

ADAAA Update- Effective 3/24/2011

3/24/2011. The EEOC's issued final rules covering the Americans with Disabilities Act — and as expected, the revised regulations smooth the way for employees to claim they meet the legal definition of disabled.

The new rules were established following the passage of the ADA Amendments Act in 2008. The ADAAA overturned several Supreme Court decisions that Congress believed had interpreted the definition of “disability” too narrowly.

Those rulings resulted in employees suffering from chronic conditions like cancer, diabetes or epilepsy being denied ADA protection, Congressional sources said.

In guidance released last year, the EEOC summed up the shift in emphasis under the ADAAA:

“The definition of disability ... shall be construed broadly, to the maximum extent permitted by the terms of the ADA. The focus of an ADA case should be on whether discrimination occurred, not on whether an individual meets the definition of ‘disability.’”

An expansive look at ‘major life activities’ ...

A key segment of the final regulations clarifies a couple of phrases that had sparked wildly divergent interpretations between employers, workers and judges: “major life activities” and “substantially limits.”

The basic concept: A disability is a condition that substantially limits a person's major life activities.

The new rules are careful not to draw any hard and fast limits on either consideration.

Under major life activities, the regulations offer a “non-exhaustive” list:

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.

Included in the definition of major life activities is a list — also “non-exhaustive” — of bodily functions:

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.

And finally, this disclaimer:

“In determining other examples of major life activities, the term “major” shall not be interpreted strictly ... whether an activity is a “major life activity” is not determined by ... whether it is of ‘central importance to daily life.’”

... ‘Substantially limits’ gets substantial leeway

The term “substantially limits” gets a wider meaning under the new rules. The EEOC sets up a new set of criteria for qualifying for the designation.

Some highlights:

- *The term “substantially limits” shall be construed broadly in favor of expansive coverage, to the maximum extent permitted by the terms of the ADA. “Substantially limits” is not meant to be a demanding standard.*
- *An impairment is a disability ... if it substantially limits the ability of an individual to perform a major life activity as compared to most people in the general population. An impairment need not prevent, or significantly or severely restrict, the individual from performing a major life activity in order to be considered substantially limiting.*
- *The determination of whether an impairment substantially limits a major life activity requires an individualized assessment.*
- *The comparison of an individual’s performance of a major life activity to the performance of the same major life activity by most people in the general population usually will not require scientific, medical, or statistical analysis.*
- *An impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active.*