

Electronic Alert

Volume 24, Issue 36

July 28, 2021

New Workplace Disability – “Long COVID”

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Earlier this week, federal health agencies released guidance for many employers about the long-term health effects of COVID-19 in the workplace. Health professionals have identified “long COVID” as a new medical condition that afflicts people for many months after COVID-19 infection. The guidance states that “long COVID” is considered a disability under Section 504 of the Americans with Disabilities Act (“ADA”) if it substantially limits a major life activity.

“Long COVID” is a physiological condition that will affect one or more of the body systems including the neurological, cardiovascular, respiratory, and circulatory systems. Because of the range of symptoms, long COVID can be both a mental and physical impairment under disability law. Here are a few examples:

- A person with long COVID who has lung damage may experience shortness of breath, fatigue, and related effects.
- A person with long COVID who has gastrointestinal damage may experience intestinal pain, vomiting, and nausea.
- A person with long COVID who experiences neurological effects may experience memory lapses and “brain fog” that impacts their brain function, concentration, or thinking.

While the new guidance is directed only at employers who receive federal financial assistance, it identifies long COVID as a disability under the same ADA analysis that applies to private employers. Therefore, any employer with an employee requesting accommodations due to long COVID should conduct an interactive process to determine whether the individual has a condition that meets the definition of “disability” under applicable law, and then identify what reasonable accommodation would enable the individual to perform the essential functions of their position.

Federal ADA guidance like this is used by Oregon agencies and courts in applying state disability protections. As a result, employers with six or more employees in Oregon should follow these new guidelines in evaluating requests for accommodations of long COVID.

To navigate the process of determining and confirming that an employee with long COVID symptoms is entitled to a reasonable accommodation, contact Charlotte Hodde or Amy Angel at 503-228-0500, or at chodde@barran.com or aangel@barran.com.