

Congress Restores the Americans With Disabilities Act to Its Original Intent

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The Americans With Disabilities Act (ADA) was created to prohibit discrimination based on disability. Although many individuals filed claims alleging discrimination in the workplace based on disability, the federal courts, led by the U.S. Supreme Court, adopted an increasingly constricted interpretation of key provisions of the ADA. As a result, many individuals with serious impairments were found by the courts to not be disabled. In 2008 Congress overturned these court decisions by enacting the ADA Amendments Act. These amendments overrule several decisions by the United States Supreme Court that narrowed the applicability of the ADA, and they restore the ADA to its original intent. (*Psychiatric Services* 60:878–879, 2009)

The Americans With Disabilities Act (ADA) became effective in 1992. The ADA prohibits discrimination based on disability in many areas, including employment. When it was enacted, advocates characterized it as the most significant civil rights legislation since the Civil Rights Act of 1964. However, the ADA's impact over the years has fallen short of its promise. Although many individuals filed claims alleging discrimination in the workplace based on disability, studies suggested that a lack of adequate resources hampered enforcement by the federal government (1). As important,

the federal courts, led by the U.S. Supreme Court, adopted an increasingly constricted interpretation of key provisions of the ADA. As a result, many individuals with serious impairments were found by the courts to not be disabled within the meaning of the statute, and it became increasingly difficult for employees with a disability to prevail (2). In 2008 Congress overturned these court decisions by enacting the ADA Amendments Act. These amendments, which became effective on January 1, 2009, overrule several decisions by the United States Supreme Court that narrowed the applicability of the ADA, and they restore the ADA to its original intent.

An individual has a disability under the ADA if he or she has a physical or mental impairment that substantially limits one or more major life activities. If the person has a disability, the question becomes whether the person can perform the essential functions of the job with or without reasonable accommodation. The ADA was designed to expand work opportunities for people with disabilities. However, in a series of cases dating to 1999 (2), the Supreme Court limited the reach of the ADA in several important ways.

First, the Court ruled that a claimed disability had to be assessed in its corrected state. This occurred in a case in which two sisters challenged an airline regulation that required pilots to have uncorrected visual acuity of 20/100 or better to qualify for particular routes. The sisters, whose uncorrected vision did not meet this standard, argued that their uncorrected vision met the definition of disability because it substantially limited the major life activity of seeing. They also argued that because they had a disability within the meaning of the ADA, the airline had to grant them a reasonable accommodation,

which in this case would have been permitting them to fly the routes in question wearing eyeglasses. However, the Supreme Court, by a 7-2 vote, disagreed (3). In its principal holding, the Court ruled that an impairment had to be considered in its corrected state to determine whether it substantially limited major life activities and that eyeglasses corrected the sisters' vision, eliminating the substantial limitation on vision. The Court did concede that if the corrective action taken by the individual itself substantially limited a major life activity, then the person would still have a disability within the statute.

Second, in a case ruling that carpal tunnel syndrome was not a disability, the Court narrowed the definition of "major life activities" to those tasks "central to most people's daily lives, not whether the claimant is unable to perform the tasks associated with her specific job" (4). This substantially narrowed the application of the ADA in employment cases, because it shifted the focus from work-related activities (the focus of most earlier court decisions) to more routine and generally less difficult activities of daily life.

These decisions had a significant impact on the manner in which the federal courts applied the ADA. The requirement that an impairment had to be considered in its corrected state was particularly important. As a result, it became more difficult to establish that certain conditions such as asthma, diabetes, epilepsy, and some mental illnesses met the definition of disability. Individuals with major depression, for example, lost a number of claims because medication controlled their symptoms even though the depression had some impact on their performance at work (5). Some courts also concluded that individuals were obligated to

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attempt corrective actions to have their claims of disability considered, a perspective that essentially required an individual to take medication regardless of side effects. If the side effects were sufficiently disabling, the person might meet the definition of disability. However, side effects that were bothersome and intrusive but fell short of substantially limiting major life activities had to be tolerated if the person wished to pursue a claim (6).

The more restrictive definition of "major life activity" created by the Supreme Court also had a significant impact. For example, an individual with cerebral palsy who was fired from her job filed a lawsuit alleging she had been terminated because of her disability. The employer claimed the termination had been performance related. The employee claimed that she was substantially limited in the major life activities of performing manual tasks and caring for herself. However, the Court of Appeals, noting that the Supreme Court had characterized the task of showing a substantial limitation a "demanding" one, found that the employee's cerebral palsy did not substantially limit any major life activity. For example, the Court of Appeals stated that the employee was not "severely restricted" in attending to hygiene, in her ability to cook, in dressing herself, or in caring for herself, even though she could not cut her own nails, needed help when chopping food and buttoning her clothing, and had difficulty in chewing and swallowing (7).

As a result of decisions such as these, 15 years after the ADA had become law, it was increasingly difficult for individuals with severe impairments to prove they had a disability. Unable to meet this threshold criterion, many employees had their cases summarily dismissed, leaving them without remedy for discrimination and exempting employers from the need to provide reasonable accommodation.

The ADA Amendments Act was designed explicitly to overturn these decisions. One of the findings that preface the ADA Amendments Act states, "the holdings of the Supreme Court . . . have narrowed the broad scope of protection intended to be afforded by the ADA, thus eliminating protection for many individuals whom Congress in-

tended to protect." Congress further found that "lower courts have incorrectly found in individual cases that people with a range of substantially limiting impairments are not people with disabilities." The act goes on to say that it is the intent of Congress to expressly overrule these cases.

The amendments make several important changes to the ADA. First, although the definition of disability is unchanged, Congress makes clear that it is "reinstating a broad scope of protection to be available under the ADA" (Sec. 2(b)(1)). This is to counter the cramped reading of disability by the courts that led to this legislation. Second, Congress expands the definition of major life activities to include two types of examples (Sec. 4(a)(2)). Major life activities now "include, but are not limited to, caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working." In addition, a new category of major life activities called "major bodily functions" has been added and is defined as "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." In perhaps the most significant change, the amendments state that the determination of whether an impairment substantially limits a major life activity is to be made "without regard to the ameliorative effects of mitigating measures." The amendments then list a number of examples that are not to be considered mitigating measures, including medication, medical supplies, prosthetics, hearing aids, and other measures (Sec. 4(a)(3)(E)(i)-(iii)).

The amendments make other revisions to the ADA as well. In a change that is significant for individuals with mental illnesses, the ADA Amendments Act now states that impairments that are "episodic" or "in remission" can be considered disabilities if they substantially limit a major life activity when active (Sec. 4(a)(3)(D)). Many courts had concluded that short-term disorders, or disorders in remission, were not disabilities under the ADA, and this

change will cause courts to reexamine those rulings as new cases are filed. Finally, the amendments seek to improve enforcement of the ADA by explicitly directing the Equal Employment Opportunity Commission (EEOC) to provide regulatory guidance on key terms such as "substantial limitation" and more generally to vigorously enforce the statute. This is designed to eliminate judicial suggestions that the EEOC might lack broad authority under the ADA Amendments Act.

The ADA Amendments Act of 2008 may be as significant as enactment of the original statute. Although courts initially ruled frequently for employees, the U.S. Supreme Court had interpreted the ADA very conservatively in the past decade. As a result, employers had clearly enjoyed the upper hand in the disposition of claims. These amendments augur a new era in interpretation and enforcement of the ADA. They are likely to stimulate more vigorous regulation and enforcement by the EEOC. They will also certainly mean that more claimants will survive efforts to have their claims dismissed, particularly given the clear direction by Congress that impairment is to be considered in its uncorrected state and in the expansion of the definition of major life activities. In short, these developments should reinvigorate the ADA as a tool for addressing workplace claims of discrimination based on disability.

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