

Disability Discrimination: Nurse Sues Over Side Effects Of Employer-Required Treatment For Methicillin-Resistant Staph Infection.

An obstetrical nurse was diagnosed with methicillin-resistant Staph aureus (MRSA), received treatment and was cleared to return to work with no restrictions.

Soon after she came back an infant delivered at the hospital was diagnosed with MRSA. Because she had earlier been diagnosed and treated for MRSA the nurse was removed from her duties unless and until she agreed to be tested. She tested positive. She demanded a retest which was negative. She was re-tested at least six more times and was negative.

Her supervisors told her she could not return to work unless and until she completed a course of treatment for MRSA. She was advised that with her pre-existing diabetes and irritable bowel syndrome the treatment would likely cause severe side effects.

The treatment for MRSA did lead to a heart arrhythmia, bloody diarrhea and C. difficile infection. Nevertheless, the nurse completed the treatments and was medically cleared to return to work in any and all nursing positions.

The hospital refused to reinstate the

Before being allowed to file a lawsuit a victim of employment discrimination must file a complaint with the Equal Employment Opportunity Commission (EEOC) and receive a right-to-sue letter from the EEOC after the EEOC has completed its investigation.

After receiving a right-to-sue letter from the EEOC there is a ninety-day deadline for suing the employer.

As a general rule a victim of discrimination cannot sue the employer over something that was not brought up in the victim's original complaint to the EEOC. In this case the nurse did not expressly use the phrase "reasonable accommodation" in her EEOC complaint, but it is clear from what she said that was what she was getting at.

UNITED STATES DISTRICT COURT
ILLINOIS
June 27, 2006

nurse in any capacity, pointing to her history of MRSA infection. The nurse sued for disability discrimination.

The US District Court for the Northern District of Illinois resolved in the nurse's favor certain legal technicalities that the hospital raised concerning the wording of the allegations in the nurse's Equal Employment Opportunity Commission complaint versus the wording of the allegations in her civil lawsuit.

Side Effects of Treatment Should Be Handled as a Disability

The upshot of the court's ruling is to extend the definition of disability to cover the side effects of medical treatment a healthcare employer imposes upon a healthcare employee as a condition of continued employment.

According to the court, not only the nurse's MRSA infection and history of MRSA infection, but also the side effects of treatment for MRSA and her history of having experienced such side effects are disabilities for which the nurse should have at least been considered for reasonable accommodation.

At this point in the litigation the court has only validated the underlying premises of the nurse's lawsuit for being denied reinstatement. The court has not yet ruled what sort of reasonable accommodation would have been appropriate while the nurse was undergoing treatment for MRSA. Mudgett v. Centegra Health Systems, Inc., 2006 WL 1806390 (N.D. Ill, June 27, 2006).