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Integrated Absence Management

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COVID-19's Impact on Disability Compliance: Prepare for More Accommodation Requests

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Before the pandemic, human resource (HR) professionals were already struggling with the level of Americans with Disabilities Act (ADA) accommodation requests.

Through the pandemic, two things were introduced to U.S. workers that will likely contribute to a continued rise in this difficult workload. First, the Centers for Disease Control and Prevention (CDC) told hundreds of millions of Americans they have a disability through its "high risk" list; and second, the CDC linked this list to an often-preferred accommodation: working from home.

Now, many employers are trying to return employees to the worksite and roll back hybrid or full work-from-home (WFH) assignments, and ADA accommodation requests are on the rise. For better or worse, the CDC's guidance during the pandemic took a number of your employees — who never before thought of themselves as having a disability or entitled to workplace accommodations — and coached them about the potential of the ADA in providing not just reasonable accommodations but also coveted WFH accommodations that were rarely considered "reasonable" before the pandemic.

Widening the Definition of "Disabled"

In early 2020, the CDC released a list of medical conditions and told Americans that if they suffered from any one of these, they were at higher risk of complications if they were to contract COVID-19. Since then, the CDC has made many changes to this list.

In addition, the language of this list has been altered twice — and many would argue, softened — significantly from originally denoting an individual on this list is at "high risk." In the first alteration, the CDC indicated individuals on the list "are at increased risk/may be at increased risk." In the second change that produced today's language, the CDC states that individuals "can be more likely" to become severely ill.

If you add up the number of diagnoses of the medical conditions on the current list, it totals more than 538 million — more than the U.S. population (as some individuals have multiple diagnoses).

This means a whole new generation of Americans may now identify as disabled for a medical condition that perhaps was generally not considered "disabling" before. And with this bigger population of disabled workers, a larger number of employees may be entitled to reasonable accommodations. This could translate into an ongoing, exponential increase in the number of accommodation requests for employers.

Is This Really Such a Bad Thing?

For your employees with a disability requiring the assistance of their employer to overcome their limitations so they can fully and safely perform their essential job functions, this awakening to the power of the ADA is a great thing!

However, the experience of most integrated absence management (IAM) professionals is that all too often, those who most need ADA protections and support are the least likely to ask for it. Many IAM professionals and HR teams lament burnout as they feel they are spending most of their time on "preferences," "desires," and "performance deficiencies" and not actual medical needs. These teams are now struggling to manage their regular ADA functions, plus the added workload of questionable CDC-inspired WFH and workplace accommodation requests.

How to Manage the Expected Increase

How, then, do employers and their HR and IAM teams plan for this future in which indicators point to spiking requests for accommodation? How do we as practitioners ensure the ADA interactive process remains accessible and reserved for persons who actually need protection and support? And likely with the same staffing levels we had pre-pandemic?

The answer is that you need strong and consistently applied processes. With volume comes the need for some standardization to your process. Process has always been important, but today it is more important than ever. You must

have enough process to weed out those who want something but don't need it, while not discouraging requests from those who have a legitimate need for assistance. How do you do that? Use a solid four-step ADA interactive process.

1. *Gather information.* This begins with using a medical supplemental questionnaire to confirm the person's eligibility for the ADA process. Insist on a clear listing of work restrictions, leave needs, and the duration of such. Require their providers to address their medical findings to an essential functions position analysis, which you will provide to them, where the job demands are well documented.

2. *Research and explore accommodation ideas.* After completing the information-gathering stage, and with provider certifications in hand, research and explore feasible accommodation ideas.

3. *Meet to discuss and make decisions.* Schedule and hold an interactive process meeting to explore information about functional limitations gathered in the first step and potential accommodation ideas in the second step.

4. *Implement decisions.* Do what you said you would do during the third-step meeting.

Though all four steps are important, if you want to reduce unnecessary requests for workplace accommodations, especially prized WFH accommodations, a medical questionnaire is a must. This step may involve a little more work for someone who needs an accommodation, but it is a deterrent to those who may not have a real need. Some employees will cancel their requests when this step is introduced. In some cases, healthcare providers will think twice before blindly supporting the request they may have quickly scribbled on their prescription pad or office stationary.

The goal is to reduce the requests that are not medically needed so that you and your team can reserve your time and energy for those in your company who truly need the ADA and your good-faith efforts!