

EEOC Issues Additional Guidance On Job Rights For Employees With HIV

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The Equal Employment Opportunity Commission (EEOC) issued two separate guidance documents this week addressing employees with HIV. The first of the two documents, “ [Living with HIV Infection: Your Legal Rights in the Workplace Under the ADA](#),” is aimed at employees with HIV. The document assures employees that, for the most part, they have the right to keep their condition confidential, but that they might have to disclose the condition if they are seeking reasonable accommodation, are being evaluated for eligibility for certain employee benefits or if there is objective evidence that they cannot do their jobs because of the condition. The document further explains the process of requesting a reasonable accommodation and an employee’s protection from unlawful termination based on the employee’s medical condition. The second document, “ [Helping Patients with HIV Infection Who Need Accommodations at Work](#),” is aimed at the physicians of employees with HIV. The document explains what the Americans with Disabilities Act is, how the process of reasonable accommodation works and how it may require the physician’s assistance and what types of documentation the physician is allowed to provide. While neither of these guidance documents is specific evidence of any change in the law, both may be signs that the EEOC is paying greater attention to protecting employees with HIV. HIV infection was specifically listed in the EEOC’s regulations implementing the Americans with Disabilities Act Amendments Act as an impairment that would almost always constitute a disability, and according to the EEOC, in Fiscal Year 2014, the agency resolved nearly 200 charges of discrimination based on HIV status and obtained over \$825,000 for charging parties who claimed to be discriminated against or denied accommodations because of their HIV status. Employers who have specific questions about accommodating employees who are HIV positive should contact their labor and employment attorney.

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