

Exercise 1: Does My Condition Qualify for Leave Under FMLA?

1. I have a skin infection that required me to stay home for five days. I saw my physician and he prescribed an antibiotic.

Qualifies. The condition caused an incapacity for more than three consecutive days and the physician's prescription is a regimen of continuing treatment, therefore this condition would fall under the FMLA's definition of a serious health condition.

2. I regularly work out by swimming several nights a week at my gym. I developed an ear infection and my physician prescribed an antibiotic. The infection has left me without my usual energy so I'd like to work part-time until the infection clears up.

Does not qualify. An ear infection is generally not considered a serious health condition unless it develops into something that would cause incapacity of more than three consecutive days and require a regimen of continuing treatment. Nothing here indicates that this infection has left you incapacitated even temporarily.

3. I badly strained my back doing yard work at home. My doctor says I have a pinched nerve that will require monitoring and eventually surgery. I find that I can generally do my desk job but there are some days that the pain requires me to stay in bed a day or two every other month.

The one or two days per month qualify. Your pinched nerve will continue over an extended period of time and require visits to your health care provider at least two times a year and it causes episodic periods of incapacity, therefore your intermittent leave would be covered.

4. I was in car accident that rendered me unable to work for three weeks. I took FMLA leave for those three weeks and then returned to work full-time, even though I must attend physical therapy sessions once a week. I have tried to schedule these appointments after work

but I haven't been able to get an appointment for any time other than during regular work hours.

The therapy visits qualify -- as long as the employee has tried to schedule outside of working hours, has provided 30 days advance notice (if possible), and the employee has consulted with the employer to agree on a schedule that is not unduly disruptive to the employer without compromising the employee's treatment.

5. I was in a car accident and suffered painful whiplash. I saw my doctor and was incapacitated two days the week of the accident and five separate days over the next four weeks.

Does not qualify. Your condition doesn't cause incapacity for more than three consecutive days and doesn't satisfy the requirements of a chronic condition.

6. My psychiatrist is treating me for severe anxiety. My supervisor yelled at me in front of everyone else in the office and I couldn't leave my house for two days.

The two days would qualify. Your anxiety is continuing over an extended period of time and requires regular treatment by your psychiatrist and it causes you episodic periods of incapacity. The fact that this latest period of incapacity was caused by stress from your supervisor is irrelevant.

7. I was in a car accident heading home after work on a Thursday. I suffered painful whiplash and was given a prescription for painkillers and told to stay in bed through Monday. I reported to work on Tuesday but was incapacitated five separate days over the next four weeks.

Your absences Friday and the following Monday qualify because you were incapacitated for more than three consecutive days and the physician's prescription is a regimen of continuing treatment, therefore the other five days are covered even though they're non-consecutive.

8. I suffered some chest pains last Sunday and had my wife take me to the emergency room. I was released that same day after receiving a battery of tests and told it was likely indigestion. I called in sick the next day, Monday, and my employer wants to charge me a day of FMLA for this absence.

Your one-day absence does not qualify under FMLA because a condition requiring treatment in an emergency room without an overnight stay does not constitute a serious health condition.

9. I'm a recovering alcoholic in treatment but recently fell off the wagon and was incapacitated four days.

Your four days of incapacitation do not qualify. FMLA does not apply to absences or tardies caused by alcohol or illegal drugs. But the Act does allow for leaves to obtain treatment for alcoholism or drug addiction.

10. I'm three months pregnant and under a doctor's care for my pregnancy. I recently reported to work late because of morning sickness.

Your tardiness would qualify because your pregnancy is under the supervision of a healthcare provider.