

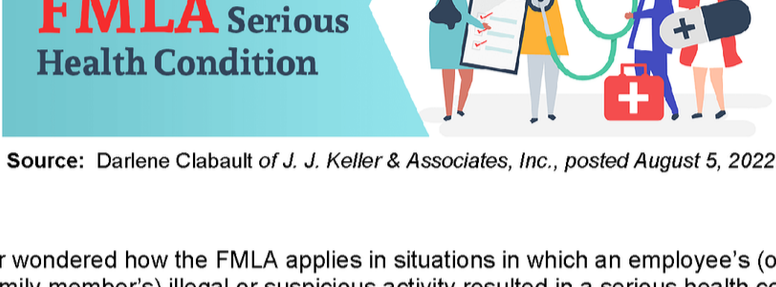


Weekly Safety Tip

What is Considered FMLA Serious Health Condition



Serious Health Condition



Source: Darlene Clabault of J. J. Keller & Associates, Inc., posted August 5, 2022

Have you ever wondered how the FMLA applies in situations in which an employee's (or an employee's family member's) illegal or suspicious activity resulted in a serious health condition? Generally, you would still apply the definition – how the employee or family member ended up with the condition is of little consequence. Whether injured during an elective surgery or traveling to obtain medical services that might be illegal where they live, it does not matter.

The **Family and Medical Leave Act (FMLA)** does not change too often, because a change to the law requires Congressional action. The U.S. Department of Labor's Wage and Hour Division (WHD) also does not change FMLA regulations very often either, since it may not go beyond the boundaries of the FMLA law. The WHD can provide guidance, which it does every now and then.

Courts though, **can, and often do, hand down decisions that can change the FMLA compliance landscape for employers** . . . Opinions that affect FMLA administration stem from federal courts: District, appeals, and the U.S. Supreme Court. The changes can result in employers rethinking some aspects of how they comply with the law, including the FMLA's definition of a *serious health condition*.

That definition, however, continues to remain unchanged. Therefore, the reason behind **why the condition exists is inconsequential**. A perfectly healthy employee could decide to donate a kidney. Just because the employee elected to donate doesn't matter. Once the donation procedure is underway, the individual has a serious health condition.

Pregnancy is also commonly elective, but it's still **a serious health condition**. An employee could suffer a miscarriage, or have other issues related to a pregnancy. An employee could also elect to be a surrogate, and basically carry and deliver someone else's child.

Time off for the pregnancy, delivery, and recovery would all be FMLA leave. The employee would not, however, be entitled to FMLA leave for bonding, as that would not be occurring. She would be entitled to leave only as is medically necessary.

Until or unless the FMLA's definition of a serious health condition changes, it will continue to be the determining factor, regardless even of court rulings that do not directly address it.

As usual, you would not take a negative employment action — including termination — against an employee for taking FMLA leave for a qualifying reason.

What Is Considered FMLA Serious Health Condition?

Source: Compliance Prime

FMLA provides **12 weeks of unpaid, job-protected leave** for employees. Employees are eligible for such leave for various reasons, including the serious health condition of the employee or a family member. However, whether the health condition of an employee warrants FMLA leave or not has been a matter of debate for employers as well as employees. The Act lays down a framework for **serious health conditions** that warrant an FMLA leave of up to 12 weeks.

If the health condition of the employee or a family member comes under the purview of the FMLA act, but the employer refuses to grant leave, the employee has the right to seek legal remedies. However, before seeking legal remedy the employee needs to make sure that the health condition is serious enough to consider an FMLA leave.

Serious Health Conditions Under FMLA

The purpose of designing a framework for serious health conditions under FMLA is to delineate major health issues from minor ones such as coughs, colds, sore throats, aches, pains, cuts, bruises etc. **The employee needs to get a medical certification from his or her health care provider to substantiate whether a specific health condition is covered by FMLA or not.**

- Inpatient Care**

If the employee needs inpatient care, the health care provider has to certify that the health condition necessitates at least one night's stay at a medical facility. Employees are also eligible to leave for post-treatment care or incapacitation arising out of the condition. **If incapacitation or post-treatment care necessitates more than 3 days of leave, it is considered as a serious health condition.**

The conditions stipulate that the employee has to have the first treatment within the first seven days of initial spell of incapacitation and further treatment within a spell of 30 days.

- Pregnancy and Prenatal Care**

If the employee is not able to perform routine activities because of pregnancy or prenatal care, she is eligible for leave in terms of FMLA. Leaves are permissible even for routine, prenatal care visits. However, employers have the right to seek medical certification in this count.

- Chronic Serious Health Conditions**

Certain chronic health conditions like permanent incapacity also merit leave under FMLA, even if the employee isn't under the care of a doctor. However, it requires that:

- The employee undergoes at least 2 visits to the health care provider in a year.
- His health condition persists for a long time and can cause spells of incapacity such as in asthma, diabetes or epilepsy.

- Long-Term Incapacity**

If an employee is under the care of a health care provider for long-term incapacity, which is not responding to treatment such as in cancer, Alzheimer's disease or advanced ALS, the leave is covered by FMLA.

- Multiple Treatments**

If an employee needs leave for multiple treatments such as in restorative surgery after meeting an accident or repairing a torn ligament, the leave is covered under FMLA.

Conclusion

FMLA covers most of the likely serious health conditions of an employee or a family member. The employee can even use his or her paid sick leave, family leave or even vacation in these 12 weeks of unpaid, but job-protected leave under FMLA. While taking leave, the employee should keep the above mentioned points in mind, so as to ensure his leave does not falls under *FMLA Abuse*.

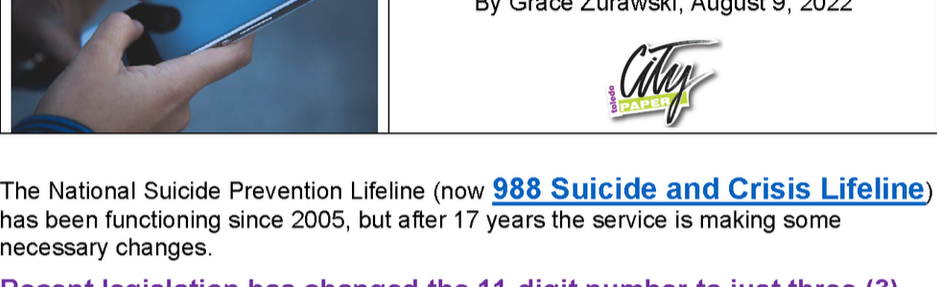
Edited by DA Varwig, CSP-retired for SCNWO - Safety Council of Northwest Ohio, August 2022

Mental Health Lifeline Shortens to 988



SAFETY & HEALTH SHARE

Dave Varwig
August 2022



The National Suicide Prevention Lifeline (now **988 Suicide and Crisis Lifeline**) has been functioning since 2005, but after 17 years the service is making some necessary changes.

Recent legislation has changed the 11-digit number to just three (3), making it easier to memorize and quicker to call in mental health emergencies.

The new number is certainly easier to remember, but experts say the transition may not go as smoothly as planned.

Launched in 2005, the **Lifeline's 200+ crisis centers** have connected trained counselors to callers in mental health emergencies like depression, substance abuse, or thoughts of suicide.

Even back then, the long and difficult-to-remember number was a concern. Sufferers were calling 911 instead, involving law enforcement more than necessary and making it hard for call centers to keep up.

Thus, the push to establish a new number began.

In 2020, the number for the hotline became 988 through a bipartisan bill.

On July 16, 2022, the number went live and individuals are now able to call or text to be connected with a trained mental health counselor.

A mental health equivalent to 911, preventing the violent police altercations, long waits in emergency rooms, or arrests that are known to happen by involving law enforcement.

The surge in calls shows the advantage of the change, but call centers are struggling to answer them all.

Over \$400 million has been dedicated by the government to increasing the number of call centers, text services, and Spanish-language services.

To deal with further influx, they are also working on setting up backup centers so calls are not abandoned.

Such a huge endeavor takes time, so it will be years before the hotline reaches their goals. Even so, lawmakers are hopeful.

Experts say just reaching out for help is shown to save lives, and 988 is a faster, safer way.



Share this email:

[Manage](#) your preferences | [Opt out](#) using TrueRemove®

Got this as a forward? [Sign up](#) to receive our future emails.

View this email [online](#).

8015 Rinker Pointe Court
Northwood, OH | 43619 United States

This email was sent to .
To continue receiving our emails, add us to your address book.

[Subscribe](#) to our email list.