

## Continuing Health Care Treatment

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Dear Reader:

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We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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**Reference Number:** MTAS-855

The regulations that came about in 2009 provided more definitive requirements for health care provider visits and the proper administration of the FMLA for an employee or eligible family member's serious health condition.

An employee or eligible dependent may have a serious health condition if he or she is incapacitated for more than three consecutive days *and* undergoes continuing treatment from a health care provider two or more times within a 30-day period. *In order for continuing treatment to exist, the employee must have a visit with a health care provider within seven days of the onset of the incapacity and have a second visit within 30 days of the incapacity.* Prior to these changes, FMLA regulations simply provided that a serious health condition involved more than three consecutive, full days of incapacity.

In addition, the final rule clarifies that in the case of an employee taking more than three consecutive calendar days of incapacity (days off) plus two visits to a health care provider, the two visits *must occur within 30 days of the period of incapacity.* This may also include treatment by a health care provider on one occasion followed by and resulting in a regimen of continuing treatment under the provider's supervision. The final rule states that periodic visits to a health care provider for chronic serious health conditions require *at least two visits to a health care provider per year.* 29 C.F.R § 825.115(c)(1).

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