

EEOC Targets Company Policies That Limit the Duration of Medical Leave

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One of the most pressing dilemmas faced by employers is enforcement of long term medical leaves of absence.

Recent actions taken by the U.S. Equal Employment Opportunity Commission (EEOC) have signaled that the EEOC intends to take a more aggressive approach in enforcing the Americans with Disabilities Act (ADA). The ADA prohibits disability discrimination and requires employers to make reasonable accommodations for employees with disabilities. Specifically, the employment practice that the EEOC is targeting involves the enforcement of medical leave of absence policies that place explicit deadlines on the amount of medical leave that an employee may use.

Over the past two months, the EEOC has filed a number of lawsuits on behalf of employees alleging that various employers have violated the ADA by rejecting employees' requests for extensions to their medical leave as a reasonable accommodation for their disabilities. The EEOC asserts that it is unlawful for any employer to maintain an inflexible maximum medical leave of absence policy, which it will not extend or modify in order to accommodate employees with disabilities.

In a lawsuit filed in a Chicago federal court, the EEOC alleged that United Parcel Service, Inc. (UPS) violated federal law by rejecting extension of medical leave as a reasonable accommodation for its employee with a disability. The plaintiff took a 12-month leave of absence from work when she began experiencing symptoms of what was later diagnosed as multiple sclerosis. She returned to work for a few weeks, but soon thereafter needed additional time off after experiencing what she believed to be negative side effects of her medication. Although the Plaintiff could have returned to work after an additional two-week leave of absence, UPS fired her for exceeding its 12-month leave policy. Following its investigation, the EEOC reached an administrative determination that UPS failed to accommodate the Plaintiff's disability, in violation of the ADA.

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This case illustrates the EEOC's recent focus on enforcement of the ADA in the context of medical leave. Employers who comply with or go beyond statutory leave requirements (such as the Family and Medical Leave Act) must also consider whether an employee who has exhausted leave is entitled to an accommodation – including an extension of leave – under the ADA. In the UPS case, the EEOC took the position that policies providing for termination of employment after 12 months of leave violated the ADA because they were “inflexible.” Although we do not yet know how the courts will react to the EEOC's position, prudent employers should review their medical leave of absence policies to ensure that they allow for flexibility in order to accommodate individuals with disabilities. This includes a process for engaging in a good faith interactive process with employees whose leave may be expiring regarding potential additional reasonable accommodations, which may include a reasonable extension of leave.

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