



How do I know if an employee's medical absence qualifies for FMLA leave? What is considered a serious health condition?

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Feedback

Many employers struggle with the question of whether an employee's request for medical leave is covered by the FMLA.

Under the FMLA, a serious health condition is an illness, injury, impairment or physical or mental condition that involves *inpatient care* (defined as an overnight stay in a hospital, hospice or residential medical care facility; any overnight admission to such facilities is an automatic trigger for FMLA eligibility) or *continuing treatment* by a health care provider. Examples include the following:

- Continuing treatment by a health care provider that results in an incapacity (inability to work, attend school or participate in other daily activities) of more than three consecutive calendar days with either two or more in-person visits to the health care provider within 30 days of the date of incapacity OR one in-person visit to the health care provider with a regimen of continuing treatment, such as prescription medication, physical therapy, etc. In either situation, the first visit to the health care provider must occur within seven days of the first date of incapacity. Examples include pneumonia, surgery or broken/fractured bones.
- Chronic conditions that require periodic visits to a health care provider, continue over an extended period of time and may cause episodic rather than continuing periods of incapacity of more than three days. Examples of chronic conditions include asthma, diabetes and epilepsy.
- Incapacity for pregnancy or prenatal care (any such incapacity is FMLA-protected regardless of the period of incapacity). For example, a pregnant employee may be unable to report to work due to severe morning sickness.
- Permanent or long-term conditions such as Alzheimer's, severe stroke or terminal disease.

- Conditions requiring multiple treatments and recovery from treatments, such as cancer, severe arthritis and kidney disease.
- Treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider.

Leave due to the birth, adoption or placement for foster care of a child does not require medical necessity or any period of incapacity. FMLA leave is available for bonding with the baby/child.

Employees may take FMLA leave for themselves or to care for their parent, spouse, son or daughter whose medical condition meets the above criteria. The FMLA regulations specifically exclude the following conditions, unless inpatient care or complications develop that would meet the above criteria: cosmetic treatments, common colds, flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, and periodontal disease.

If there is any chance that an employee's medical condition might meet the definition of a serious health condition under the FMLA, it is important to issue the notification and certification forms to the employee and let the health care provider make the determination whether a serious health condition exists.

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