

Welcome!

We'll begin shortly, but first, a few reminders:

- **There is no dial-in number** for this webinar. Please use your computer or mobile device for audio.
- If you are experiencing audio or video difficulties, refresh your browser or open a new session.
- Use **Google Chrome**, if possible, for a better overall experience.
- Use the **Q&A box** to ask questions anytime during today's webcast (lower left of your console.)



National Webinar Series

Absence Management Academy

Paid Family & Medical Leave 101

Wednesday, March 24, 2021
12 – 1 pm ET

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Today's session qualifies for one professional development credit with SHRM and HRCI

IMPORTANT: We will provide you with the SHRM & HRCI codes at the end of today's session.



Today's Speakers



Sarah Wisor

Senior Compliance Counsel



Margaret Guerrette, J.D.

Manager, Group Products



Today's Syllabus

1. Disability & PFML – Past, Present & Future
2. Anatomy of a Disability/PFML Law
3. Test Your Knowledge
4. Q&A

Fun Fact:

California was the first state to authorize voluntary plans for disability insurance coverage!





Disability & PFML: Past, Present & Future

Disability & PFML Law: Past, Present & Future

Paving the way: history of state-mandated disability insurance

1942 - Rhode Island enacts first mandatory non-occupational disability benefits law: Temporary Disability Insurance Act (TDI)

1946 - California enacts State Disability Insurance (SDI)

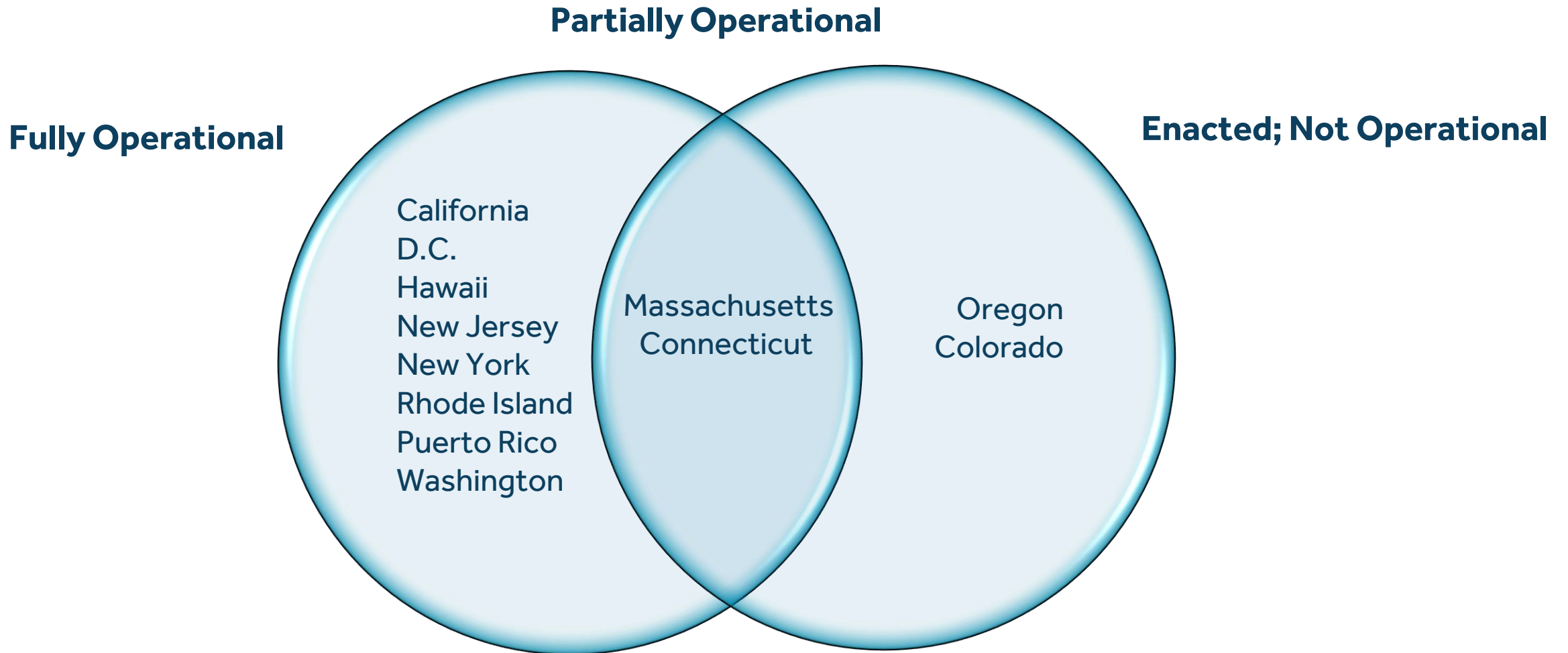
1948 - New Jersey enacts Temporary Disability Benefits law (TDB)

1949 - New York enacts Disability Benefits Law (DBL)

1968 - Puerto Rico enacts El Seguro por Incapacidad No Ocupacional Temporal law (SINOT)




1969 - Hawaii enacts Temporary Disability Insurance law (TDI)

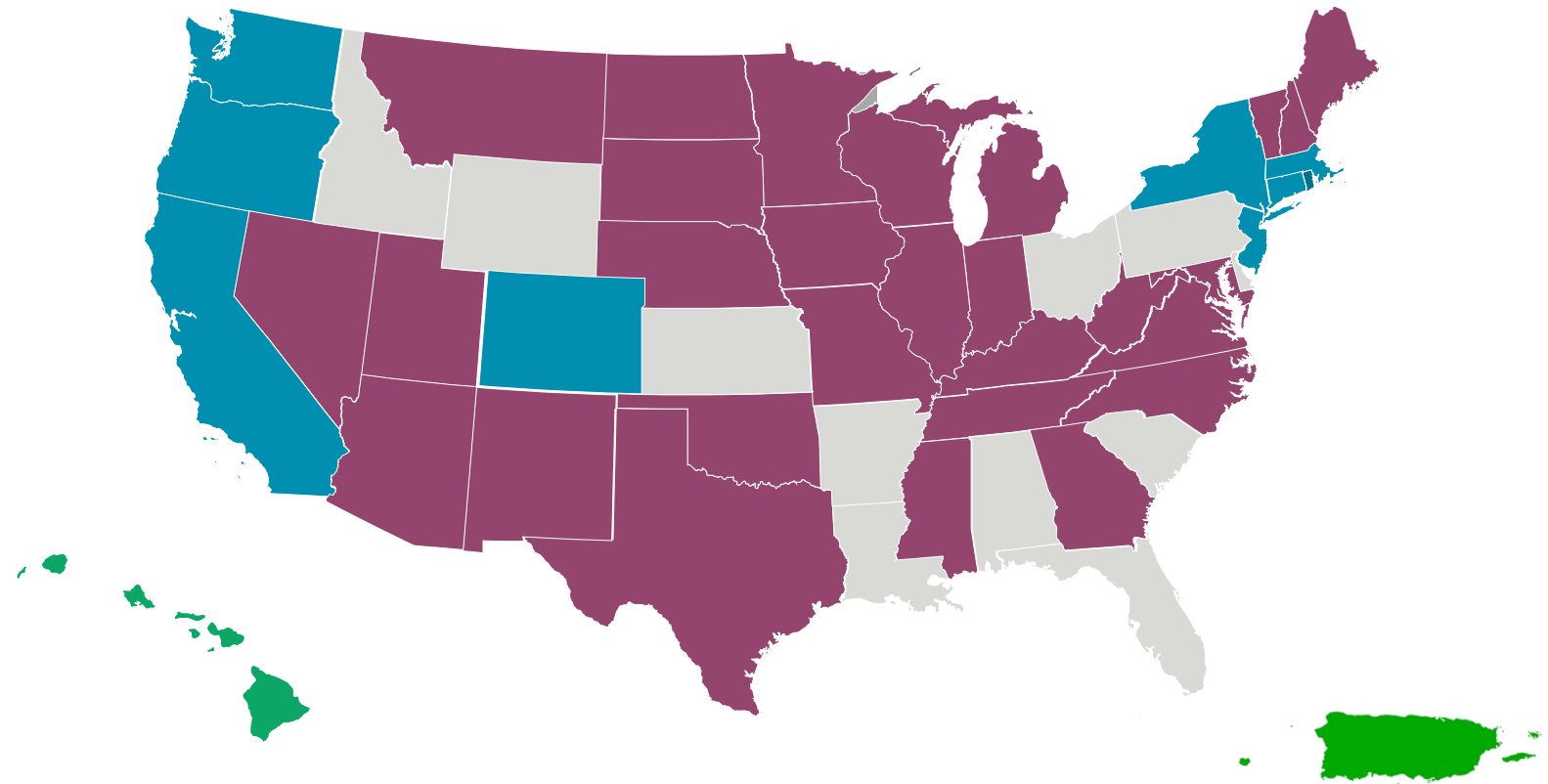
Current state of DI and PFML programs



Disability & PFML Law: Past, Present & Future

Introduced & enacted legislation

-  Jurisdictions with mandatory temporary disability insurance only
-  Jurisdictions with PFML programs
-  States with pending PFML legislation or prior unsuccessful initiatives





Anatomy of a DI/PFML Law

Anatomy of a DI/PFML Law

An act relative to Paid Family and Medical Leave

- 1** Program Structure (disability only, separate disability & PFL laws, combined PFML law)
- 2** Employer Coverage (private v. public, employer size threshold, self-employed)
- 3** Employee Eligibility Criteria (qualifying wages earned, length of service, hours worked)
- 4** Qualifying Leave Reasons
- 5** Covered Family Relationships
- 6** Funding Scheme

Anatomy of a DI/PFML Law

An act relative to Paid Family and Medical Leave

7 Waiting Period

10 Permissibility of Private Plans

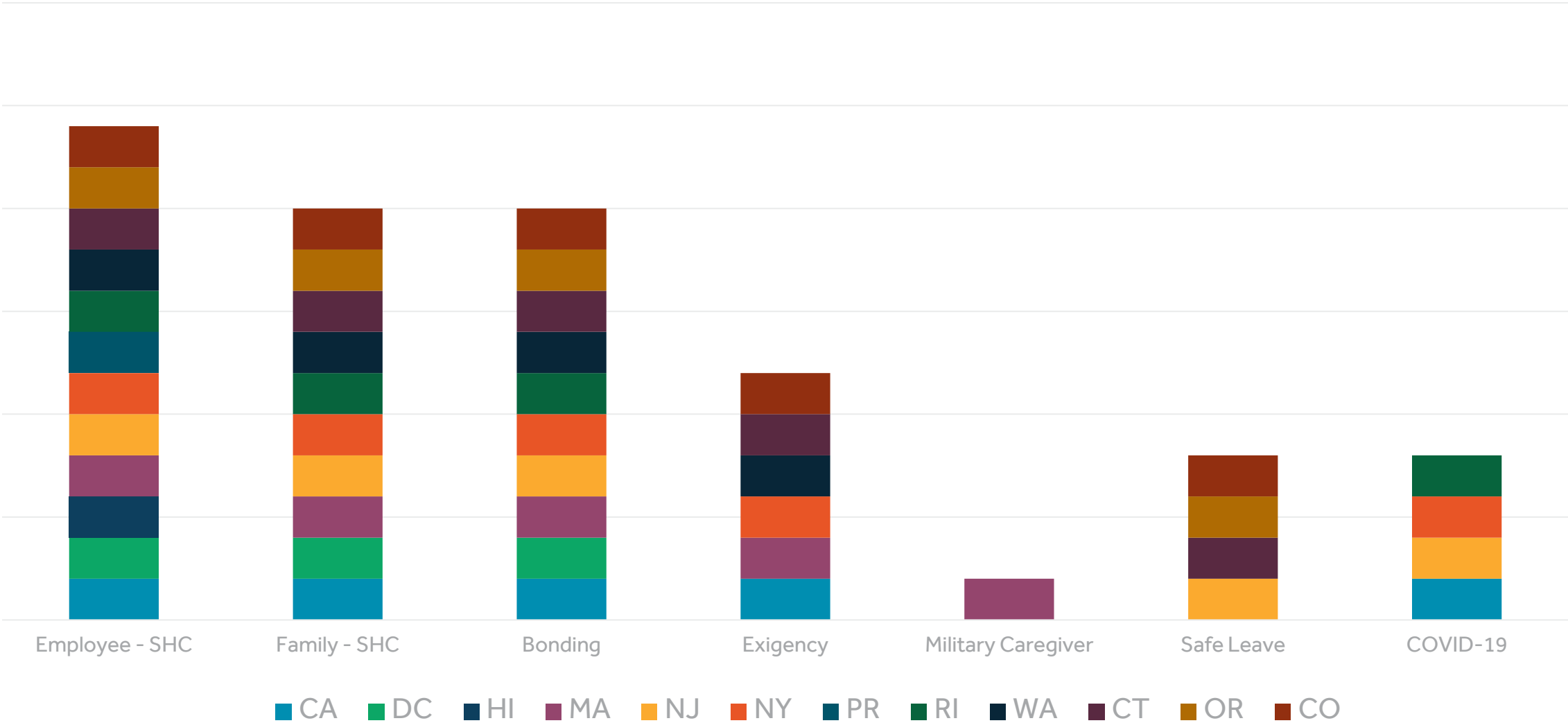
8 Length of Paid Leave Benefit

11 Job Protection Provisions

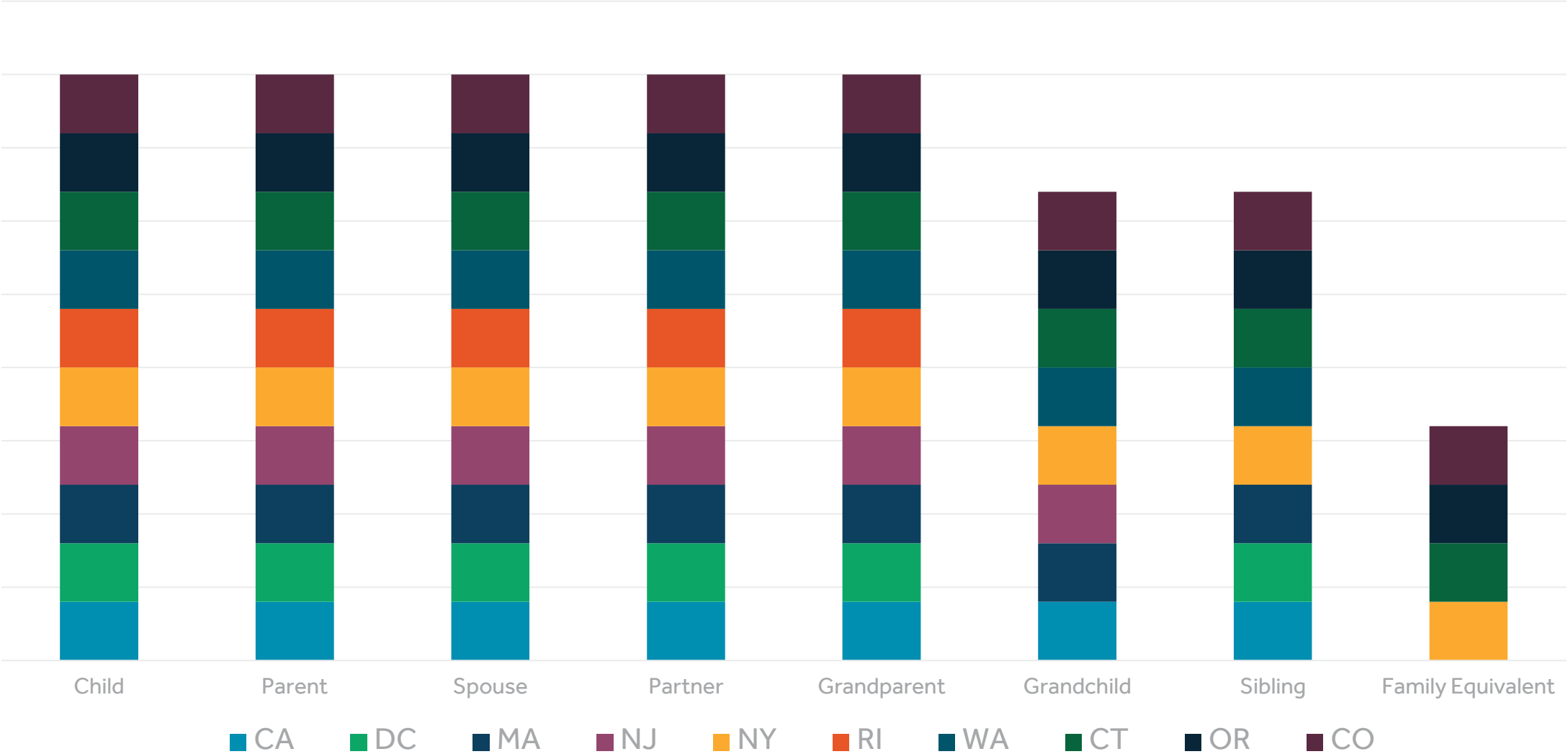
9 Weekly Benefit Amount Calculation

12 Lead Time on Commencement of Contributions and Benefits

Qualifying Leave Reasons



Covered Relationships for Family Care



Funding Scheme

- Employee only
 - California, Rhode Island, Connecticut
- Employer only
 - District of Columbia
- Employee/employer split
 - Majority of jurisdictions
- Exemptions from employer contributions
 - WA - fewer than 50 employees
 - OR - fewer than 25 employees
 - CO - fewer than 10 employees



Funding Scheme

- Contribution calculated using % of employee's covered earnings
- Total contribution typically subject to a cap, such as Social Security cap
- Contribution rates subject to periodic adjustment
- Employers may contribute to or cover cost of employee premium
- Funding scheme for disability may differ from paid family leave



For 2021, California employers contribute between 0.1% to 0.75% of the first \$36,200 earned by each employee during the calendar year...

Waiting Period

- Waiting period prior to qualification for paid leave benefits
 - 7 days is “normal” duration for waiting period
 - Imposition of waiting period may vary by leave reason
 - Disability v. family care
 - Bonding sometimes given preferential treatment
- May be retroactively payable if length of leave exceeds certain duration
- May be limited to one waiting period per benefit/claim year
- May be waived in state of emergency if COVID-19 related
- May count towards overall weeks of benefit entitlement (MA PFML)



Length of Paid Leave Benefits

- Length of paid leave benefits varies widely
 - Ranges from 2 weeks (D.C. medical leave) to 52 weeks (CA SDI)
- May differ by leave reason
- Extra paid leave benefits if employee experiences limitations related to pregnancy, childbirth, or a related medical condition
 - Additional 2 weeks: Washington, Connecticut, Oregon
 - Additional 4 weeks: Colorado
- Total disability and family and medical leave may be subject to combined cap



Weekly Benefit Amount Calculation

- Usually a calculation involving percentage of employee's average weekly wage during base period and state average weekly wage
- Weekly benefit amounts vary significantly
 - High: California 2021 maximum weekly benefit amount is \$1,357
 - Low: New York 2021 maximum weekly benefit amount for disability is \$170
- Typically subject to a cap that is periodically adjusted

Calculation Example

The portion of an employee's average weekly wage (AWW) that is equal to or less than 50% of the state AWW is paid at 80%.

The portion of an employee's AWW that is more than 50% of the state AWW is paid at 50%, up to maximum weekly benefit amount.

Are Private Plans Permissible?

- Also known as “voluntary plans” or “equivalent plans”
- State-Administered v. Private Plans
 - State-administered only
 - District of Columbia
 - Rhode Island
 - State-mandated self-insured or insured plans but no state-administered plan
 - Hawaii
 - New York
 - State-administered plan plus private plans (self-insured and/or insured)
 - All other jurisdictions



Typical Private Plan Requirements

- Must apply for approval by state authority
- Must post surety bond for self-insured plans
- Voluntary plan must provide:
 - Equal or greater length of paid leave benefits
 - Equal or greater level of wage replacement benefits
 - Coverage for the same qualifying leave reasons (greater coverage is encouraged)
 - Inclusion/coverage of future employees
- Voluntary Plan cannot:
 - Impose additional conditions or restrictions on use of PFML
 - Cost employees more than the state plan premium amount

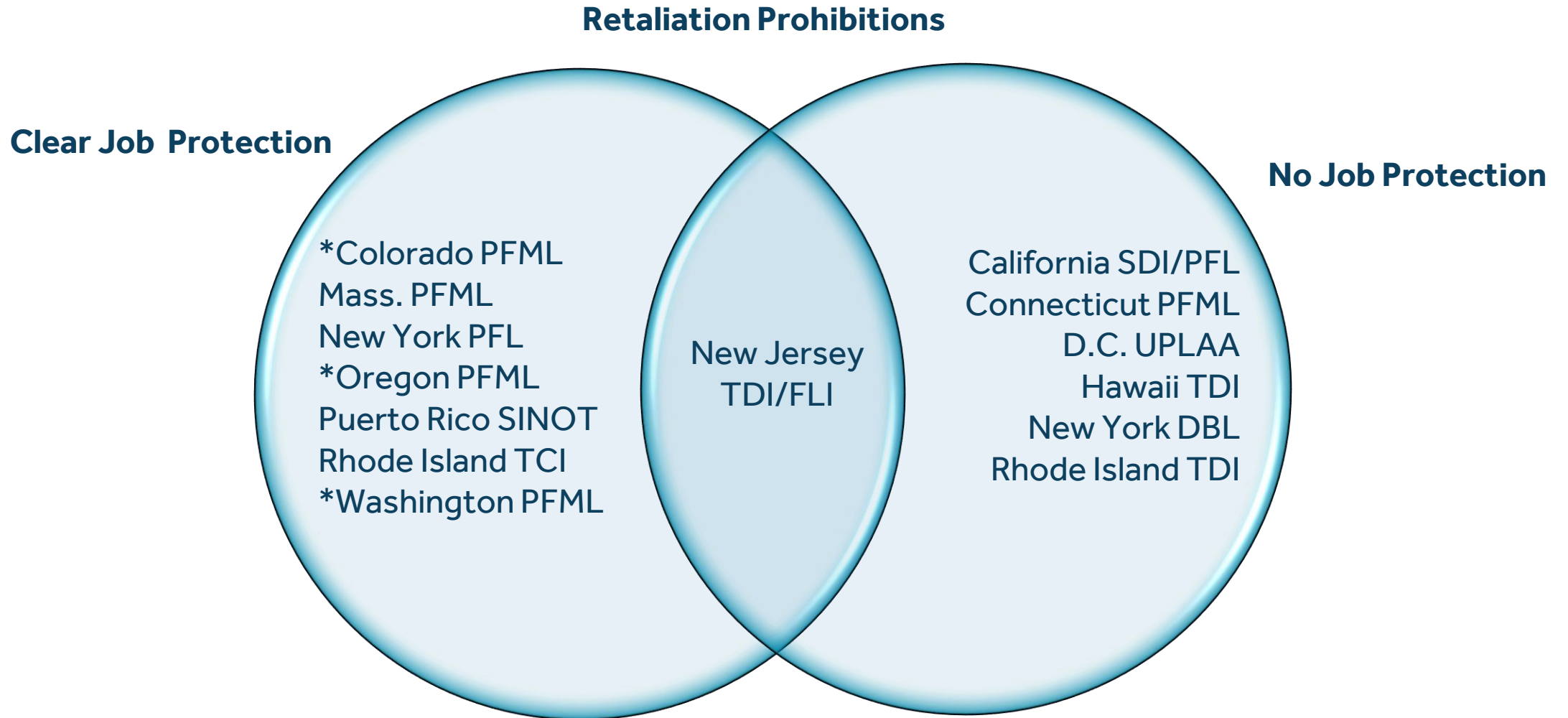


Typical Private Plan Requirements

- Majority vote requirement?
 - For plan approval:
 - Connecticut
 - California (51% written consent)
- Employees are required to contribute to cost of plan:
 - New Jersey



Job Protection Provisions





Test Your Knowledge

Test Your Knowledge: Question 1

An employee lives in New Jersey but works onsite for an employer in New York.

Which state PFML program applies to them?



Test Your Knowledge

Question 1

- An employee lives in New Jersey but works onsite for an employer in New York. Which state PFML program applies to them?
-

- Possible Answer:
 - New Jersey
 - New York
 - Both
 - Neither

Test Your Knowledge: Question 2

A part time employee is never eligible for state PFML programs.

True or False?



Test Your Knowledge

Question 2

- A part time employee is never eligible for state PFML programs.
-

- Possible Answer:
 - True
 - False

Test Your Knowledge: Question 3

An employee is receiving both short-term disability benefits and paid medical leave through the state.

Will their STD benefit be offset (reduced) by the paid medical leave benefit?



Test Your Knowledge

Question 3

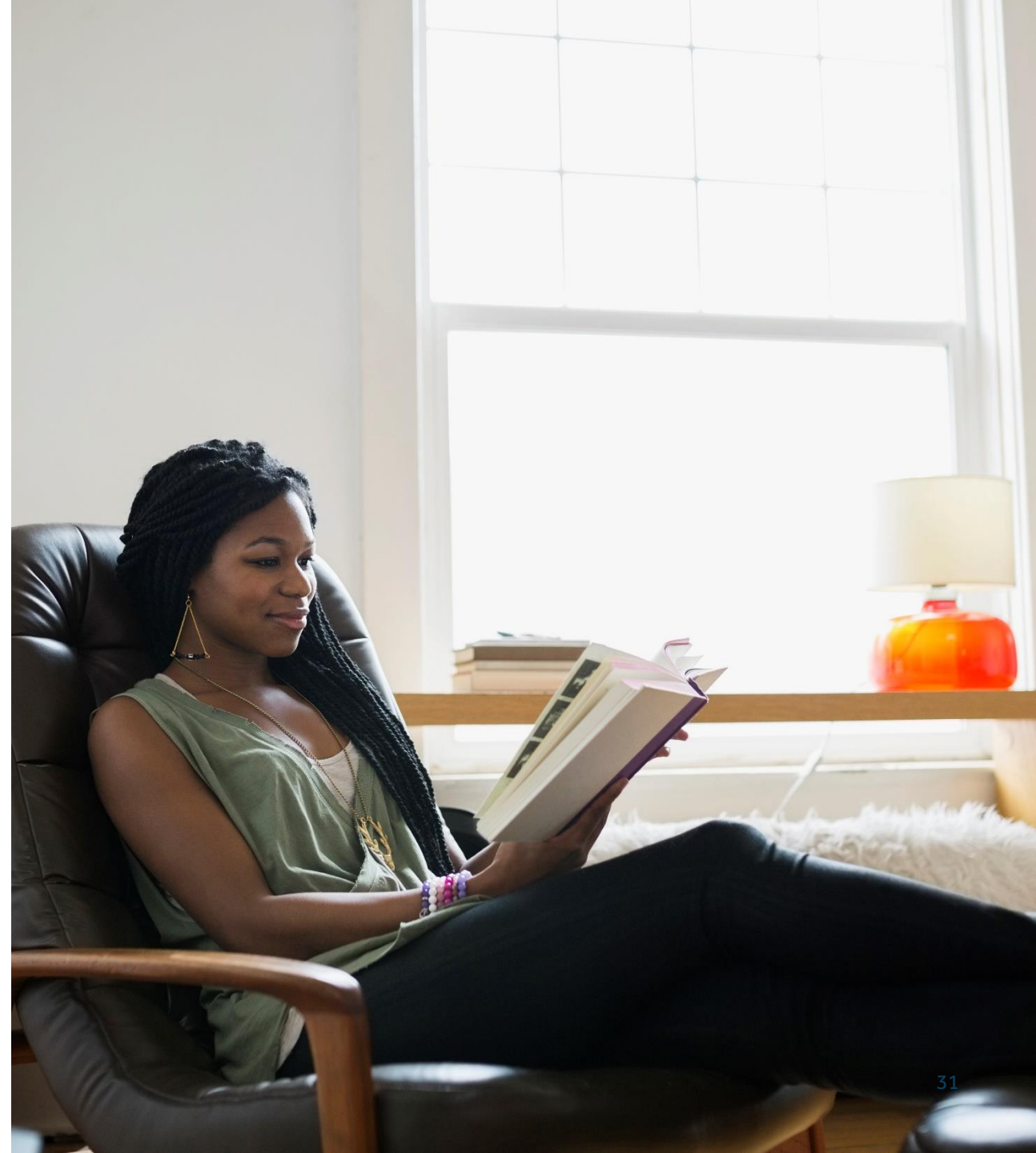
- An employee is receiving both short-term disability benefits and paid medical leave through the state. Will their STD benefit be offset (reduced) by the paid medical leave benefit?
-

- Possible Answer:
 - Yes, the STD benefit will be reduced by the paid medical leave benefit
 - No, the benefits are different, and the employee receives both
 - It depends on the state law and the STD contract language

Test Your Knowledge: Question 4

An employee has been exposed to COVID-19. They are required to quarantine but are not symptomatic or diagnosed. Working remotely is not an option due to the type of job.

What benefits could the employee be eligible to receive?



Test Your Knowledge

Question 4

- An employee has been exposed to COVID-19 and is required to quarantine but is not symptomatic or diagnosed. Working remotely is not an option due to the type of job. What benefits could the employee be eligible to receive?

-
- Possible Answer (select all that applies)
 - Company Leaves
 - State PFML benefits
 - FMLA
 - STD Benefits

Test Your Knowledge: Question 5

An employee needs to take time off to care for their mother-in-law.

Does that leave reason qualify for state PFML and FMLA?



Test Your Knowledge

Question 5

- An employee needs to take time to care for their mother in-law. Does that leave reason qualify for State PFML and FMLA?
-

- Possible Answer:
 - State PFML
 - FMLA
 - Both
 - Neither
 - Other



Questions?

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Paid Family & Medical Leave 101

Value: 1 PDC



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Thank you!