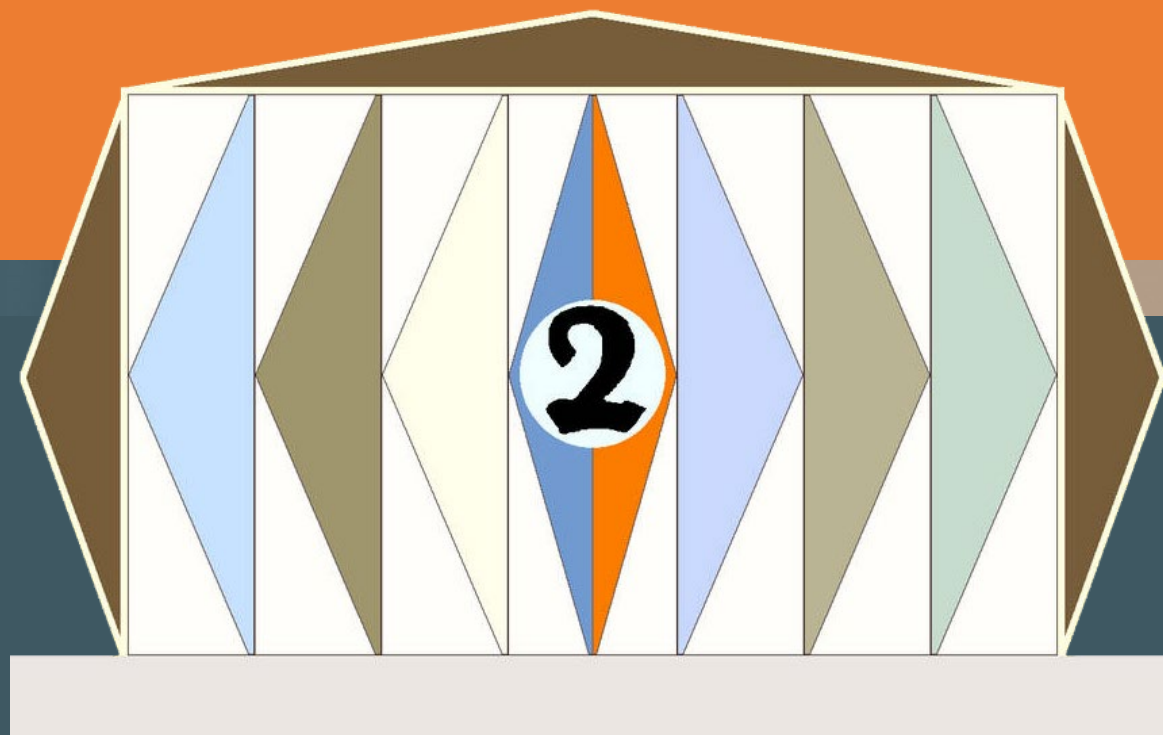


Oregon.



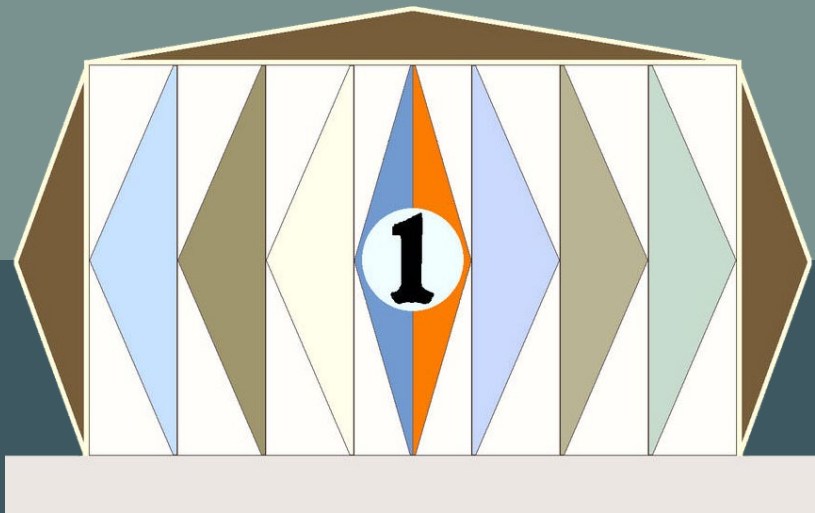
Washington.

And the answer is...

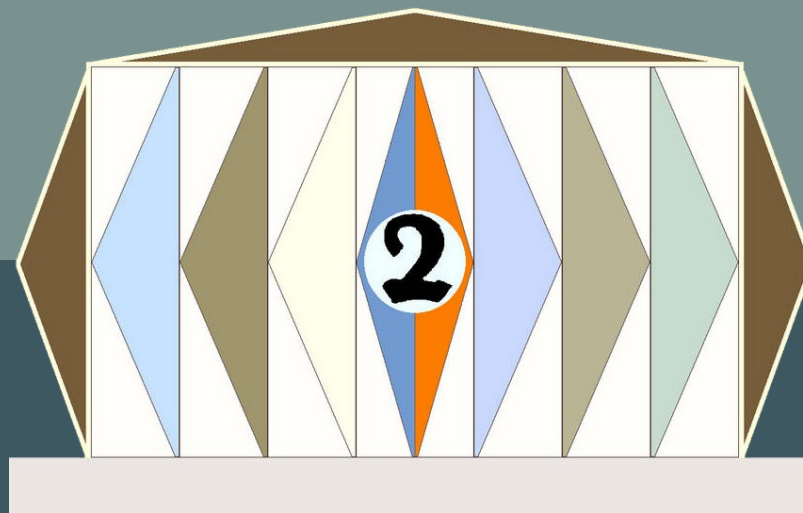


Washington.

What leave is Sam entitled to?

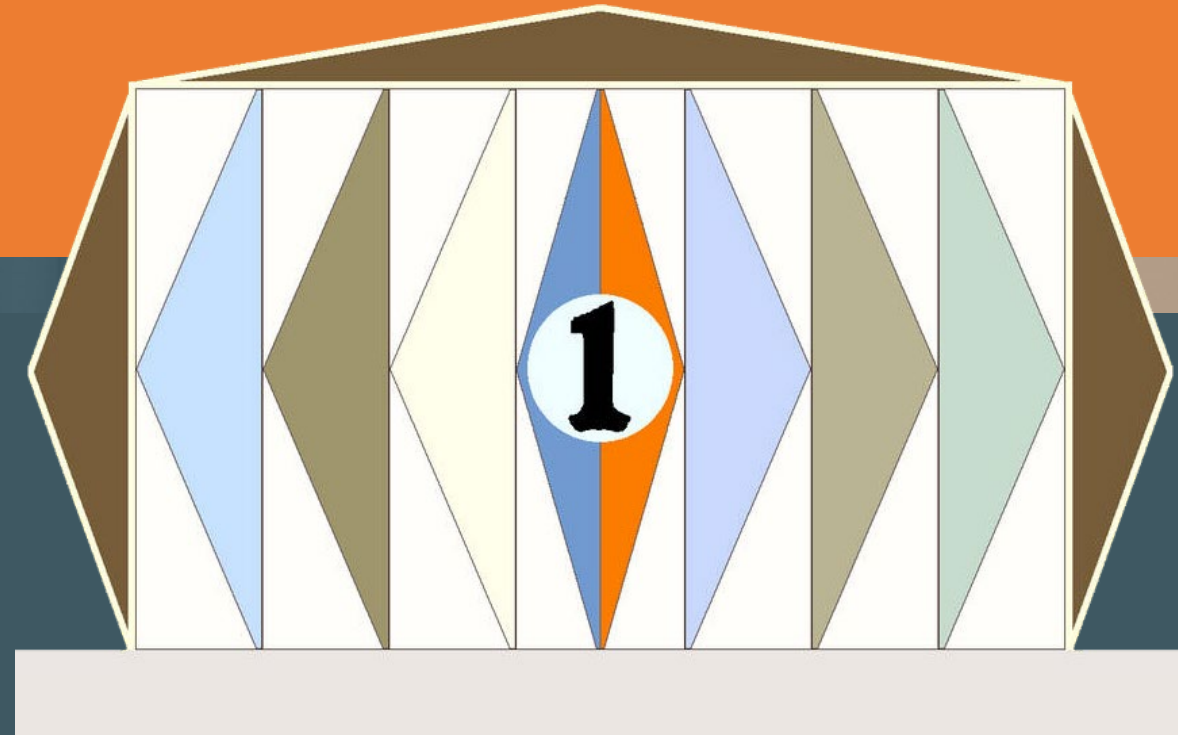


Sam is eligible for WAPFML and must be provided notice of his eligibility for leave. His job is only protected if he applies and is approved for WAPFML leave.



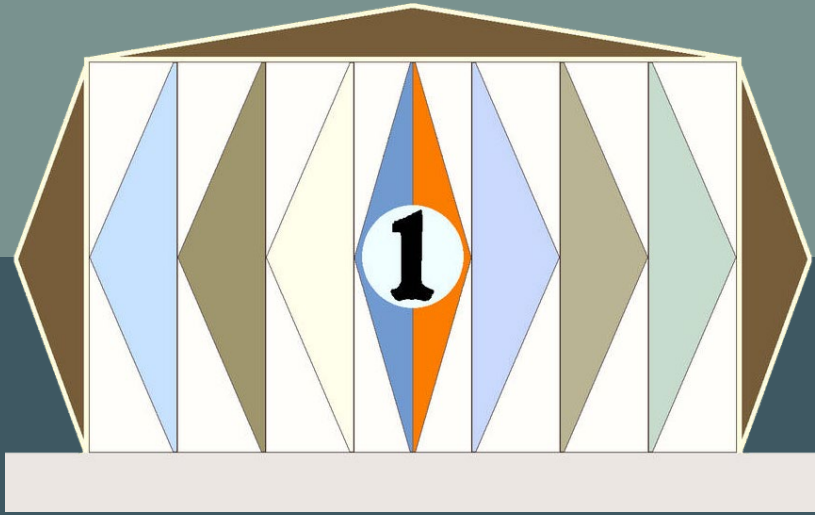
Sam is eligible for both WAPFML and FMLA, which will automatically run concurrently.

And the answer is...

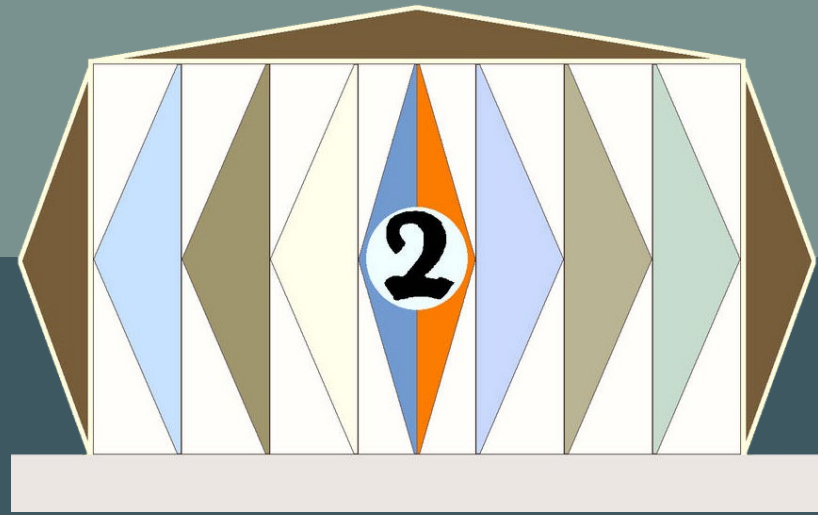


Sam is eligible for WAPFML benefits and must be provided notice. His job is protected if he applies and is approved for WAPFML leave.

Gretchen requests 8 weeks off to take care of her grandmother who is recovering from a stroke. She has exhausted sick leave, has only 1 day of vacation remaining for the year, and while eligible has not used FMLA. What is she entitled to?

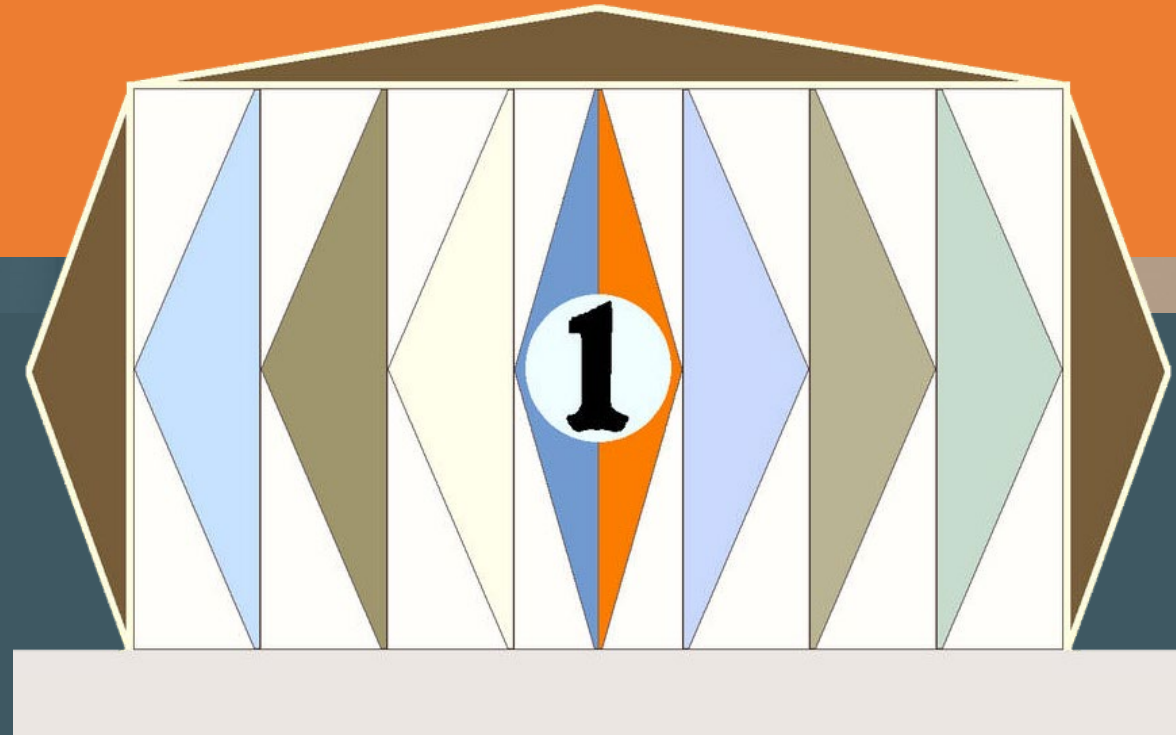


**Gretchen is entitled to
WAPFML only.**



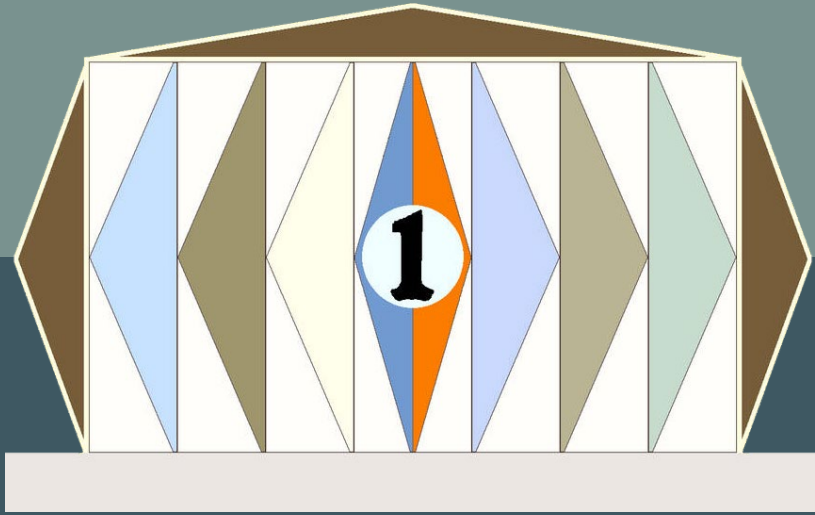
**Gretchen is entitled to
8 weeks of both WAPFML
and FMLA, which run
concurrently.**

And the answer is...

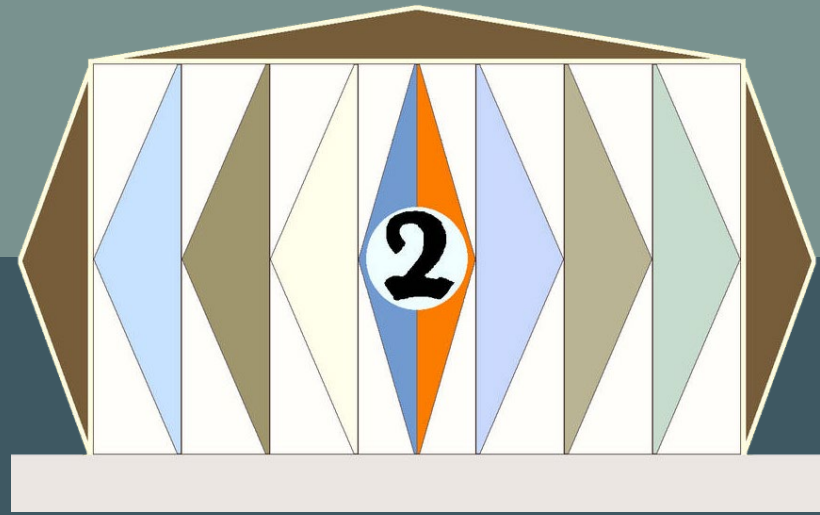


WAPFML only applies.

Parker works in Washington and requests WAPFML leave to take care of her roommate who has a serious medical condition. Is that a qualifying reason for protected medical leave?

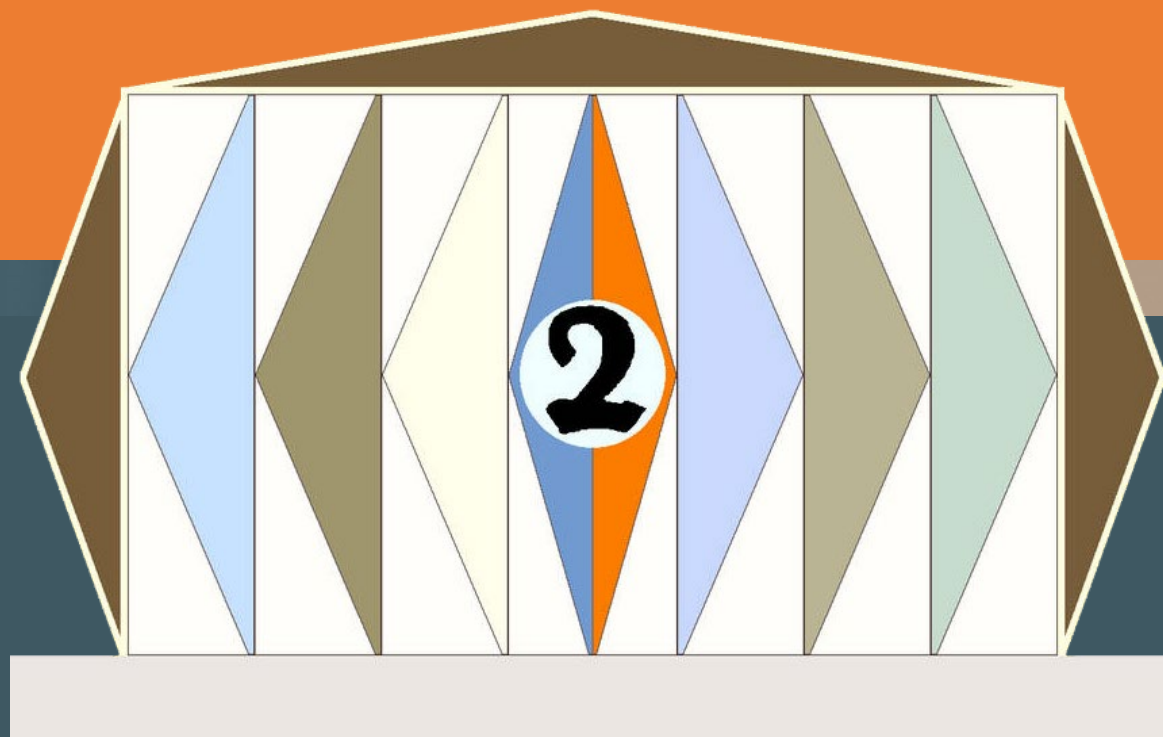


No.



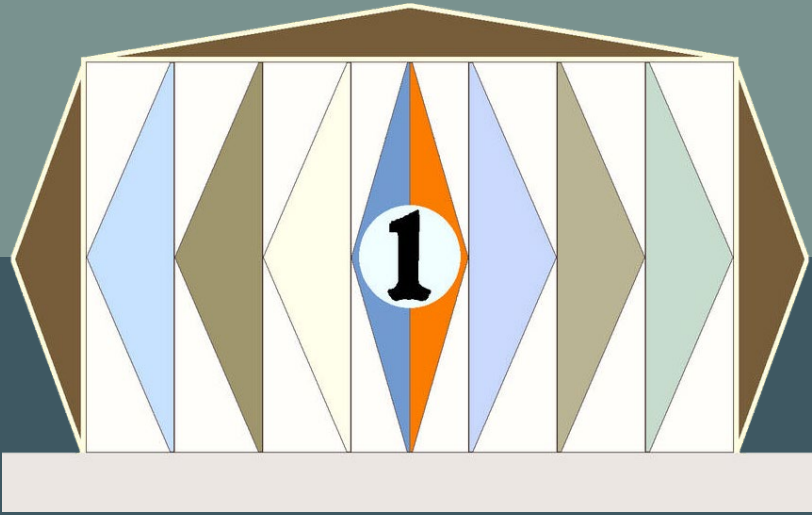
Yes.

And the answer is...

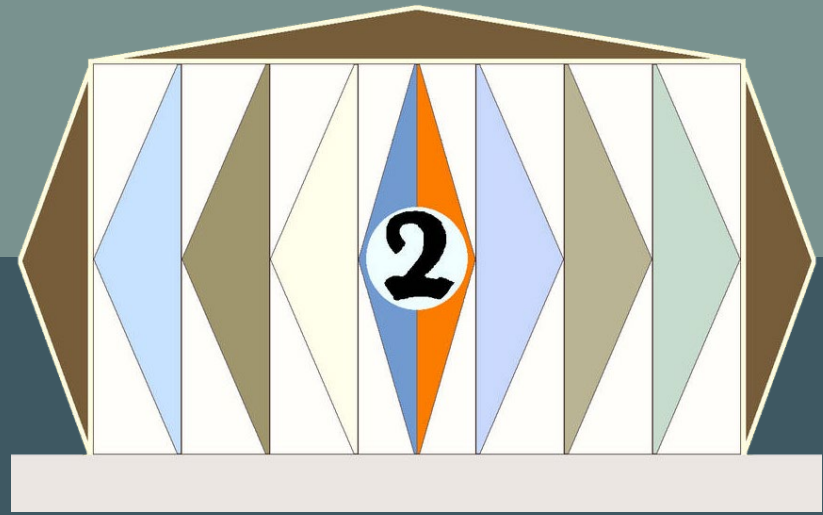


Yes.

Shannon works for an employer located in Oregon but works remotely from a home office in Kalama. Shannon goes occasionally into the office for meetings, but otherwise works almost exclusively from home. Does Shannon's employer make the necessary contributions to PLO or WAPFML?

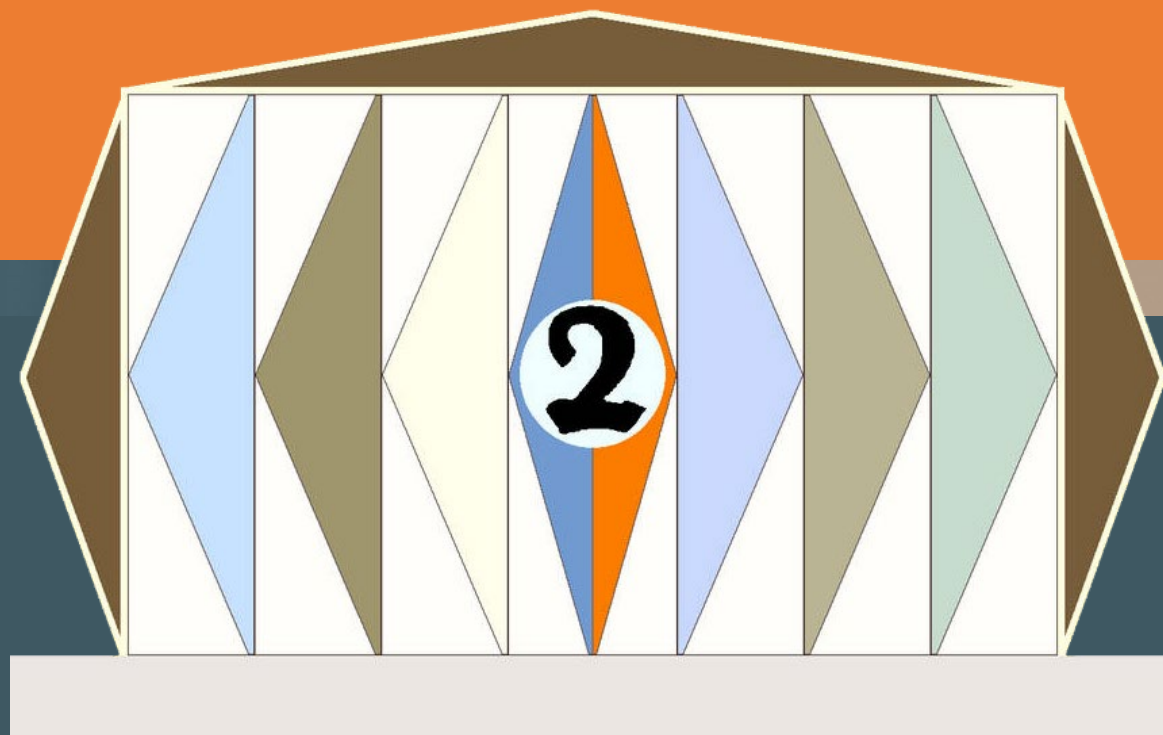


Paid Leave Oregon.



Washington PFML.

And the answer is...



Washington PFML.