



## Serious Health Conditions

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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,

The University of Tennessee  
Municipal Technical Advisory Service  
1610 University Avenue  
Knoxville, TN 37921-6741  
865-974-0411 phone  
865-974-0423 fax  
[www.mtas.tennessee.edu](https://www.mtas.tennessee.edu)

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## Serious Health Conditions

**Reference Number:** MTAS-1501

The final rules which became effective January 16, 2009, do not change the fundamental definition of what constitutes a serious health condition.

Section 101(11) of FMLA defines a Serious Health Condition as “an illness, injury, impairment, or physical or mental condition that involves:

- (A) inpatient care in a hospital, hospice, or residential medical care facility; or
- (B) continuing treatment by a health care provider.” (defined above)

### **Examples of Serious Health Conditions**

The definition of Serious Health Condition continues to be heavily debated. It is intended to cover illnesses and injuries that require an employee be absent from work more than a few days or on a recurring basis. Serious Health Conditions under FMLA are not intended to cover short and minor illnesses such as seasonal allergies, colds, stomach bugs, single asthma attacks, and viruses. However, complications that result in serious health that the medical certification is used to qualify each situation separately. It is certainly possible for one diagnosis to affect one person drastically differently from another. conditions (i.e., hospitalizations or advancement to pneumonia, etc.) would certainly qualify as a serious health condition. It is important to note that the medical certification is used to qualify each situation separately. It is certainly possible for one diagnosis to affect one person drastically differently from another.

Some common examples could be: terminal illness, critical injury, most cancers, emphysema, appendicitis, severe respiratory conditions (such as chronic asthma), heart attacks, heart conditions requiring bypass or valve operations, back conditions requiring surgery or extensive therapy, strokes, spinal injuries, severe arthritis, pneumonia, severe nervous disorders, any serious injury caused by an accident on or off the job, childbirth, kidney disease, injuries caused by serious accidents, Alzheimer’s, and multiple conditions that if not treated would likely result in someone being incapacitated for more than three days.

Some additional examples are: depression, routine pregnancy and prenatal care, complications related to pregnancy including severe morning sickness, migraines, substance abuse treatment administered by a health care provider, emotional distress following a miscarriage, and mental health conditions.

Conditions that generally do not normally meet criteria (unless serious complications arise): Common cold, flu, virus, earaches, upset stomach, minor ulcers, non-migraine headaches, routine dental work or orthodontic procedures, absence due to substance abuse (note: active treatment is generally covered), and stress etc.

**Note:** Each individual FMLA request needs to be judged independently along with careful review of health care provider notes. You should also pay attention to new case law, as the courts may deem that certain ailments are in fact serious health conditions under FMLA. Additionally, just because a condition does not qualify under FMLA does not mean that it may not qualify under ADA.

### **Burden of Proof**

Employees who take FML for their own serious health condition are held to a somewhat higher standard than when they take leave to help an immediate family member with such a condition. As a result, documenting that an employee’s own illness qualifies for FML usually requires furnishing the employer with more detailed medical information than when proving that a child, spouse or parent has a serious illness. For this reason documentation and a completed health care provider’s statement are very important. In the event that more information is needed to determine FMLA eligibility, the human resource professional or FMLA administrator should seek immediate clarification from the employee’s healthcare provider. *Note: An employee’s direct supervisor may not contact the health care provider for additional information.*

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DISCLAIMER: The letters and publications written by the MTAS consultants were written based upon the law at the time and/or a specific sets of facts. The laws referenced in the letters and publications may have changed and/or the technical advice provided may not be applicable to your city or circumstances. Always consult with your city attorney or an MTAS consultant before taking any action based on information contained in this website.

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