

FMLA: DEFINITIONS OF A SERIOUS HEALTH CONDITION

Under federal regulations, employers must designate leave as “FMLA” leave if the leave is taken for an eligible employee’s serious health condition or for the employee to care for a parent, spouse or child with a serious health condition. A “serious health condition” means an illness, injury, impairment, or physical or mental condition that involves one or more of the following:

1. **Inpatient Care**. An overnight stay in a hospital, hospice, or residential medical care facility including any period of incapacity or subsequent treatment in connection with such inpatient care.
2. **Incapacity Plus Treatment**. A period of incapacity of more than three consecutive, full calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - (a) Treatment two or more times within 30 days of the first day of incapacity (unless extenuating circumstance exist), by a health care provider, by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services (*e.g.* physical therapist) under orders of, or on referral by a health care provider; **or**
 - (b) Treatment by a health care provider on at least one occasion within seven days of the condition, which results in a regimen of continuing treatment under the supervision of the health care provider.

Incapacity means inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom.

Treatment means an in-person visit to a health care provider. Treatment includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations.

A regimen of continuing treatment includes, for example, a course of prescription medication (*e.g.*, an antibiotic), or therapy requiring special equipment to resolve or alleviate the health condition (*e.g.*, oxygen). A regimen of treatment does not include the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider.

3. **Pregnancy**
 - (a) Any period of incapacity due to pregnancy; and
 - (b) Prenatal care.
4. **Chronic Conditions**

A chronic condition:

 - (a) Requires periodic visits for treatment by a health care provider (at least two per year), or by a nurse or physician’s assistant under direct supervision of a health care provider.
 - (b) Continues over an extended period of time (including recurring episodes of a single underlying condition); **and**
 - (c) May cause episodic rather than a continuing period of incapacity (*e.g.* asthma, diabetes, epilepsy)
5. **Permanent or Long-term Conditions**

A period of **incapacity** which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not to be receiving active treatment by, a health care provider. Examples include Alzheimer’s, a severe stroke, or the terminal stages of a disease.
6. **Conditions Requiring Multiple Treatments**

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under the orders of, or on referral, by a health care provider, for:
(a) restorative surgery after an accident or other injury; or (b) a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), kidney disease (dialysis).