

Intermittent

(Q) Does an employee have to take leave all at once or can it be taken periodically or to reduce the employee's schedule?

(A) When it is medically necessary, employees may take FMLA leave intermittently – taking leave in separate blocks of time for a single qualifying reason – or on a reduced leave schedule – reducing the employee's usual weekly or daily work schedule. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the employer's operation.

Leave to care for or bond with a newborn child or for a newly placed adopted or foster child may only be taken intermittently with the employer's approval and must conclude within 12 months after the birth or placement.

Short-Long Term Conditions

(Q) What is a serious health condition?

(A) The most common serious health conditions that qualify for FMLA leave are:

- conditions requiring an overnight stay in a hospital or other medical care facility;
- conditions that incapacitate you or your family member (for example, unable to work or attend school) for more than three consecutive days and have ongoing medical treatment (either multiple appointments with a health care provider, or a single appointment and follow-up care such as prescription medication);
- chronic conditions that cause occasional periods when you or your family member are incapacitated and require treatment by a health care provider at least twice a year; and
- pregnancy (including prenatal medical appointments, incapacity due to morning sickness, and medically required bed rest).

(Q) Can I continue to use FMLA for leave due to my chronic serious health condition?

(A) Under the regulations, employees continue to be able to use FMLA leave for any period of incapacity or treatment due to a chronic serious health condition. The regulations continue to define a chronic serious health condition as one that (1) requires “periodic visits” for treatment by a health care provider or nurse under the supervision of the health care provider, (2) continues over an extended period of time, and (3) may cause episodic rather than continuing periods of incapacity. The regulations clarify this definition by defining “periodic visits” as at least twice a year.

Trouble at Home

(Q) Can I take FMLA leave for reasons related to domestic violence issues?

(A) FMLA leave may be available to address certain health-related issues resulting from domestic violence. An eligible employee may take FMLA leave because of his or her own serious health condition or to care for a qualifying family member with a serious health condition that resulted from domestic violence. For example, an eligible employee may be able to take FMLA leave if he or she is hospitalized overnight or is receiving certain treatment for post-traumatic stress disorder that resulted from domestic violence.

Medical Proof

(Q) Am I required to prove that I have a serious health condition?

(A) An employer may require that the need for leave for a serious health condition of the employee or the employee's immediate family member be supported by a certification issued by a health care provider. **The employer must allow the employee at least 15 calendar days to obtain the medical certification.**

(Q) Can my employer make me get a second opinion?

(A) An employer may require a second or third medical opinion **(at the employer's expense)** if he or she has reason to doubt the validity of the medical certification.

(Q) Do I have to give my employer my medical records for leave due to a serious health condition?

(A) No. An employee is not required to give the employer his or her medical records. The employer, however, does have a statutory right to request that an employee provide medical certification containing sufficient medical facts to establish that a serious health condition exists.

(Q) May my employer contact my health care provider about my serious health condition?

(A) The regulations clarify that contact between an employer and an employee's health care provider must comply with the Health Insurance Portability and Accountability Act (HIPAA) privacy regulations. Under the regulations, employers may contact an employee's health care provider for authentication or clarification of the medical certification by using a health care provider, a human resource professional, a leave administrator, or a management official. In order to address employee privacy concerns, the regulations makes clear that in no case may the employee's direct supervisor contact the employee's health care provider. In order for an employee's HIPAA-covered health care provider to provide an employer with individually-identifiable health information, the employee will need to provide the health care provider with a written authorization allowing the health care provider to disclose such information to the employer. **Employers may not ask the health care provider for additional information beyond that contained on the medical certification form.**