

HR Weekly Podcast May 13, 2015

Today is May 13, 2015, and welcome to the HR Weekly Podcast from the State Human Resources Division. This week's podcast deals with the diagnosis of alcoholism and how it is handled under the Americans with Disabilities Act, or ADA.

Alcoholism can be a tricky diagnosis under the ADA because, while an employer may discipline employees if drinking affects the job, the employer must provide ADA accommodations for the treatment of alcoholism, to include time off. A ruling in late January, 2015 by the United States Court of Appeals for the Eleventh Circuit further complicated matters. That court ruled that an employee was properly fired after returning from treatment for alcoholism, even though he was cleared to return to work in a fit-for-duty exam.

Sakari Jarvela was a truck driver for Crete Carrier Corporation. Mr. Jarvela informed his supervisor that he was having problems with alcohol and subsequently took leave from work under the Family and Medical Leave Act, or FMLA, for treatment. At the conclusion of his treatment, Mr. Jarvela was cleared to return to work. His personal physician indicated that Mr. Jarvela was in remission, but noted that, "You always carry the diagnosis." Another physician who took part in the fitness-for-duty exam said, "An alcoholic is an alcoholic for life."

Despite being medically cleared to return to work after his FMLA leave, Mr. Jarvela was fired when he returned to work. Crete claimed that Mr. Jarvela was no longer qualified to work as a truck driver because he carried a "current clinical diagnosis of alcoholism," which, according to United States Department of Transportation regulations, prohibited him from performing his job as a truck driver.

Mr. Jarvela sued Crete under the ADA, claiming that he was able to perform the essential functions of his job as evidenced by the fact that he was determined to be fit-for-duty. Crete countered that Mr. Jarvela's seven-day old diagnosis was recent enough to be considered "current." Therefore, the company said that he was not covered under the ADA because Mr. Jarvela had a current diagnosis of alcoholism, even though doctors considered it to be in remission.

When the case went to trial, a lower court sided with Crete. Mr. Jarvela appealed, and the appeals court also found for the company. The court did not determine, however, when a diagnosis of alcoholism would "wear off." To quote from the decision, "We are not prepared to draw a bright line as to how much time must pass before a diagnosis of alcoholism is no longer 'current,' but we hold that a seven-day old diagnosis is current. (Mr. Jarvela) didn't somehow 'lose' that diagnosis between the date of his discharge from treatment and his termination a week later from his employer."

Three take-aways from this case are:

- *Know the nature of alcoholism.* Alcoholism can be in remission, but the diagnosis can remain under the ADA.
- *Get legal advice.* In its decision, the court noted that Crete took the time and effort to seek legal advice prior to making its decision to terminate Mr. Jarvela.
- *Maintain detailed job descriptions.* Ensure that job descriptions include any regulations that apply to the position, such as the Department of Transportation regulation that was used as the basis of Crete's termination decision in this case.

The information in this podcast was taken from an article posted on February 12, 2015, at www.businessmanagementdaily.com. Additional information regarding the ADA can be found at www.ada.gov. Thank you.