

Long COVID is a Disability Under the Americans with Disabilities Act

HR Insights

The US Department of Health and Human Services (HHS) and the US Department of Justice (DOJ) jointly published [guidance](#) regarding when "Long COVID" is considered a disability under the Americans with Disabilities Act (ADA).

What is Long COVID?

According to the Centers for Disease Control and Prevention (CDC), although many people with COVID-19 recover within weeks, some continue to experience symptoms lasting months after first being infected or may have new or recurring symptoms appearing weeks after they have recovered. This can happen to anyone who has had COVID-19, even if the initial illness was mild.

The HHS and DOJ guidance provides the following examples of common symptoms of Long COVID:

- Tiredness or fatigue
- Difficulty thinking or concentrating (sometimes called "brain fog")
- Shortness of breath or difficulty breathing
- Headache
- Dizziness on standing
- Fast-beating or pounding heart (known as heart palpitations)
- Chest pain
- Cough
- Joint or muscle pain
- Depression or anxiety
- Fever
- Loss of taste or smell, and/or
- Damage to multiple organs, including the heart, lungs, kidneys, skin, and brain

When is Long COVID considered a disability?

A person with Long COVID is considered to have a disability if the person's condition or any of their symptoms are considered a "physical or mental" impairment that "substantially limits" one or more "major life activities." This is a determination made by a qualified health care provider.

Long COVID is considered a **"physical or mental" impairment** because it is a physiological condition affecting one or more body systems.



The posted guidance explains Long COVID may cause physiological disorders such as lung, heart, and/or kidney damage. It may also cause mental impairments in the form of neurological damage, lingering emotional illness, and other mental health conditions.

Under the ADA, “**major life activities**” include a wide range of activities, such as caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, concentrating, working, etc. This term also includes the operation of a major bodily functions, such as the immune system, cardiovascular system, neurological system, circulatory system, or the operation of an organ.

Long COVID is considered a disability when it “**substantially limits**” one of those “major life activities.” The term “substantially limits” is construed broadly. The impairment does not need to wholly prevent or significantly restrict an individual from performing a major life activity. The person's limitations do not need to be severe, permanent, or long-term. Whether an individual with Long COVID is substantially limited in a major bodily function or other major life activity is determined without considering whether they have medication, treatment, or other measures to lessen or compensate for their symptoms. Even if the impairment comes and goes, it is considered a disability if it would substantially limit a major life activity when the impairment is active.

What do employers need to do if they have an employee with Long COVID?

An individual who’s Long COVID qualifies as a disability is entitled to the same rights and protections against discrimination as any other person with a disability under the ADA. This means as an employer, if an employee who is suffering from Long COVID needs a job accommodation, you have an obligation to engage in the interactive process to determine if there is a reasonable accommodation to be made allowing the employee to continue performing their essential job functions. You cannot discriminate against the employee because they have Long COVID.

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