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Inside This Issue:

- Transitional RTW Programs
- ADA & Intermittent Leave



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The Disability Interactive Process: Know Your Triggers

In the experience of our clients, employers are fielding an increasing number of requests for accommodation under the Americans with Disabilities Act (ADA). Due to this increased level of activity, including questions about whether some of these employees actually have a disability, employers are suffering from “accommodations fatigue.” This often leads to skipping procedural steps and/or providing inconsistent processes for employees. To maintain compliance, employers must understand when they are triggered to enter into the ADA interactive process and the importance of maintaining consistent processes.

Title I of the ADA requires employers to engage in a timely, good-faith interactive process with a disabled employee or applicant “without delay.” Organizations simply cannot wait for proof that an employee is disabled. Today, not only human resources (HR), but also supervisors and managers, must understand when their organization is triggered to begin this process and engage in conversations with an employee about accommodation needs. Triggers can be broken down into three categories:

1. Request for Accommodation

A request for accommodation can be made via an organization’s form, an email or other written communication, or simply by a verbalized concern. For example, an employee may state “my back has been hurting a lot lately” or “I cannot sleep due to all this stress at work.” Comments as vague as this have been accepted as a request for accommodation in court cases. Whatever the comment, you need to know this is a trigger for your organization to explore whether an employee is disabled and needs a workplace accommodation.

2. Perception of Disability

If you believe an employee may have a disability or perceive a previously-established disability may be impacting an employee’s ability to fully or safely perform assigned work, you have been triggered to start the interactive process.

3. Knowledge

When you receive a doctor’s note outlining work restrictions or leave needs, you are triggered. It doesn’t matter if you may have concerns about the note or don’t understand the limitations. Similarly, if a workers’ compensation claim has been filed,

you now have knowledge there may be a disability present and are therefore triggered to begin engaging in the interactive process.

Starting a timely, good-faith interactive process does not mean a reasonable accommodation must be provided. Additional process steps are required in an accommodation, including: obtaining medical clarification, research of accommodation ideas, and discussions between the parties. Ultimately, the process will guide you to a decision you can feel confident about.

But the benefits of beginning the process early and using a consistent process are proven. Doing so helps you prevent further injury, moves the parties to resolve accommodation needs more quickly and efficiently, and ultimately builds trust with your employees by showing them you are knowledgeable and ready to respond to their legitimate workplace accommodation needs.