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Title 22@ Social Security

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Division 1@ Employment Development Department

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Subdivision 1@ Director of Employment Development

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Division 1@ Unemployment and Disability Compensation

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Part 2@ Disability Compensation

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Chapter 7@ Family Temporary Disability Insurance

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Section 3302-2@ Serious Health Condition Defined

## **3302-2 Serious Health Condition Defined**

### **(a)**

For purposes of Family Temporary Disability Insurance, "serious health condition" for which an employee may receive benefits means an illness, injury, impairment, or physical or mental condition of the care recipient that involves: (1) Inpatient care (i.e. an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) or any subsequent treatment in connection with such inpatient care; or (2) Continuing treatment by a physician or practitioner. A serious health condition involving continuing treatment by a physician or practitioner includes any one or more of the following: (A) A period of incapacity (i.e. inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves: (i) Treatment two or more times by a physician or practitioner, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a physician or practitioner. (ii) Treatment by a physician or practitioner on at least one occasion which results in a regimen of continuing treatment under the supervision of the physician or practitioner. (B) Any period of

incapacity due to pregnancy, or for prenatal care. (C) 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 for treatment by a physician or practitioner; (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, etc.). (D) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The child, parent, spouse, grandparent, grandchild, sibling, or registered domestic partner must be under the continuing supervision of, but need not be receiving active treatment by a physician or practitioner. Examples include, but are not limited to, Alzheimer's, a severe stroke, or the terminal stages of a disease. (E) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a physician or practitioner or by a provider of health services under orders of, or on referral by, a physician or practitioner, 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 consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

**(1)**

Inpatient care (i.e. an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity (for purposes of this section, defined to mean inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) or any subsequent treatment in connection with such inpatient care; or

**(2)**

Continuing treatment by a physician or practitioner. A serious health condition involving continuing treatment by a physician or practitioner includes any one or more of the following: (A) A period of incapacity (i.e. inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves: (i) Treatment two or more times by a physician or practitioner, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a physician or practitioner. (ii) Treatment by a physician or practitioner on at least one occasion which results in a regimen of continuing treatment under the supervision of the physician or practitioner. (B) Any period of incapacity due to pregnancy, or for prenatal care. (C) 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 for treatment by a physician or practitioner; (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, etc.). (D) A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The child, parent, spouse, grandparent, grandchild, sibling, or registered domestic partner must be under the continuing supervision of, but need not be receiving active treatment by a physician or practitioner. Examples include, but are not limited to, Alzheimer's, a severe stroke, or the terminal stages of a disease. (E) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a physician or practitioner or by a provider of health services under orders of, or on referral by, a physician or practitioner, 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 consecutive calendar days in the

absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

**(A)**

A period of incapacity (i.e. inability to work, attend school or perform other regular daily activities due to the serious health condition, treatment therefor, or recovery therefrom) of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition, that also involves: (i) Treatment two or more times by a physician or practitioner, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a physician or practitioner. (ii) Treatment by a physician or practitioner on at least one occasion which results in a regimen of continuing treatment under the supervision of the physician or practitioner.

**(i)**

Treatment two or more times by a physician or practitioner, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a physician or practitioner.

**(ii)**

Treatment by a physician or practitioner on at least one occasion which results in a regimen of continuing treatment under the supervision of the physician or practitioner.

**(B)**

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

**(C)**

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 for treatment by a physician or practitioner; (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, etc.).

**(i)**

requires periodic visits for treatment by a physician or practitioner;

**(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, etc.).

**(D)**

A period of incapacity which is permanent or long term due to a condition for which treatment may not be effective. The child, parent, spouse, grandparent, grandchild, sibling, or registered domestic partner must be under the continuing supervision of, but need not be receiving active treatment by a physician or practitioner. Examples include, but are not limited to, Alzheimer's, a severe stroke, or the terminal stages of a disease.

**(E)**

Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a physician or practitioner or by a provider of health services under orders of, or on referral by, a physician or practitioner, 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 consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).

**(b)**

Treatment for purposes of subdivision (a) of this section 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, eye, or dental examinations. Under subdivision (a)(2)(A)(ii), a regimen of continuing treatment

includes, for example, a course of prescription medication (e.g. an antibiotic) or therapy requiring special equipment to resolve or alleviate the health condition (e.g. oxygen). A regimen of continuing treatment that includes the taking of over-the-counter medications such as aspirin, antihistamines, or salves; or bed rest, drinking fluids, exercise, and other similar activities that can be initiated without a visit to a physician or practitioner, is not, by itself, sufficient to constitute a regimen of continuing treatment for purposes of Family Temporary Disability Insurance.

**(c)**

Conditions for which cosmetic treatments are administered (such as most treatments for acne or plastic surgery) are not "serious health conditions" unless inpatient hospital care is required or unless complications develop. Ordinarily, unless complications arise, the common cold, influenza, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, etc. are examples of conditions that do not meet the definition of a serious health condition and do not qualify for Family Temporary Disability Insurance benefits. Restorative dental or plastic surgery after an injury or removal of cancerous growths are serious health conditions provided all the other conditions of this regulation are met. Mental illness resulting from stress or allergies may be serious health conditions, but only if all the conditions of this section are met. However, in any instance where one of the above conditions satisfies the requirements of subdivision (a) above, that condition shall be deemed a serious health condition for which the claimant would be eligible to claim Family Temporary Disability Insurance benefits.