

Sec. 31-51qq-1. Definitions

For purposes of sections 31-51qq-1 to 31-51qq-52, inclusive, of the Regulations of Connecticut State Agencies:

(a) “Act,” “Family and Medical Leave Act” or “FMLA” means sections 31-51kk to 31-51qq, inclusive, of the Connecticut General Statutes.

(b) “ADA” means the Americans with Disabilities Act, 42 USC sections 12101 to 12213, inclusive, as amended.

(c) “Armed Forces” has the same meaning as provided in section 27-103(a) of the Connecticut General Statutes.

(d) “Commissioner” means the Labor Commissioner of the State of Connecticut, whose mailing address is 200 Folly Brook Boulevard, Wethersfield, Connecticut, 06109, or his or her designee.

(e) “Eligible employee” means an employee who, immediately preceding the date the FMLA leave will commence pursuant to his or her request for leave, has been employed for a total of at least three (3) consecutive months, as defined in section 31-51qq-6(b) of the Regulations of Connecticut State Agencies, by the employer from whom FMLA leave is requested.

(f) “Employ” means to allow or permit to work.

(g) “Employee” means any person engaged in service to an employer in the State of Connecticut in the business of the employer.

(h) “Employer” means any person engaged in any activity, enterprise or business in the State of Connecticut who employs one (1) or more employees. An employer covered by the Act includes, from the first employee’s date of hire:

(1) Any person who acts, directly or indirectly, in the interest of an employer to any of the employees of such employer; or

(2) Any successor in interest of an employer.

(3) The term “employer” does not include a municipality, a local or regional board of education, or a nonpublic elementary or secondary school.

(i) “Employment benefits” means:

(1) All benefits provided or made available to employees by an employer, including group life insurance, health insurance, disability insurance, sick leave, annual leave, educational benefits and pensions, regardless of whether such benefits are provided by practice or written policy of an employer or through an “employee benefit plan” as defined in the Employee Retirement Income Security Act of 1974, 29 USC 1002(3).

(2) The term does not include non-employment related obligations paid by employees through voluntary deductions such as supplemental insurance coverage.

(j) “FEPA” means the Fair Employment Practices Act, sections 46a-51 to 46a-104, inclusive, of the Connecticut General Statutes.

(k) “Family member” means:

(1) A spouse, sibling, son or daughter, grandparent, grandchild or parent; or

(2) An individual related to the employee by blood or affinity whose close association the employee describes as equivalent to the family relationships of a spouse, sibling, son or daughter, grandparent, grandchild or parent, regardless of biological or legal relationship or lack thereof.

(l) “FLSA” means the Fair Labor Standards Act, 29 USC 201 to 219, inclusive.

(m) “Grandchild” means a grandchild related to a person by (1) blood, (2) marriage, (3) adoption by a child of the grandparent, or (4) foster care by a child of the grandparent.

(n) “Grandparent” means a grandparent related to a person by (1) blood, (2) marriage, (3) adoption of minor child by a child of the grandparent, or (4) foster care by a child of the grandparent.

(o) “Health care provider” means:

(1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the state in which the doctor practices;

(2) a podiatrist, dentist, psychologist, optometrist or chiropractor authorized to practice by the state in which such person practices and performing within the scope of the authorized practice;

(3) an advanced practice registered nurse, nurse practitioner, nurse midwife, clinical social worker or physician’s assistant authorized to practice by the state in which such person practices and performing within the scope of the authorized practice;

(4) a Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts;

(5) any health care provider from whom an employer or a group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits;

(6) a health care provider as defined in subdivisions (1) to (5), inclusive, of this subsection who practices in a country other than the United States and who is licensed to practice in accordance with the laws and regulations of that country; or

(7) such other health care provider as the Commissioner determines, performing within the scope of the authorized practice.

(p) “In loco parentis” includes, but is not limited to, persons with day-to-day responsibilities to care for or financially support a child or, in the case of an employee, who had such responsibility for the employee when the employee was a child. A biological or legal relationship is not necessary.

(q) “Incapacity” means inability to work, attend school or perform other regular daily activities due to a serious health condition, treatment therefor, or recovery therefrom.

(r) “Intermittent leave” means family or medical leave taken in separate periods of time due to a single qualifying reason, rather than for one (1) continuous period of time. Intermittent leave may include periods from an hour or more to several weeks. Examples of intermittent leave include leave taken on an occasional basis for medical appointments, or leave taken several days at a time spread over a period of six (6) months, such as for chemotherapy.

(s) “Labor Department” means the State of Connecticut Department of Labor .

(t) “Medical leave” means a leave of absence, which may be unpaid, due to a serious health condition of an eligible employee.

(u) “Parent” means a biological parent, foster parent, adoptive parent, stepparent, parent-in-law or legal guardian of an eligible employee or an eligible employee’s spouse, an individual standing in loco parentis to an eligible employee, or an individual who stood in loco parentis to the eligible employee when the employee was a child.

(v) “Person” means one or more individuals, partnerships, associations, corporations, business trusts, legal representatives, or organized groups of persons.

(w) “Reduced schedule leave ” means a leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.

(x) “Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves inpatient care in a hospital, hospice, nursing home or residential medical care facility; or continuing treatment, including outpatient treatment, by a health care provider. For the purposes of this section:

(1) An illness, injury, impairment, or physical or mental condition involves:

(A) Inpatient care (i.e., an overnight stay) in a hospital, as defined in section 19a-490 of the Connecticut General Statutes, hospice licensed pursuant to the public health code or certified as a hospice pursuant to 42 USC 1395x, nursing home licensed pursuant to Chapter 368v of the Connecticut General Statutes, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or

(B) Continuing treatment by a health care provider, including outpatient treatment. A serious health condition involving continuing treatment by a health care provider includes:

(i) A period of incapacity of more than three (3) consecutive calendar days, including any subsequent treatment or period of incapacity relating to the same condition, that also involves:

(I) Treatment two (2) or more times, including outpatient treatment, not later than thirty (30) days after the first day of incapacity, unless extenuating circumstances exist, by a health care provider or by a nurse or physician’s assistant under direct supervision of a health care provider, or by a provider of health care services under orders of, or on referral by, a health care provider; or

(II) Treatment by a health care provider on at least one (1) occasion, which results in a regimen of continuing treatment under the supervision of the health care provider, including outpatient treatment.

(III) The requirement in subparagraphs (B)(i)(I) and (B)(i)(II) of this subdivision for treatment by a health care provider means an in-person or telemedicine visit to a health care provider, provided that the first (or only) in-person or telemedicine treatment visit occurs not later than seven (7) days after the first day of incapacity.

(ii) Any period of incapacity due to pregnancy, or for prenatal care.

(iii) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:

(I) Requires periodic visits, including telemedicine, of at least twice per year for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;

(II) Continues over an extended period of time, including recurring episodes of a single underlying condition; and

(III) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy).

(iv) A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care

provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.

(v) Any period of absence to receive multiple treatments, including any period of recovery therefrom, by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three (3) consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation), severe arthritis (physical therapy), kidney disease (dialysis).

(2) Treatment for purposes of subdivision (1) of this subsection includes, but is not limited to, examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Under subdivision (1)(B)(i)(II) of this subsection, a regimen of continuing treatment includes, for example, a course of prescription medication such as antibiotics or therapy requiring special equipment to resolve or alleviate the health condition such as oxygen. A regimen of continuing treatment that includes the taking of over-the-counter medications or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a health care provider, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of FMLA leave.

(3) Any condition that meets one (1) of the definitions of "serious health condition" as defined in this subsection including a mental health condition, shall be a qualifying reason for leave under the Act.

(4) Substance abuse may be a serious health condition if the conditions of this subsection are met. However, FMLA leave may only be taken for treatment for substance abuse by a health care provider or by a provider of health care services on referral by a health care provider. On the other hand, absence because of the employee's use of the substance, rather than for treatment, does not qualify for FMLA leave.

(5) Absences attributable to incapacity under subdivisions (1)(B)(ii), (1)(B)(iii) or (1)(B)(iv) of this subsection qualify for FMLA leave even though the employee or the covered family member does not receive treatment from a health care provider during the absence, and even if the absence does not last more than three (3) days. For example, an employee with asthma may be unable to report for work due to the onset of an asthma attack or because the employee's health care provider has advised the employee to stay home when the pollen count exceeds a certain level. An employee who is pregnant may be unable to report to work because of severe morning sickness.

(y) "Serious injury or illness" shall have the meaning set forth in section 31-51qq-50(c) of the Regulations of Connecticut State Agencies.

(z) "Sibling" means the biological brother, biological sister, half-brother, half-sister, stepbrother, stepsister, adopted brother, adopted sister, foster brother, foster sister, brother-in-law or sister-in-law of the eligible employee or the eligible employee's spouse.

(aa) "Son or daughter" means, for purposes of FMLA leave taken for birth, adoption or foster-care placement, to care for a family member with a serious health condition or for a qualifying exigency, as described in section 31-51qq-49 of the Regulations of Connecticut State Agencies, a biological, adopted or foster child, stepchild, legal ward, or, in the alternative, a child of a person standing in loco parentis, as defined in subsection (p) of this

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section, or an individual to whom the employee stood in loco parentis when the individual was a child. A son or daughter may be of any age. (For the purposes of military caregiver leave, “son or daughter” is defined in section 31-51qq-50(d)(1) of the Regulations of Connecticut State Agencies).

(bb) “Spouse” means a person to whom one is legally married.

(Adopted effective March 9, 1999; Amended August 3, 2022)