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Disability Claims for Obesity on the Rise

Last month, the United States District Court for the Eastern District of Missouri ruled that obesity may be considered a disability even if it is unrelated to an underlying physiological disorder or condition. The plaintiff in Whittaker v. America’s Car-Mart, Inc., 2014 WL 1648816 (E.D. Mo. Apr. 24, 2014) filed a complaint alleging employment discrimination on the basis of disability and retaliation. Specifically, Mr. Whittaker claimed that he was terminated from his position as General Manager because of his severe obesity. In its opinion denying the defendant’s motion to dismiss, the court held that the plaintiff’s pleading sufficiently stated a claim that he is disabled within the meaning of the Americans with Disabilities Act of 1990 (“ADA”), 42 U.S.C. § 12101 et seq.

In its motion to dismiss, America’s Car-Mart, Inc. (“ACM”) argued that Mr. Whittaker’s alleged disability, severe obesity, is not an actual disability under the ADA unless it is related to an underlying physiological disorder or condition. However, the court rejected this argument, stating that ACM was relying on case law that construed “disability” using the more restrictive approach that was applied before Congress passed the Americans with Disabilities Act Amendments Act of 2008 (“ADAAA”). Importantly, the court explained that the definition of “disability” under the ADA, as amended by the ADAAA, must be construed in favor of broad coverage of individuals.

Mr. Whittaker alleged that his severe obesity constitutes a physical impairment within the meaning of the ADA. Further, Mr. Whittaker pleaded that ACM regarded him as being substantially limited in one or more major life activities, including, but not limited to, walking, as a result of his obesity. The court found that these allegations formed a factual basis from which inferences supporting the legal conclusion that Mr. Whittaker is disabled within the meaning of the ADA may be drawn.

Judge Limbaugh’s opinion in Whittaker confirms the prediction that disability claims based upon obesity are on the rise. Although the court did not reference it specifically, this decision is in line with the American Medical Association’s (“AMA”) reclassification of obesity from a co-morbidity to a disease. See white paper here. The Whittaker decision reinforces the AMA’s message: obesity alone, without any other resulting condition, injury or illness, is a disease. Thus, obesity alone may constitute a disability. The reclassification of obesity was expected to result in greater protection for obese employees under the ADA and an increase in the number of claims involving obesity. It seems that forecast is proving to be true.
Earlier this month, Cigna released its 20-year disability study, which found that claims related to obesity increased by 3,300% from 1993 to 2012. Given this statistic, it is safe to say companies will probably start seeing many more cases like Whittaker in the near future. Employers should assume that obesity constitutes a disability and should be prepared to accommodate that disability. Good faith efforts to make reasonable accommodations are likely the best protection against obesity liability.

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