

Electronic Alert

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DOL Releases New FMLA Mental Health Resources

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Last month, in coordination with National Mental Health Awareness Month, the U.S. Department of Labor's Wage and Hour Division ("DOL") published new resources regarding mental health conditions and the Family and Medical Leave Act ("FMLA"). The new resources are intended to aide employers in better understanding how to comply with the FMLA and assist employees in understanding their rights under the FMLA regarding mental health conditions.

FMLA generally provides eligible employees with up to 12 workweeks of job-protected leave each year for their own serious health condition, or to care for a family member with a serious health condition. Physical and mental health conditions are considered serious health conditions under the FMLA if they require inpatient care or continuing treatment by a healthcare provider.

Serious mental health conditions that require continuing treatment by a healthcare provider include conditions that incapacitate an individual for more than three consecutive days and require ongoing medical treatment—either multiple appointments with a healthcare provider or a single appointment with follow-up care; and chronic conditions that cause occasional periods when an individual is incapacitated and require treatment by a healthcare provider at least twice a year. Chronic conditions may include conditions like anxiety and depression. The DOL's guidance includes helpful FAQs such as:

(Q) May I use FMLA leave to attend a family counseling session for my spouse who is in an inpatient treatment program for substance abuse?

(A) Yes. Assuming that you work for a covered employer and are eligible for FMLA leave, you may use FMLA leave to provide care for your spouse who is undergoing inpatient treatment for substance abuse. Care could include participating in your spouse's medical treatment program or attending a care conference with your spouse's healthcare providers.

Employers play an important role in mental health awareness by providing and promoting mental health-friendly workplaces. Ensuring that employees who are coping with mental health conditions receive the support and job-protected leave they may need is essential, not only in complying with the FMLA, but also to fostering a positive work environment. Employers can review the DOL's newly published guidance [here](#), which includes a fact sheet on mental health conditions and a list of FAQs on the FMLA's mental health provisions.

For questions on the FMLA or for any other employee leave-related matters, contact Missy Oakley at 503-276-2122 or moakley@barran.com.