



The
Wick Law
Office

Direct: 720.999.5390

Fax: 720.596.5180

Email: ben@wick-law.com

HOW DO I KNOW IF MY MEDICAL CONDITION IS A DISABILITY?

A number of criteria must be used to determine if you meet the requirements for legal protection in the workplace under the Americans with Disabilities Act (ADA) because of your medical condition. The ADA prohibits discrimination against individuals with disabilities and may require that your employer provide a reasonable accommodation.

What does it mean to have a disability?

To be covered by the ADA, Americans with Disabilities Act Amendments Act (ADAAA), the Colorado Anti-Discrimination Act (CADA) or the Rehabilitation Act of 1973 (Rehab Act), you must be an individual with a disability. The term disability means:

1. a person who has a physical or mental impairment that substantially limits one or more major life activities;
2. a person with a record of a physical or mental impairment that substantially limits one or more major life activities; or
3. a person who is regarded as having a physical or mental impairment.

What is a physical or mental impairment that substantially limits one or more major life activities?

Whether an impairment substantially limits a major life activity requires an individualized assessment of the person, not based on stereotyped notions of a specific disability or disabilities. To have a disability, that impairment must limit the ability of an individual to perform a “major life activity” as compared to most people in the general population. This determination is made without regard to “ameliorative measures,” except for ordinary glasses or contact lenses. This means the impairment must be evaluated without considering items that lessen the effect of the disability, such as medications and assistive devices.

Major life activities are those activities most individuals perform in their day-to-day lives, including caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working. Major life activities also include

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major bodily functions, such as functions of the immune system, special sense organs, and skin, normal cell growth, and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. This list is not exhaustive.

However, an individual with the disability must still possess the requisite skill, experience, education, and other job-related requirements of the positions and be able to perform the essential functions of such position, with or without a reasonable accommodation.

How do I show that I am covered by the “record of” provision of the ADA?

As explained in the ADA, “the record of provision would protect an individual who was treated for cancer ten years ago, but who is now deemed by a doctor to be free of cancer.” A record can be almost any type of document, including educational, medical, and employment records.

When is someone “regarded as” having a disability?

Under the ADAAA, an individual is “regarded as” disabled “if the individual establishes that he or she has been subjected to a prohibited action because of an actual or perceived physical or mental impairment.” However, the impairment must not be transitory and minor. “Transitory” is defined as lasting or expected to last six months or less.

Conclusion

This guide is directed at addressing generally whether an individual has a disability for purposes of seeking a reasonable accommodation in the workplace or raising an allegation of discrimination. However, it is not intended to provide a comprehensive list of all the factors or legal issues relating to individuals with disabilities. There are additional issues that may need to be considered depending on the specific type and effects of each disability. If you believe you have been discriminated against because you have a disability or you have been denied a reasonable accommodation, please contact the Wick Law Office.

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