What is a Disability?

What is the definition of disability under the ADA?

Source: <https://adata.org/faq/what-definition-disability-under-ada>

It is important to remember that in the context of the ADA, “disability” is a legal term rather than a medical one. Because it has a legal definition, the ADA’s definition of disability is different from how disability is defined under some other laws.

The ADA defines a person with a disability as a person who has a physical or mental impairment that substantially limits one or more major life activity. This includes people who have a record of such an impairment, even if they do not currently have a disability. It also includes individuals who do not have a disability but are regarded as having a disability. The ADA also makes it unlawful to discriminate against a person based on that person’s association with a person with a disability.

Types of Disabilities

Source: <http://www.disabled-world.com/disability/types/>

Types of disabilities include various physical and mental impairments that can hamper or reduce a person's ability to carry out his day to day activities. These impairments can be termed as disability of the person to do his or her day to day activities.

These impairments can be termed as disability of the person to do his day to day activities as previously. "Disability" can be broken down into a number of broad sub-categories, which include the following:

a) Mobility and Physical Impairments

This category of disability includes people with varying types of physical disabilities including:

* Upper limb(s) disability
* Lower limb(s) disability

Manual dexterity

Disability in co-ordination with different organs of the body

Disability in mobility can be either an in-born or acquired with age problem. It could also be the effect of a disease. People who have a broken bone also fall into this category of disability.

b) Spinal Cord Disability:

Spinal cord injury (SCI) can sometimes lead to lifelong disabilities. This kind of injury mostly occurs due to severe accidents. The injury can be either complete or incomplete. In an incomplete injury, the messages conveyed by the spinal cord is not completely lost. Whereas a complete injury results in a total dis-functioning of the sensory organs. In some cases spinal cord disability can be a birth defect.

c) Head Injuries - Brain Disability

A disability in the brain occurs due to a brain injury. The magnitude of the brain injury can range from mild, moderate and severe. There are two types of brain injuries:

* Acquired Brain Injury (ABI)
* Traumatic Brain Injury (TBI)

ABI is not a hereditary type defect but is the degeneration that occurs after birth.

The causes of such cases of injury are many and are mainly because of external forces applied to the body parts. TBI results in emotional dysfunctioning and behavioral disturbance.

d) Vision Disability

There are hundreds of thousands of people that suffer from minor to various serious vision disability or impairments. These injuries can also result into some serious problems or diseases like blindness and ocular trauma, to name a few. Some of the common vision impairment includes scratched cornea, scratches on the sclera, diabetes related eye conditions, dry eyes and corneal graft.

e) Hearing Disability

Hearing disabilities includes people that are completely or partially deaf, (Deaf is the politically correct term for a person with hearing impairment).

People who are partially deaf can often use hearing aids to assist their hearing. Deafness can be evident at birth or occur later in life from several biologic causes, for example Meningitis can damage the auditory nerve or the cochlea.

Deaf people use sign language as a means of communication. Hundreds of sign languages are in use around the world. In linguistic terms, sign languages are as rich and complex as any oral language, despite the common misconception that they are not "real languages".

f) Cognitive or Learning Disabilities

Cognitive Disabilities are kind of impairment present in people who are suffering from dyslexia and various other learning difficulties and includes speech disorders.

f) Psychological Disorders

Affective Disorders:

Disorders of mood or feeling states either short or long term.

Mental Health Impairment is the term used to describe people who have experienced psychiatric problems or illness such as:

Personality Disorders - Defined as deeply inadequate patterns of behavior and thought of sufficient severity to cause significant impairment to day-to-day activities.

Schizophrenia: A mental disorder characterized by disturbances of thinking, mood, and behavior.

h) Invisible Disabilities Source: <http://www.disabled-world.com/disability/types/invisible/>

Invisible Disabilities are disabilities that are not immediately apparent to others. It is estimated that 10% of people in the U.S. have a medical condition considered a type of invisible disability which include, but are not limited to:

* ADHD
* Anxiety disorders
* Allergies
* Arachnoiditis
* Asperger Syndrome
* Asthma
* Autism
* Bipolar disorder
* Brain injuries
* Charcot-Marie-Tooth disease
* Chronic fatigue syndrome
* Chronic pain
* Circadian rhythm sleep disorders
* Coeliac Disease
* Crohn's disease
* Depression
* Diabetes
* Ehlers Danlos Syndrome
* Endometreosis
* Epilepsy
* Fibromyalgia
* Food allergies
* Fructose malabsorption
* Hereditary Fructose Intolerance
* Hyperhidrosis
* Hypoglycemia
* Inflammatory bowel disease
* Interstitial cystitis
* Irritable Bowel Syndrome
* Lactose Intolerance
* Lupus
* Lyme Disease
* Major depression
* Metabolic syndrome
* Migraines
* Multiple Sclerosis
* Multiple Chemical Sensitivity
* Myasthenia Gravis
* Narcolepsy
* Personality disorders
* Primary immunodeficiency
* Psychiatric disabilities
* Reflex Sympathetic Dystrophy
* Repetitive stress injuries
* Rheumatoid arthritis
* Schnitzler's Syndrome
* Schizophrenia
* Scleroderma
* Sjagren's syndrome
* Temporomandibular joint disorder
* Transverse Myelitis
* Ulcerative Colitis

Federal Support for People with Disabilities

Section 504, Rehabilitation Act of 1973

Source:<http://www.dol.gov/oasam/regs/statutes/sec504.htm>

Section 794. Nondiscrimination under Federal grants and programs; promulgation of rules and regulations

(a) Promulgation of rules and regulations

No otherwise qualified individual with a disability in the United States, as defined in section 705 (20) of this title, shall, solely by reason of his or her disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance or under any program or activity conducted by any Executive agency or by the United States Postal Service. The head of each such agency shall promulgate such regulations as may be necessary to carry out the amendments to this section made by the Rehabilitation, Comprehensive Services, and Development Disabilities Act of 1978. Copies of any proposed regulations shall be submitted to appropriate authorizing committees of the Congress, and such regulation may take effect no earlier than the thirtieth day after the date of which such regulation is so submitted to such committees.

(b) "Program or activity" defined

For the purposes of this section, the term "program or activity" means all of the operations of --

(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

(B) a local educational agency (as defined in section 8801 of Title 20), system of vocational education, or other school system;

(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship --

(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

(4) any other entity which is established by two or more of the entities described in paragraph (l), (2) or (3); any part of which is extended Federal financial assistance.

(c) Significant structural alterations by small providers

Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services is available. The terms used in this subsection shall be construed with reference to the regulations existing on March 22, 1988.

(d) Standards used in determining violation of section

The standards used to determine whether this section has been violated in a complaint alleging employment discrimination under this section shall be the standards applied under title I of the Americans with Disabilities Act of 1990 (42 U.S.C. 12111 et seq.) and the provisions of sections 501 through 504, and 510, of the Americans with Disabilities Act of 1990 (42 U.S.C. 12201-12204 and 12210), as such sections related to employment.

Section 794a. Remedies and attorney fees

(a)(1) The remedies, procedures, and rights set forth in section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16), including the application of sections 706(f) through 706 (k) [42 U.S.C. 2000e-5(f) through k)] shall be available, with respect to any complaint under section 791 of this title, to any employee or applicant for employment aggrieved by the final disposition of such complaint, or by the failure to take final action on such complaint. In fashioning an equitable or affirmative action remedy under such section, a court may take into account the reasonableness of the cost of any necessary work place accommodation, and the availability of alternative therefor or other appropriate relief in order to achieve an equitable and appropriate remedy.

(2) The remedies, procedures, and rights set forth in title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq)shall be available to any person aggrieved by any act or failure to act by any recipient of Federal assistance or Federal provider of such assistant under section 794 of this title.

(b) In any action or proceeding to enforce or charge a violation of a provision of this subchapter, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

Programs

Source:<https://www.ssa.gov/redbook/eng/overview-disability.htm#&a0=1>

Supplemental Security Income Program (SSI)

The SSI program makes cash assistance payments to aged, blind, and disabled persons (including children) who have limited income and resources. The Federal Government funds SSI from general tax revenues. Many states pay a supplemental benefit to persons in addition to their Federal benefits. Some of these states have made arrangements with us to combine their supplemental payment with our Federal SSI payment into one monthly check to you. Other states manage their own programs and make their payments separately. Title XVI of the Social Security Act authorizes SSI benefits.

Medicaid Source:<https://www.medicare.gov/your-medicare-costs/help-paying-costs/medicaid/medicaid.html>

Medicaid is a joint federal and state program that helps with medical costs for some people with limited income and resources. Medicaid also offers benefits not normally covered by Medicare, like nursing home care and personal care services.

Social Security Disability Insurance Program (SSDI)

SSDI provides benefits to disabled or blind persons who are “insured” by workers’ contributions to the Social Security trust fund. These contributions are based on your earnings (or those of your spouse or parents) as required by the Federal Insurance Contributions Act (FICA). Title II of the Social Security Act authorizes SSDI benefits. Your dependents may also be eligible for benefits from your earnings record.

SSDI and Medicare Source: <http://medicareunder65.com/ssdi-and-medicare/>

For those of you who are under 65 and on Social Security Disability Income, your eligibility for Medicare does not begin until 2 years after your first SSDI check. Since you’ve already had to wait 5 months after the onset of your disability to receive your first SSDI check, you will have had to have a qualifying disability for 29 months in order to become a Medicare beneficiary. The exception for this is if you have Lou Gehrig’s Disease (ALS), or End-Stage Renal Disease (ESRD), in which case you qualify for Medicare automatically, without a waiting period.

Medicare Special Needs Plans (SNP) Source: <https://www.medicare.gov/sign-up-change-plans/medicare-health-plans/medicare-advantage-plans/special-needs-plans.html>

Medicare SNPs are a type of Medicare Advantage Plan (like an HMO or PPO). Medicare SNPs limit membership to people with specific diseases or characteristics, and tailor their benefits, provider choices, and drug formularies to best meet the specific needs of the groups they serve. Find out who can join a Medicare SNP.

Disability Evaluation Under Social Security

Source: <https://www.ssa.gov/disability/professionals/bluebook/AdultListings.htm>

Listing Of Impairments :

* Musculoskeletal System
* Special Senses and Speech
* Respiratory System
* Cardiovascular System
* Digestive System
* Genitourinary Disorders
* Hematological Disorders
* Skin Disorders
* Endocrine Disorders
* Congenital Disorders that Affect Multiple Body Systems
* Neurological
* Mental Disorders
* Cancer (malignant neoplastic diseases)
* Immune System Disorders

Myths

Source: <http://www.onestops.info/article.php?article_id=93>

MYTH

Hiring employees with disabilities increases workers compensation insurance rates.

FACT

Insurance rates are based solely on the relative hazards of the operation and the organizations accident experience, not on whether workers have disabilities.

MYTH

Employees with disabilities have a higher absentee rate than employees without disabilities.

FACT

Studies by firms such as DuPont show that employees with disabilities are not absent any more than employees without disabilities.

MYTH

People with disabilities are inspirational, courageous, and brave for being able to overcome their disability.

FACT

People with disabilities are simply carrying on normal activities of living when they work at their jobs, go grocery shopping, pay their bills, or compete in athletic events.

MYTH

People with disabilities need to be protected from failing.

FACT

People with disabilities have a right to participate in the full range of human experiences including success and failure. Employers should have the same expectations of, and work requirements for, all employees.

MYTH

People with disabilities have problems getting to work.

FACT

People with disabilities are capable of supplying their own transportation by choosing to walk, use a car pool, drive, take public transportation, or a cab. Their modes of transportation to work are as varied as those of other employees.

MYTH

People with disabilities are unable to meet performance standards, thus making them a bad employment risk.

FACT

In 1990, DuPont conducted a survey of 811 employees with disabilities and found 90% rated average or better in job performance compared to 95% for employees without disabilities. A similar 1981 DuPont study which involved 2,745 employees with disabilities found that 92% of employees with disabilities rated average or better in job performance compared to 90% of employees without disabilities.

MYTH

People who are deaf make ideal employees in noisy work environments.

FACT

Loud noises of a certain vibratory nature can cause further harm to the auditory system. People who are deaf should be hired for all jobs that they have the skills and talents to perform. No person with a disability should be prejudged regarding employment opportunities.

MYTH

Considerable expense is necessary to accommodate workers with disabilities.

FACT

Most workers with disabilities require no special accommodations and the cost for those who do is minimal or much lower than many employers believe. Studies by the Job Accommodation Network have shown that 15% of accommodations cost nothing, 51% cost between $1 and $500, 12% cost between $501 and $1,000, and 22% cost more than $1,000.

MYTH

Employees with disabilities are more likely to have accidents on the job than employees without disabilities.

FACT

In the 1990 DuPont study, the safety records of both groups were identical.

Personal Responsibility

Source: <https://www.socialworkers.org/advocacy/welfare/legislation/summary.pdf>

SUPPLEMENTAL SECURITY INCOME (SSI)

• Individual Functional Assessment. Tightens eligibility, in part, by eliminating the Individual Functional Assessment (IFA) for children. Children only can qualify through the more restrictive medical listings. Effective date: day of enactment for new claims; July 1, 1997 for current recipients.

In some instances, the same disability that qualifies an adult for SSI will not be sufficient to qualify a child. Among the children most likely to lose benefits are those suffering from multiple impairments, none of which is severe enough to meet the more stringent disability criteria established by the law, but the combined effect of which is substantial.

The Social Security Administration (SSA) estimates that the following percentage of children, based on diagnosis, will lose access to SSI through elimination of the IFA: 49 percent of children with mood disorders; 38 percent with pulmonary tuberculosis; 33 percent with mental retardation; 29 percent with burns; 25 percent with intercranial injuries; 22 percent with schizophrenia; and 22 percent with arthritis.

• Maladaptive Behavior. Removes references in the medical listing to "maladaptive behavior" in evaluating personal/behavioral functioning for children with mental impairments.

CBO estimates that over the next six years 48,000 children will lose access to benefits as a result of this change.

• Disability Reviews. Mandates continuing disability reviews every three years for all children except those whose conditions are not expected to improve. The child's representative payee will have to show evidence at the time of the review that the child is receiving treatment to the extent medically necessary and available for the qualifying condition.

• Funding. Reduces total benefits by more than $7 billion over the next six years.

CBO estimates that by 2002, 315,000 low-income children who would have qualified

under previous law will be denied SSI--or 22 percent of previously eligible children.

• Research. Requires a study by the General Accounting Office (GAO) on the impact of the new children's SSI provisions and the extra expenses incurred by families of receiving benefits that are not covered by other federal, state or local programs.

Social Security Disability Benefits: It’s Your Responsibility to Report Personal Changes

Source: <http://thekhakilawfirm.com/social-security-disability-benefits-its-your-responsibility-to-report-personal-changes/>

Many people ask “Do I have to do anything else?” once they start receiving monthly disability benefits. The answer is yes. The Social Security Administration (SSA) does a yearly review of disability benefit recipients to ensure that each person receiving benefits does indeed continue to qualify. To make sure that you remain eligible, you have a legal obligation to report any changes and are responsible for several things. One, it is imperative that you continue to receive regular medical care. Should a year go by and the SSA finds that a person has not seen a doctor in all that time, the logical conclusion is that the person is not disabled and no longer needs disability benefits.

Two, if your address or phone number changes or you are traveling out of the United States for more than 30 days, you must notify your local SSA office with your updated contact information. They are not going to track you down. If they can’t reach you, it can cause your benefits to be cancelled. Three, if you are using direct deposit and your account information changes, call your local SSA office to get the appropriate forms to fill out and submit with your new bank information.

Four, if your income changes at all, it must be reported to the SSA. When conducting the yearly review, should they find that you received more income than you originally reported receiving, you could end up owing the SSA money.

In summary, if you have any life changes that you think may affect your disability benefits, it’s important to let the Social Security Administration know. It’s best to be totally upfront and not risk putting yourself in a situation where you have no monthly benefits or the SSA is charging you for overpayment. The SSA typically gives recipients 10 days after the end of the month that the changes occur. If more time goes by without the recipient notifying the Social Security Administration of any changes, the SSA has the legal right to apply a penalty to your benefits.

You can report your change online at Social Security Administration website or by calling toll free at 1-800-772-1213.