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## First-Class Accommodations in Disability

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By law, employers have a duty to accommodate employees with a disability, whether that disability is physical or mental. Accommodation can include such changes as part-time shifts, job sharing between two employees, eliminating non-essential tasks, providing flexible work arrangements and offering additional time to learn new responsibilities.

“Accommodations don’t cost too much,” said Lisa Romano, legal counsel, Psychiatric Patient Advocate Office, Ministry of Health and Long Term Care, speaking at The Canadian Institute’s Implementing and Maintaining Return-to-Work Strategies conference in Toronto today. “About two-thirds of job accommodations cost under \$500.”

However, the duty to accommodate can be challenging for employers, said Mike McCreary, partner, Watson Jacobs McCreary Barristers and Solicitors. You’re accommodating individuals up to the point of “undue hardship,” he said. “You have to go to extraordinary means to accommodate disabled workers.”

In one case, McCreary said, an employer created a special room for a disabled employee who suffered from sleep apnea. The employee could go into the room during his shift, set the alarm for 15 minutes and sleep. The accommodation cost the employer \$90,000.

But understanding when and how to accommodate disabled employees isn’t easy. “Defining disability is a vexing problem for HR,” said McCreary, adding that the definition of “disability” is a lot broader than it used to be. For example, courts have defined migraines, drug addiction, alcohol dependency and irritable bowel syndrome as disabilities, to name just a few. He suggests that employers dig a little deeper in identifying employee issues that may be disability-related.

“If you’re faced with an employee, you’re obliged to investigate the cause of the issue and see if it falls in the disability definition that the courts use,” he said.

In dealing with possible disability cases, McCreary said HR should get as much medical information as possible in order to make an informed decision, even though initially, they’ll get resistance from employees. He also suggested keeping a diary or notes of discussions with the employee to ensure that the case is well documented for future reference.

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