

ADA/FMLA/WC Comparison Chart

	To Whom Does the Statute Apply? 1. Employers 2. Employees	Types of Conditions	Definitions
<p style="text-align: center; font-weight: bold; font-size: 1.2em;">ADA</p>	<ol style="list-style-type: none"> 1. Private, state or local government employer with 15 or more employees for each working day, during each of 20 or more work weeks in the current or preceding calendar year. The Minnesota Human Rights Act, which also protects against disability discrimination in terms almost identical to the ADA, applies to all employers with one or more employees, although it only requires employers to provide reasonable accommodations if they have 15 or more employees. 2. All qualified employees and applicants. 	<p>Individuals with disabilities, that is, individuals who:</p> <ol style="list-style-type: none"> 1. have a physical or mental impairment that substantially limits (under Minnesota Human Rights Act "materially") one or more major life activities; 2. have a record of such an impairment; or 3. are regarded as having such an impairment. 	<p>"Impairment": Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of several body systems; or any mental or any psychological disorder.</p> <p>"Substantially limits": Either a total inability or a severe restriction on the ability to perform a major life activity as compared to the general population.</p> <p>"Major life activity": The basic activities that average persons can perform with little or no difficulty.</p>
<p style="text-align: center; font-weight: bold; font-size: 1.2em;">FMLA</p>	<ol style="list-style-type: none"> 1. Private employer with 50 or more employees; and most public employers, including cities and counties, regardless of the number of employees. 2. Employees who have worked for the employer for at least 12 months; have been employed for at least 1,250 hours of service during the 12-month period immediately preceding the commencement of the leave; and work at a worksite where 50 or more employees are employed within 75 miles of the worksite. 	<ol style="list-style-type: none"> 1. Birth of a child, to care for a newborn, or placement for adoption or foster care of a child; 2. "Serious health condition" that makes the employee unable to perform one or more of the essential functions of the employee's job; 3. To care for a spouse, child or parent with a "serious health condition." 	<p>"Serious health condition": An illness, injury, impairment or physical or mental condition that involves one of the following:</p> <ol style="list-style-type: none"> 1. inpatient care (an overnight stay) in the hospital, hospice or residential medical care facility and includes any period of incapacity (inability to work, attend school or perform other regular daily activities), or any subsequent treatment in connection with such inpatient care; or 2. continuing treatment by health care provider.¹
<p style="text-align: center; font-weight: bold; font-size: 1.2em;">WC</p>	<ol style="list-style-type: none"> 1. An employer is any person who employs another to perform a service for hire, and includes corporations, partnerships, limited liability companies, associations, groups of persons, and governmental subdivisions. 2. An employee is any person who has performed services for another for hire, with exceptions such as certain farm laborers, farmers, members of farm families, business owners, casual laborers, independent contractors, etc. 	<ol style="list-style-type: none"> 1. Personal injuries that arise out of and in the course of employment. 2. Mental disorders resulting in physical manifestations or physical injury resulting in mental disorders, but mental disorders alone without a physical cause or physical manifestation are not included. 	<p>"Personal injury" includes:</p> <ol style="list-style-type: none"> 1. injuries that are the result of specific trauma; 2. injuries that are the result of cumulative or repetitive trauma; 3. injuries that aggravate a pre-existing condition; 4. injuries that are a direct consequence of previous compensable injury; and 5. occupational diseases that are peculiar to the employee's occupation and due to causes in excess of the hazards of ordinary employment, but not ordinary diseases of life.

¹ (1) A period of incapacity of more than three consecutive calendar days and any subsequent treatment or period of incapacity relating to the same condition that also includes: (a) treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or a provider of health care services under orders of or referral by a health care provider; or (b) treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider; or (2) any period of incapacity due to pregnancy or for prenatal care; or (3) any period of incapacity due to a condition that (a) requires periodic visits for treatment by a health care provider, a nurse, or physician's assistant directly supervised by a health care provider; (b) continues over an extended period of time; and (c) may cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.); or (4) a period of incapacity due to a condition for which treatment may not be effective and which requires the continuing supervision of, but not necessarily active treatment by, a health care provider; or (5) any period of absence to receive multiple treatments by a health care provider or provider of health care services under orders of or 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 consecutive calendar days in the absence of medical intervention or treatment.

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	To What Is The Employee Entitled?	Notice Requirements	Medical Opinions
ADA	<p>A qualified disabled person may not be discriminated against on the basis of disability in application procedures, hiring, advancement, discharge, compensation, training and other terms, conditions and privileges of employment. Employers may not retaliate against an individual for asserting rights or assisting others in asserting rights under the statute.</p> <p>Employers must reasonably accommodate the known disabilities of an otherwise qualified person (one who can perform the essential functions of the job with or without reasonable accommodation) unless the employer can demonstrate that the accommodation would impose an undue hardship on the employer's business or represents a direct threat to health and safety.</p>	<p>Only qualified disabilities that are known are protected.</p> <p>There are no formal notice requirements; however, the ADA requires an interactive process between the employee and the employer in determining reasonable accommodations.</p>	<p>Under the ADA, employers may require medical examinations or make inquiry to determine whether an individual is able to perform the essential functions of the job. Under the Minnesota Human Rights Act, employers may, with the consent of the employee, obtain information for purposes of assessing the employee's continuing ability to perform the job, for purposes mandated by law, determining the need to provide reasonable accommodations, and other legitimate business reasons.</p> <p>Applicants with conditional job offers may be given medical examinations.</p>
FMLA	<p>The employee is entitled to up to 12 weeks leave during a 12 month period for any of the conditions covered. If for childbirth or adoption, the leave must be taken subsequent to the event. If for a serious illness, the leave may qualify for continuous, intermittent or part-time leave. Leave is unpaid unless it is taken concurrent with paid leave (sick leave, workers' compensation leave such as TTD, etc.), as designated by the employer, or unless the employee chooses to substitute paid leave.</p> <p>The employee must be returned to the same position the employee held when leave commenced or to an equivalent position with equivalent benefits, pay and other terms and conditions of employment. There are exceptions for "key employees," economic layoffs, and certain other circumstances.</p>	<p>Concerning the employee, if the need for leave is foreseeable, the employee must provide at least 30 days advance notice. If such notice is not practicable, notice must be given as soon as possible.</p> <p>The employer is required to provide the following notices: (1) general notice - to be seen or read by all employees; (2) eligibility notice - whether employee is eligible for FMLA leave - must be given within 5 business days of the date leave is requested; (3) rights and responsibility notice - informing employee of specific expectations and obligations for employee and the consequences of failing to meet those obligations; and (4) designation notice - informing employee whether leave will be designated and counted as FMLA leave - must be given within 5 business days of date employer determines employee's eligibility.</p>	<p>An employee may be required to provide certification from a health care provider to substantiate a serious health condition, if the employer gives written notice. The employer may require a second opinion at the employer's expense. If the two opinions differ, the employer may require certification from a third provider at its expense, which will be binding. Recertification may be required at reasonable intervals.</p> <p>A returning employee may be required to obtain a fitness for duty certification as part of a uniformly-applied practice, if the employer has given written notice.</p>
WC	<p>Benefits include: (1) temporary total or temporary partial disability benefits that compensate an employee for a temporary loss of earnings related to the injury; (2) permanent total disability benefits that compensate an employee who is permanently incapacitated from working; (3) permanent partial disability benefits that compensate an employee for a functional loss of use of a body part that is permanent in nature; (4) vocational rehabilitation services and/or retraining benefits; and (5) medical benefits that are reasonable and necessary to cure or relieve the employee from the effects of the work-related injury.</p> <p>An employer may not intentionally obstruct an employee from seeking workers' compensation benefits, nor may an employer terminate an employee for seeking them. An employer may not, without reasonable cause, refuse to offer continued employment to an injured employee when employment is available within the employee's physical limitations.</p>	<p>Generally, an employee has an obligation to advise the employer of a work-related injury. A claim may be barred if notice is not given within 180 days from the date of injury or when the employee reasonably should have known it to be work related. The notice requirement may be satisfied if the employer has actual knowledge of the injury.</p> <p>A notable exception to the 180-day notice requirement is the trivial injury doctrine. Under this doctrine, an employee with a trivial injury who gives notice when the seriousness of the injury becomes reasonably apparent may be exempt from the general notice rule. Whether an injury is considered trivial is usually a question of fact.</p>	<p>An injured employee must submit to an examination by the employer's physician, if requested by the employer, and at reasonable times thereafter upon the employer's request. The employee may request to have his or her personal physician present at such an examination. The examination must be scheduled at a location within 150 miles of the employee's residence unless the employer can show cause to order an examination at a location further from the employee's residence.</p> <p>The examination must be completed and the report of the examination must be served on the employee and filed with the Department of Labor and Industry within 120 days of service of a claim petition by the employee.</p>