

## **Human Resource Laws and Regulations on Mental Illness**

Small Business, Human Resources, Human Resource Plans

By: Ruth Mayhew

<https://smallbusiness.chron.com/human-resource-laws-regulations-mental-illness-60823.html>

Major depressive disorder, a mental health condition, is the primary diagnosis for workers aged 15 to 44 with a disability subject to protection under the Americans with Disabilities Act, according to the National Institutes of Health. Approximately one in every four adults has a mental disorder, which stands to reason that many people who suffer from mental illness are in the workforce. Two federal laws address employers' obligations and responsibilities to employees with mental disorders: the Americans with Disabilities Act and the Mental Health Parity and Addiction Equity Act.

### *Mental Illness*

Mental illness does not always qualify as a disability under the ADA. At publication date, the EEOC definition of a mental impairment follows the guidance of the Diagnostic and Statistical Manual of Mental Disorders, referred to as the DSM-IV. Based on the ADA rule, a mental impairment such as anxiety, major depression or post-traumatic stress disorder may qualify as a disability. The EEOC typically does not consider stress as a disability; however, it might be considered as a factor in a qualifying mental disorder. For example, an employee who claims his workload is causing him stress isn't covered under the ADA, but a worker diagnosed with bipolar disorder who exhibits signs of stress, or who experiences stress because of his workload, might be covered under the ADA.

### **Major Life Activities**

Based on the ADA rules, a mental impairment must prevent the individual from engaging in at least one major life activity. To say that it impairs an employee's ability to work generally is not enough to substantiate that the mental impairment qualifies as a disability. Examples of major life activities within the context of mental impairments include concentrating, sleeping, learning and performing tasks that require thinking. The EEOC does not publish a list of major life activities. What constitutes a major life activity is evaluated on a case-by-case basis.

### **Employer-provided Health Coverage**

The Mental Health Parity and Addiction Equity Act of 2008 affects employers' obligations regarding group health insurance coverage. The Act requires parity between coverage for medical conditions and mental health conditions. Employers cannot provide a group benefit that provides greater annual or lifetime benefits for treatment of medical conditions than those for treatment of mental illness. Companies that employ 50 or more workers are covered under the Act. The Act also applies to insurance companies that provide coverage to businesses that employ 50 or more workers. Therefore, both the employer and the insurer must practice due diligence in ensuring that group health plans offer appropriate amounts of treatment for mental illness.

### **Accommodations**

Employers are required to provide an accommodation to an employee who requests one, provided the employee has a covered disability and provided the accommodation doesn't create a staffing or economic hardship for the employer. For example, it's probably an undue hardship if a receptionist asks you to accommodate her schizophrenia by letting her work two days a week from home using remote technology. However, if she asks for permission to use a quiet, uninterrupted space for her to decompress from potential episodes, you can give her access to a private office or conference room where she won't be disturbed.