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**Rachel Shaw, MBA**President and Principal Consultant
Shaw HR Consulting

Managing ADA Accommodation Requests in the Face of COVID-19

As employers ask employees to return to the workplace from working remotely, many are receiving requests for reasonable accommodation, especially requests to work from home. How do you manage this influx of requests? The answer is to build a robust, compliant program that is in line with your organization's philosophy.

Because the COVID-19 pandemic will eventually wind down, view your efforts as short-term, like exploring reasonable accommodations for an employee with temporary work restrictions. You'll still need a consistent process, though one that is less robust than for an employee with permanent restrictions; you aren't making employment decisions. While you have phone conversations and send letters to document decisions, you do not need to conduct formal meetings.

Understand CDC Guidelines

The Centers for Disease Control and Prevention (CDC) states that older adults and people with certain medical conditions are more likely to become severely ill from COVID-19. The CDC has also created two lists of medical conditions, the first of population groups who "are at increased risk" and a second of those who "might be at an increased risk" of severe illness from COVID-19.¹

If you add up the number of people suffering from conditions on the first list alone, it totals nearly 334 million Americans, which exceeds the U.S. population! As such, the vast majority of your employees are likely to be "at increased risk," per the CDC. Notably, the U.S. Equal Employment Opportunity Commission has provided guidance that work from home accommodation requests due to COVID-19 should be treated in accordance with the Americans with Disabilities Act interactive process.² This means that you need to have a process to evaluate requests when presented with a medical note stating an employee needs to work from home because they are "at increased risk."

Your Philosophy Matters

Is your organization flexible or return-focused? This is something to be discussed and decided on with corporate leadership. Based on this philosophy, you can make reasonable accommodation decisions. For example, a municipality providing public services may be more return-focused than a private technology company. Will your organization allow employees to work from home if they cannot do their entire job from home? You need to ask and answer this type of question when developing your program.

Communication Is Key

Having a call-back communication strategy is vital. You care about your employees and would not bring them back until you believe that is at least as safe as their regular life activities. Communicate this! When you are asking employees to return to the workplace, be sure to share why they matter and why their physical presence makes your company stronger. The better your communication strategy, the fewer requests to work from home you are likely to receive.

Consistency, Consistency, Consistency

You will likely be managing more than one request to work from home due to COVID-19. While less process may be in order, consistency is paramount. Developing your philosophy and process early on will allow you to accomplish this. Consistency and documentation will help employees understand decisions are not being made arbitrarily but in line with a process, ultimately building trust and making for a better relationship with your workforce.

References

- Centers for Disease Control and Prevention. *COVID-19: People at Increased Risk*. Jan. 4, 2021. Retrieved from <https://bit.ly/39mitQU>
- Equal Employment Opportunity Commission. *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws*. Dec. 16, 2020. Retrieved from <https://bit.ly/3nEvKcP>