



FAMILY MEDICAL LEAVE
For Employees of Indiana State Government

Reasonable Accommodations upon Return to Work

September 2015



What happens when an employee returns to work with restrictions instead of a full release?



HR and the supervisor must have a discussion with the employee prior to the employee returning to work and/or performing any job duties to determine whether the employee has a disability under the ADA and if there are reasonable accommodation(s) that will enable the employee to perform the essential functions of his/her position.



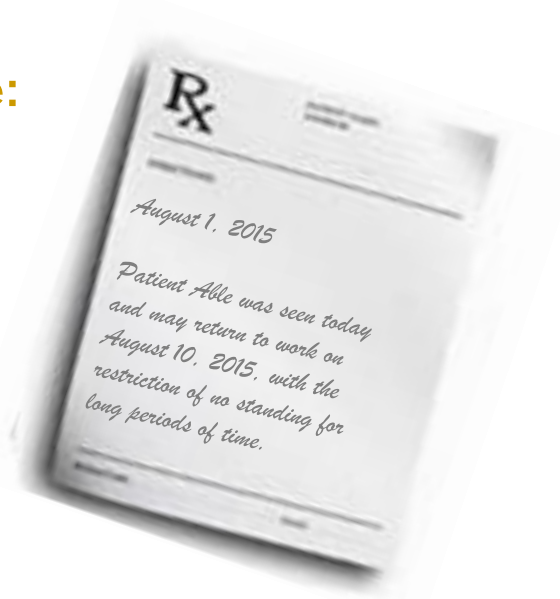
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Information that may be requested and discussed

Medical information that may have been submitted for FMLA, Worker's Comp, or the State's Disability Plan is not shared with the agency HR or management. Therefore employees may be requested to provide:

- Medical information from their health care provider about the condition for which an accommodation is being requested.
- Employee's job description and work profile.
- List of job function(s) that are impacted by the condition(s)/restriction(s).



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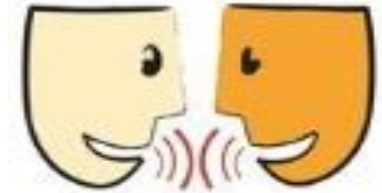
Certifying the disability



- **HR may request reasonable documentation of the disability and need for an accommodation:**
 - Documentation limited to the condition the employee is requesting an accommodation.
 - Job-related and consistent with business necessity.
- **Obvious disability:**
 - Can not require medical certification of the disability.
 - May require documentation to verify the need for an accommodation.
- **Appropriate Health Care Provider:**
 - Doctors, psychologists, nurses, physical or occupational therapists, speech therapists, vocational rehabilitation specialists, and licensed mental health professionals.
- **Documentation should include:**
 - Information that supports the existence of the disability (if not obvious).
 - The functional limitation of the disability.
 - The need for an accommodation to enable the individual to perform the job.
- **Insufficient documentation:**
 - Must give the employee an opportunity to provide the missing information.
- **Employee does not provide requested medical documentation:**
 - Can refuse to provide the accommodation.



The interactive process



HR should arrange a personal meeting with the individual with a disability and other pertinent individuals, if appropriate. The goal of the meeting is to identify the problem(s) the person is having in performing their job tasks because of the disability and solicit their ideas on a solution. The purpose of the brainstorming meeting is to come away with suggestions that will enable the individual with a disability to perform the essential functions of their position.

► Discussion(s) with the individual with a disability:

- Analyze the job and determine its purpose and essential functions.
- Identify job functions impacted by the limitations.
- Identify potential reasonable accommodation(s) to enable the individual with a disability to perform the job functions.

► May need to consult with others:

- Employee's supervisor.
- Health care provider.
- Rehabilitation specialists.
- Agency health and safety officer.
- Others with expert knowledge about dealing with the particular disability.
- JAN – Job Accommodation Network.



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Determine the appropriate accommodation

Reasonable accommodations are modifications or adjustments to the tasks, environment or the way things are usually done that enable individuals with disabilities to perform the essential functions of their position, absent undue hardship.

- ▶ **If more than one accommodation is available:**
 - Should give consideration to the preference of the individual with a disability.
 - Accommodation must be effective.
 - An effective accommodation does not have to be state-of-the-art or the employee's preference.
- ▶ **Do not have to provide an accommodation that creates an undue hardship or direct threat:**
 - Cost of the accommodation.
 - Overall financial resources.
 - The impact the accommodation has on the:
 - operation of the agency,
 - ability of others to perform their duties, and/or
 - agency's ability to conduct business.
- ▶ **Document the decision.**
- ▶ **Notify the employee of the decision.**



Implement the accommodation(s)



- **Take appropriate steps to implement the accommodation(s) as soon as possible.**
 - Keep track of progress and who is doing what.
 - Don't forget training needs.
- **Can not require an employee to use an accommodation.**
 - Can require the employee to meet their performance expectations with or without the requested/provided accommodation(s).
 - If the accommodation is not effective, the employee has the responsibility to bring the concerns to HR attention.
- **Remember medical information is confidential.**
 - Don't write the medical condition in the justification for expenditures.
 - Disclosing the accommodation to other employees (outside of those that need to know) is the same as disclosing the disability.



Keeping information confidential

If others ask about an accommodation,

- State that our policy is to assist any employee who encounters difficulties in the workplace and, since many workplace issues are personal, we respect privacy.
- State that the agency is acting for legitimate business reasons, and in compliance with federal and State laws.
- Accommodation information – not disability details – is only shared with a supervisor there is a need-to-know.
 - E.g., If an employee needs new software, that can be ordered and installed through IT services without involving or notifying the supervisor at all.



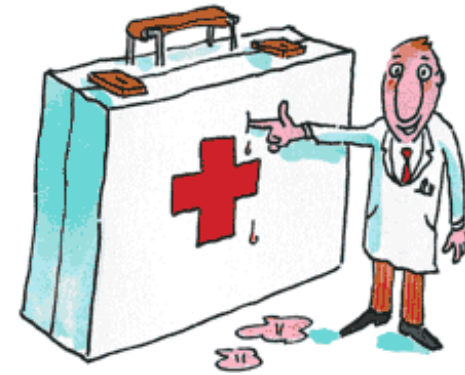
Follow-up



- **Follow-up with the individual with a disability**
 - Check to see if accommodation(s) is effective.
- **If the accommodation(s) is not effective:**
 - Engage in additional discussion(s) with the employee.
 - May need to provide alternative accommodation(s), if reasonable.
- **If employee cannot perform the essential functions of their position with or without an accommodation, then the individual is not considered qualified for the position. Leave may continue if available and appropriate or the employee may be placed in a vacant position for which s/he is qualified (and which the agency seeks to fill) or dismissed.**



Documentation



Information pertaining to a request for a reasonable accommodation is to be placed in the employee's confidential medical file.

- Documentation from the health care provider.
- Discussion(s) about the accommodation.
- Decision about the accommodation request.



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Related Information

There are other presentations on topics related to returning to work after a medical leave of absence.

- Check out these slide shows on this website:
 - Return to Work from Leave
 - Light Duty or FML or ADA/RA: Which is appropriate?



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Have a Question?

Call the SPD FMLA Line



317-234-7955

or toll free

1-855-SPD-INHR

(1-855-773-4647)



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