



Workers' Compensation Insight

An Easy Guide to the Interactive Process

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Quick Facts:

The Americans with Disabilities Act of 1990 (ADA) makes it unlawful to discriminate in employment against a qualified individual with a disability.

The interactive process is a good-faith back-and-forth conversation between the injured employee and the employer. The goal of this process is to determine whether a reasonable accommodation can be made such that the employee can continue to perform the essential duties of their job or whether a permanent modified job can be provided. The employer is not required to provide a reasonable accommodation or a modified job if such change would cause an undue hardship to the employer. The conversation between the employee and employer should include a discussion of employee's limitations and involve the employee's treating physician if necessary.

What Employers Should Do

As a best practice, employers should have a policy by which they immediately begin the interactive process as soon as an injured worker has a Permanent and Stationary (P&S) or Maximum Medical Improvement (MMI) declaration from their doctor. This way the employer will be in compliance with the Americans with Disabilities Act in addition to many state's employment codes.

Equal Employment Opportunity Commission (EEOC) Resource Guide

The EEOC has published a resource guide aimed to help employers navigate interviewing, hiring, and employing disabled individuals. The guide is in a question and answer format and divided into four sections: Best Practices for Recruiting Candidates with Disabilities, Best Practices for Respecting, Retaining and Promoting Employees with Disabilities, Best Practices for Providing Reasonable Accommodations, and The Legal Framework. The guide can be found here:

http://www.whitehouse.gov/sites/default/files/docs/employing_people_with_disabilities_toolkit_february_3_2015_v4.pdf



Important Definitions

- “Interactive Process” = A good-faith back-and-forth conversation between the injured employee and the employer.
- “Reasonable Accommodation” = A modification to the employee’s job that will enable the employee to perform the essential functions of the job.
- “Essential Job Functions” = The fundamental job duties of the employee’s job.
- “Undue Hardship” = The modification to the employee’s job duties would cause the employer significant expense or significant difficulty.

Allison Amenta, Workers’ Compensation Claims / Legal Consultant, EPIC

For further information on this or any other topics, please contact your EPIC benefits consulting team.

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