

City may Require Physician's note from Employees upon Return from Leave or Restricted Duty

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A city directive required employees from the division of police returning to regular duty following sick leave, injury leave or restricted duty, to submit a copy of their physician's note, stating the "nature of the illness" and whether the employee was capable of returning to regular duty, "to [his or her] immediate supervisor." Upset by the mandatory disclosure and funneling of confidential medical information through immediate supervisors, the division of police employees brought a class action lawsuit against the city, alleging that the directive violated the American with Disabilities Act, the Rehabilitation Act, and the privacy provisions of the First, Fifth, and Fourteenth Amendments. The U.S. Court of Appeals for the Sixth Circuit held that the employer's request for a returning employee to provide information about his or her general diagnosis was not necessarily a question about potential disability, and fell far short of the requisite proof of the employer engaging in discrimination solely on the basis of disability. The court stated that based on the ADA's definition of "disability" the city's directive was not a prohibited inquiry as to whether an employee is an individual with a disability because there was no evidence that this inquiry was intended to reveal or necessitated revealing a disability. Therefore, the directive did not trigger the ADA's protections. The court also rejected the employees' privacy rights claims, concluding that the directive did not raise an informational privacy concern of a constitutional dimension. This case demonstrates that an employer may institute a carefully crafted policy requiring a returning employee to provide information about his or her general diagnosis and ability to return to work, so long as the policy does not require the employee to reveal (or necessitate an employee revealing) that he or she is an individual with a disability as defined by the ADA.

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Topics

ADA, Rehabilitation Act, Fourteenth Amendment