

PUBLICATION

Justice Department Releases New ADA Guidance on the Rights of Persons with HIV/AIDS

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On June 28, 2012 the U.S. Department of Justice released an FAQ fact sheet discussing coverage under the Americans With Disabilities Act of individuals with, or perceived to have, HIV/AIDS.

In addition to explaining that people who are HIV-positive and/or carrying AIDS are covered by the ADA regardless of whether they are symptomatic or asymptomatic, the guidance provides examples of reasonable accommodations covered employers are required to make for such employees, as well as cautionary advice about refusing to hire such individuals based on their potential to fall seriously ill and/or become a costly employee in the future. It also sets forth the narrow circumstances under which an employer can avail itself of the “direct threat” defense to failure-to-hire and termination claims, and the handling of medical inquiries and information about employees' medical condition.