

Definition of a Serious Health Condition

According to the Family and Medical Leave Act, a "serious health condition" (825.114) means:

- (a) an illness, injury, impairment, or physical or mental condition that involves:
 - (1) Any period of incapacity or treatment in connection with or consequent to inpatient care (*i.e.*, an overnight stay) in a hospital, hospice, or residential medical care facility;
 - (2) Any period of incapacity requiring absence from work, school, or other regular daily activities, of more than three calendar days, that also involves continuing treatment by (or under the supervision of) a health care provider; or
 - (3) Continuing treatment by (or under the supervision of) a health care provider for a chronic or long-term health condition that is incurable or so serious that, if not treated, would likely result in a period of incapacity of more than three calendar days; or for prenatal care.

- (b) "Continuing treatment by a health care provider" means one or more of the following:
 - (1) The employee or family member in question is treated two or more times for the injury or illness by a health care provider. Normally this would require visits to the health care provider or to a nurse or physician's assistant under direct supervision of the health care provider.
 - (2) The employee or family member is treated for the injury or illness two or more times by a provider of health care services (*e.g.*, physical therapist) under orders of, or on referral by, a health care provider, *or* is treated for the injury or illness by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider--for example, a course of medication or therapy--to resolve the health condition.
 - (3) The employee or family member is under the continuing supervision of, but not necessarily being actively treated by, a health care provider due to a serious long-term or chronic condition or disability which cannot be cured. Examples include persons with Alzheimer's, persons who have suffered a severe stroke, or persons in the terminal stages of a disease who may not be receiving active medical treatment.

- (c) Voluntary or cosmetic treatments (such as most treatments for orthodontia or acne) which are not medically necessary are not "serious health conditions," unless inpatient hospital care is required. Restorative dental surgery after an accident, or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Treatments for allergies or stress, or for substance abuse, are serious health conditions if all the conditions of the regulation are met. Prenatal care is included as a serious health condition. Routine preventive physical examinations are excluded.

- (d) The scope of "serious health condition" is further clarified by the requirements of the Act that the health care provider may be required to certify: in the case of family medical leave, that the "employee is needed to care for" the family member; in the case of medical leave, that "the employee is unable to perform the functions of the position of the employee"; and, in addition, in the case of leave taken "intermittently or on a reduced leave schedule," the medical necessity for such leave.