



# County Technical Assistance Service

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## Leave for Serious Health Condition

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The following document was created from the CTAS electronic library known as e-Li. This online library is maintained daily by CTAS staff and seeks to represent the most current information regarding issues relative to Tennessee county government.

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 county 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 e-Li material.

Sincerely,

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## Leave for Serious Health Condition

**Reference Number:** CTAS-1019

Eligible employees are entitled to take leave under the FMLA for their own serious health condition that renders them unable to perform the functions of their job, or to care for the employee's spouse, son, daughter or parent with a serious health condition.

Definition of "Serious Health Condition" .<sup>[1]</sup> A "serious health condition" is defined as an illness, injury, impairment, or physical or mental condition that involves either (1) inpatient care, or (2) continuing treatment by a health care provider.<sup>[2]</sup> "*Inpatient care*" means an overnight stay in a hospital, hospice, or residential medical care facility; any overnight stay in the hospital automatically qualifies as a serious health condition.<sup>[3]</sup> If inpatient care is not involved, the person must be under "*continuing treatment by a health-care provider*," which includes any one or more of the following:

1. **Incapacity and Treatment.** The person is incapacitated (unable to work, attend school, or perform other regular daily activities) for more than three consecutive full days, and either is treated in person two or more times by a health care provider within 30 days (absent extenuating circumstances), or is treated once in person by a health care provider with a regimen of continuing treatment under the supervision of the health care provider. The first treatment by the health care provider must be within seven days of the first day of incapacity. A regimen of continuing treatment includes, for example, a course of prescription medication or therapy requiring special equipment, such as oxygen. It does not generally include over-the-counter medications such as aspirin, antihistamines, or salves, or bed rest, drinking fluids, exercise, or other similar activities that can be initiated without visiting a health care provider. Unless complications arise, the common cold, flu, ear aches, upset stomach, minor ulcers, headaches (other than migraine), routine dental or orthodontia problems, periodontal disease, and the like do not meet the definition of a serious health condition.
2. **Pregnancy or Prenatal Care.** Any period of incapacity due to pregnancy, or for prenatal care. The person is not required to receive medical treatment during the absence, and the absence may be less than three days. For example, an employee may be unable to report to work due to severe morning sickness.
3. **Chronic Conditions.** Any period of incapacity due to a chronic serious health condition, and treatment for a chronic serious health condition. A chronic serious health condition is one that requires periodic visits (at least twice a year) to a health care provider or nurse, continues over an extended period of time, and may cause episodic rather than continuous incapacity. Examples of chronic conditions are asthma, epilepsy, and diabetes. The person is not required to receive medical treatment during the absence, and the absence may be less than three days. For example, an employee may not be able to report to work due to the onset of an asthma attack.
4. **Permanent Long-term Conditions.** These conditions result in a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. Examples are Alzheimer's, a severe stroke, or the terminal stages of a disease. The person need not be receiving active treatment, but must be under the continuing supervision of a healthcare provider.
5. **Conditions Requiring Multiple Treatments.** This category includes conditions that if left untreated would likely result in a period of incapacity of more than three days, such as cancer, severe arthritis, and kidney disease, which require treatments like chemotherapy, radiation, physical therapy and dialysis. It also includes restorative surgery after an accident or injury.

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<sup>[1]</sup> 29 C.F.R. §§ 825.113, 825.114, 825.115.

<sup>[2]</sup> 29 C.F.R. § 825.113.

<sup>[3]</sup> 29 C.F.R. § 825.114.

