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Is Obesity a Disability?

By: Joe Palazzolo – July 8, 2013

The above question is an important one in employment law. If the answer is “yes,” then obesity is covered by the Americans with Disabilities Act. That, in turn, means that obese people are afforded legal protection against discrimination based on their weight, and a sharp tool with which to enforce that protection in a court of law.

Historically, obese employees have had a tough time convincing judges they are disabled in lawsuits alleging employer discrimination, unless their obesity is a symptom of another disability. But the American Medical Association may have improved their case, according to employment lawyers. (Hat tip to Walter Olson at Overlawyered.)

In June, the AMA upgraded obesity from a condition to a disease. Jon Hyman, a partner at Kohrman Jackson & Krantz PLL in Cleveland, said the move by the physicians’ group almost surely sweeps obesity within the ambit of the 1990 anti-discrimination law, which was amended in 2008 to broaden the definition of “disability.”

Under the updated language of the law, Mr. Hyman recently wrote on his employment law blog, virtually any diagnosed medical condition counts as a disability. While the AMA’s decision carries no legal authority, it will likely make an impression on the courts.

“Now, employers will have to consider reasonable accommodations for anyone with a body mass index of 30 or over. Also, anyone who appears to have that BMI will have potential protections from terminations and other adverse actions related to that perceived ‘disease,’” Mr. Hyman concluded.

Perhaps the writing was already on the wall.

The U.S. Equal Employment Opportunity Commission has maintained since at least 2010 that obesity is a disability. And in recent years, courts in Louisiana, Mississippi and Montana have discarded the conventional wisdom that obesity isn’t a disability for the purposes of the ADA, though they remain in the minority.