EEOC Recognizes "Long COVID" as a Disability

September 17, 2021 | Amanda Marie Baer | Articles

Last week, the United States Equal Employment Opportunity Commission (the "EEOC") formally recognized that "long COVID" may be a disability under the Americans with Disabilities Act.



"Long COVID" occurs when an individual had COVID-19 and continues to suffer from a range of new or recurring symptoms of COVID-19 that can last weeks or months after the individual is first infected with the virus, and the symptoms can worsen with physical or mental activity.

The United States Department of Health and Human Services ("HHS") describes common symptoms of long COVID as: tiredness, difficulty thinking/concentrating ("brain fog"), heart palpitations, chest pain, fever, depression or anxiety, joint or muscle pain, headache, and damage to organs including the heart, lungs, kidneys, skin, and brain. That is not an exhaustive of list of symptoms, and there is no specific number or combination of symptoms that must appear for an individual to be diagnosed with long COVID.

With the EEOC's recognition of long COVID as a disability, employers must alert to their obligations to reasonably accommodate and engage in the interactive process with employees suffering from long COVID. Not all individuals suffering from long COVID will necessarily meet the legal standard of "qualified individual with a disability" that triggers such protections; however, in the absence of clear guidance and standards, employers should consult with counsel prior to denying an accommodation to (or taking an adverse action against) an employee with long COVID.

Related People

Amanda Marie Baer

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The EEOC is expected to issue technical assistance regarding long COVID in the coming weeks, and we will keep you updated.

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