



DRUG ADDICTION AND FEDERAL DISABILITY RIGHTS LAWS

WHEN IS A DRUG ADDICTION A DISABILITY UNDER FEDERAL DISABILITY RIGHTS LAWS?

Drug addiction, including an addiction to opioids, is a disability under Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and Section 1557 of the Affordable Care Act, when the drug addiction substantially limits a major life activity.¹

WHEN DOES AN INDIVIDUAL WITH A DRUG ADDICTION “QUALIFY” AS AN INDIVIDUAL WITH A DISABILITY UNDER FEDERAL ANTIDISCRIMINATION LAWS?

To be protected by federal disability rights laws, an individual with a disability, must be a “qualified” individual with a disability, which means that the individual must meet the essential eligibility requirements for receipt of services or participation in a covered entity’s programs, activities, or services. Under these laws, qualified individuals with a disability may not be excluded from participation in programs and services, be denied the benefits of, or otherwise be subjected to discrimination based on the disability. In addition, covered entities are required to reasonably modify rules, policies or practices, provide appropriate auxiliary aids and services, or remove architectural and communication barriers to ensure equal opportunities for qualified individuals with disabilities.

Federal disability rights laws also protect individuals if they:

- Have successfully completed a supervised drug rehabilitation program or have otherwise been successfully rehabilitated and are not currently engaged in the illegal use of drugs;
- Are participating in a supervised drug rehabilitation program and are currently not engaged in the illegal use of drugs; or
- Are erroneously regarded as engaging in such use, but are not engaging in such use.

WHO MUST COMPLY WITH THE LAW

Any entity that receives federal financial assistance from the U.S. Department of Health and Human Services must comply with federal nondiscrimination laws. Covered entities may include, but are not limited to:

¹ Examples of major life activities include caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working. Major life activities also include the operation of a major bodily function, including but not limited to, functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

FACT SHEET: DRUG ADDICTION AND FEDERAL DISABILITY RIGHTS LAWS

- Substance Use Disorder Treatment Programs
- Hospitals and Health Clinics
- Pharmacies
- Contracted Service Providers
- Medical and Dental Providers
- Nursing Homes
- Child Welfare Agencies
- State Court Systems

In addition, state and local governments are prohibited from discriminating on the basis of disability.

EXCEPTION CONCERNING CURRENT ILLEGAL USE OF DRUGS

Individuals who currently engage in the “illegal use of drugs”² are specifically excluded from the definition of an individual with a disability when a covered entity takes an adverse action on the basis of that current use. However, an individual is not to be denied health services, or services provided in connection with drug rehabilitation, vocational rehabilitation programs and services, and other programs and other specific programs and services funded under the Rehabilitation Act on the basis of the current illegal use of drugs if the individual is otherwise entitled to such services.

ARE INDIVIDUALS RECEIVING MEDICATION ASSISTED TREATMENT PROTECTED BY FEDERAL DISABILITY RIGHTS LAWS?

Medication Assisted Treatment (MAT) has been shown to be an effective treatment to address opioid misuse and addiction. MAT is the use of FDA-approved medications, such as buprenorphine, methadone, and naltrexone, in combination with counseling and behavioral therapies to treat an opioid use disorder or other substance use disorders. The determination of whether an individual receiving MAT is entitled federal disability rights protections is a fact-specific inquiry based on the criteria described above. However, persons receiving MAT cannot be, by virtue of that fact, excluded from protection under federal disability rights laws. Because MAT related medications are prescribed and are taken under the supervision of a licensed health care professional, MAT is not the illegal use of drugs.

FOR MORE INFORMATION

If you are interested in learning more about how federal civil rights laws protect qualified individuals with an opioid use disorder, as well as OCR’s important work on how HIPAA allows the appropriate sharing of important health information about individuals who are in crisis due to opioid addiction, visit OCR’s website at: www.hhs.gov/ocr/opioids.

For more help, information and helpful resources concerning opioid prevention, treatment and recovery, visit HHS’s opioids website at: www.hhs.gov/opioids.

DISCLAIMER: This guidance document is not a final agency action, does not legally bind persons or entities outside the Federal government, and may be rescinded or modified at the Department’s discretion. Noncompliance with any voluntary standards (e.g., recommended practices) contained in this document will not, in itself, result in any enforcement action.

October 25, 2018

² Illegal use of drugs means the use of one or more drugs, the possession or distribution of which is unlawful under the Controlled Substances Act. It does not include use of controlled substances pursuant to a valid prescription, or other uses that are authorized by the Controlled Substances Act or other Federal law. Alcohol is not a “controlled substance,” but alcoholism is a disability if it substantially limits one or more major life activities.