Wellness Program Okay Under Americans With Disabilities Act

By Robert Ellerbrockon April 19, 2011

In our March 22nd client bulletin, we discussed the class action suit pending in the federal district court in Florida. Last week, the federal district court in Florida dismissed the class action lawsuit which alleged that an employer's wellness program violated the Americans With Disabilities Act.

In *Bradley Seff vs. Broward County*, U.S. District Judge K. Michael Moore granted summary judgment to Broward County on Monday, ruling that the wellness program falls under the safe harbor provision of the ADA and is based on insurance and risk management principles.

In 2009, Broward County implemented a wellness program. The program required employees to take a health assessment test and produce a blood sample to determine glucose and cholesterol levels. One year later, the county decided to apply a $20 surcharge per paycheck for individuals who did not participate in the program.

Bradley Seff, a former county employee, filed a class action complaint alleging that the county violated the ADA by requiring employees to undergo medical examinations and making medical inquiries about them.

The judge clearly disagreed with this assessment and stated, "It is clear to this court that the wellness program is not a subterfuge; it was not designed to evade the purpose of the ADA. Rather, it is a valid term of a benefits plan that falls within the ambit of the ADA's safe harbor provision." This ruling should relieve the anxieties of employers and wellness program vendors who were awaiting the court's decision. A finding that this sort of arrangement violated ADA would have had a significant impact on an employer's ability and willingness to offer a wellness program.

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