

Does One of Your Employees Suffer from a Chronic Illness or Medical Condition? Consider the ADA When Assessing Their Request for Additional Medical Leave



(March 19, 2013): It's a fact of life – essentially all us will likely fall ill or develop a chronic medical condition at some point during our employment. Employees working in physician offices, home health agencies and for Durable Medical Equipment (DME) suppliers are no exception. When this occurs, owners and managers cannot forget their obligations under the American Disabilities Act (ADA) and its amendments under the Americans with Disabilities Act Amendments Act of 2008 (ADAAA).

I. A Recent Decision by the EEOC Shows How Important ADA / ADAAA Compliance Can Be:

A recent decision in a Maryland case against a large physician practice illustrates the importance of considering each request for medical leave in a reasonable fashion. In this case, an employee who suffered from Crohn's Disease worked as an assistant for the practice, answering phones, scheduling appointments and conducting other administrative duties. While undergoing treatment for her Crohn's, she required two weeks of medical leave. During this period, she went to the emergency room twice and was hospitalized at least once. When she contacted the company to ask for an additional day (of unpaid leave), she was fired. The fired employee filed a complaint with EEOC and the case ultimately resulted in a [disability discrimination lawsuit](#) being filed against the employer for alleged violations of the ADA. Ultimately, the case was settled and the fired individual recovered **\$92,500**.

II. What Lessons Can You Learn from This ADA Case Settlement?

When assessing this case, the EEOC argued that the employer's failure to provide a "**reasonable accommodation**" to the employee was a violation of the ADA. As the EEOC specifically commented, the employer's:

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“. . . lateness and attendance policy violated the Americans with Disabilities Act, as amended (ADA), because it did not provide for exceptions or modifications to the attendance policy as a reasonable accommodation for individuals with disabilities.”

When it was unable to settle the case prior to filing suit, the EEOC brought an action against the employer for violations of the ADA and the ADAA. When the case was subsequently settled, the District Director of EEOC's Philadelphia District Office stated:

"It is not only a good business practice to provide reasonable and inexpensive accommodations that allow employees with disabilities to remain employed, it is required by federal law."

In addition to the \$92,500 settlement, the agreement reached requires that the employer modify its policies to permit the ***“reasonable accommodation for employees with disabilities.”*** Additionally, the medical practice was also required to train all of its supervisory, managerial and human resources personnel on the ADA and post a notice regarding the resolution of the lawsuit at its facilities. Ultimately, health care providers can avoid these problems entirely if they approach these situations in a reasonable fashion and recognize their obligations under the ADA.

III. Conclusion.

Compliance with the ADA and other applicable statutes designed to prohibit and prevent employment discrimination of all of types should be an integral part of your Compliance Plan. These obligations cannot be delegated or dispensed with contractually. Therefore, we strongly recommend that you examine your personnel practice to help ensure that you are fully complying with the letter and the spirit of the law in this regard.



Robert W. Liles is the Managing Member at Liles Parker. He has extensive experience working on health care employment issues, in both a unionized and a non-unionized environment. Should you have questions in this regard, please feel free to call Robert for a free consultation. He can be reached at: 1 (800) 475-1906.

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