

HEALTH CARE EMPLOYER ALERT:

EEOC Issues Question and Answer Fact Sheet Explaining How the Americans with Disabilities Act Applies to Job Applicants and Employees in the Health Care Industry

The Equal Employment Opportunity Commission released a Question and Answer Fact Sheet on February 26, 2007 that discusses the application of the Americans with Disabilities Act to job applicants and employees in the health care industry. Although the equal employment provisions of the ADA (Title I) are the same for employers in all industries, the EEOC said the fact sheet explains how the ADA might apply to particular situations involving job applicants and employees in the health care field.

Topics addressed in the fact sheet include:

- How to determine if a health care applicant or employee with a disability is qualified for ADA purposes;
- What types of reasonable accommodations health care workers with disabilities may need and the limitations on a health care employer's obligation to provide reasonable accommodation;
- When someone is an "employee" covered by the ADA (as opposed to an independent contractor);
- When someone is an "individual with a disability" under the ADA;
- When an employer may ask health care applicants or employees questions about their medical conditions or require medical examinations; and,
- How a health care employer should handle safety concerns about applicants and employees.

State and federal courts are not bound by the EEOC's interpretation of the ADA; however, judges may defer to the EEOC in areas of the law that the Agency enforces, including the ADA. Thus, employers in the health care industry should familiarize themselves with the Fact Sheet so they understand the Agency's position on this important topic.

The new publication is available at: http://www.eeoc.gov/facts/health_care_workers.html.

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