

LEGAL UPDATE

DOL Issues Guidance on FMLA and Mental Health Conditions

The Wage and Hour Division of the U.S. Department of Labor (DOL) has released new resources on workers' rights to leave for mental health conditions under the federal Family and Medical Leave Act (FMLA). In a press release, the DOL said it published the new guidance in recognition of Mental Health Awareness Month.

New DOL Fact Sheet and FAQs

The new guidance includes:

- [Fact Sheet #280: Mental Health Conditions and the FMLA](#)
- [Frequently asked questions](#) (FAQs) on the FMLA's mental health provisions

Mental Health as a Serious Health Condition

An eligible employee may take FMLA leave for their own serious health condition or to care for a spouse, child or parent because of their serious health condition.

The new resources make clear that mental health conditions are considered serious health conditions under the FMLA if they require inpatient care or continuing treatment by a health care provider, such as an overnight stay in a treatment center for addiction or continuing treatment by a clinical psychologist. Chronic conditions such as anxiety, depression, or dissociative disorders that cause occasional incapacitated periods and require treatment at least twice a year fall under the "continuing treatment" definition.

The FAQs provide additional examples of situations that qualify for FMLA leave, including treatment sessions for anorexia nervosa and caring for an adult child with a mental health condition that meets the definition of disability under the Americans with Disabilities Act.

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Highlights

- Mental health conditions can be serious health conditions.
- FMLA leave may be used for regularly scheduled psychologist appointments in certain circumstances.
- FMLA leave may be used to care for adult children with mental health conditions in certain circumstances.
- Employers may not retaliate against employees for taking FMLA leave for mental health reasons.

For Mental Health Awareness Month, the DOL has issued new resources explaining FMLA leave rights for mental health conditions.

