Is Hep C ADA protected?

September 25, 2015 By Rick Nash

In 2006, an American's With Disabilities Act (ADA) case regarding Hep C helped set the tone as a reminder of just how gray ADA protections can be.

Equal Employment Opportunity Commission (EEOC) V. Heartway

A woman worked in the kitchen of a senior's nursing home, upon cutting her hand it was revealed that she had Hep C. She was sent home requiring a doctor's note for clearance, when she attempted to return she was subsequently fired. The manager complained of the risks of exposure citing a potential mass exodus if this was made public.
His claim was that she was fired because she lied about having Hep C on her application.

The case would prove the manager's actions as illegal and her claim that she was fired as a result of Hep C was upheld.

The case also expanded on where Hep C fits within ADA protection. Hep C itself is not a disability, it's protected under the "Regarded as" interpretation. "Regarded as" is basically the idea that if the manager assumes it's a disability, it's a disability.

This is also incredibly hard to prove, unless like in this case the employer decides to say something akin to: "you having Hepatitis C, you will not work in our kitchen." It makes these cases slightly more cut and dry.

I've disclosed my Hep C several times to employers with mixed results.
I worked for over eight different schools, and for three different employers, two of them were hell, but that's all it took.

1.) In 2010 I worked for a school, my supervisor was new to the field and was never given the training she was supposed to be given. Having worked in this field for six years at the time we began to butt heads.

I was looking into starting the Incivek treatment at the time, and explained that I have Hep C and went over how that may affect my ability to work. I asked for several days off/less hours on those days so that I could go to my tests and doctor's appointments. She explained that she would get back to me on that.

I was not prepared for what happened next.

She scheduled mandatory staff meetings and events for the days I requested. She presented me with a new schedule of hours, switching me from working 10:00AM-6:30PM to a split shift

6:00AM-9:00AM, 1:30PM-6:30PM. She began to make the essential functions of my job practically impossible to do. She'd made comments to the effect of questioning my ability to work due to my needing so much time off, stating I could barely get the work done during the time I had.

Her aim was to get me to leave, or fire me for poor performance. With the help of a fledgling union I was able to delay most of her evaluations and help determine when the meetings would be. While I was able to combat her allegations, I was pink slipped due to budget issues.

2.) Years later I worked at an elementary school. I didn't need to disclose my Hep C to my supervisor, she already knew of it from friends of mine who worked for her in the past. I was unaware that she had no intention of allowing me to gain permanent status.

She constantly pushed for me to take days off if I were sick or not feeling well. It was during my employment with her that I was diagnosed with Hepatic Encephalopathy and Ascities. I told my new symptoms to my supervisor. Due to my worsening ascities it became hard to walk or move at times, I also struggled on several essential duties, but due to the Encephalopathy I was unable to explain it. Because to me, everything was accurate, I didn't understand that when out of balance I would be unable to properly do basic math consistently.

Lactulose would correct this, and before I was terminated I was successful in this task. With medication, the issues were no longer a problem. In early December I had an impromptu evaluation, and despite my meeting of each goal, I was let go right before the winter break.

In this scenario, there was no intent to replace me due to my disabled status, however it was utilized as part of the reason I was eventually terminated. At the time I understood that I could request reasonable accommodation even at the late date of that final review.

However, I also understood that while that would allow me to continue working for her, I had little interest in reliving the adventure which had happened a few years ago in my worsening state.

1.) During the first work situation with Hep C, it would have been hard to prove that Hep C was the defining factor, despite it's clear use as a means to attempt to terminate me.

2.) The second situation gave me the ADA protection I needed, but would have been stressful and I would have had to fight my supervisor for the rest of my employment there. And by this time my decompensated liver severely limited my work options.

While there are protections under the ADA for Hep C, they're hard to apply because of the nature of discrimination. Until the disease worsens or treatment begins, Hep C often falls under the "Regarded as" category. This makes it very hard to determine if there are no statements or actions that directly point to Hep C.

You can't be fired for having Hep C, but the question of being fired for excessive absences as a result of Hep C is up to a jury to decide. EEOC v. AT&T Even when FLMA is utilized.

Most people with Hep C who seek treatment often find a looming financial burden of large medical debt associated with treatment. Many with Hep C are presently forced to wait until the disease worsens to even be able to get that treatment, so while waiting their need for medical care increases.

While the EEOC can help someone fight a case like this, dealing with a case, treatment, and attempting to work so that they maintain insurance/income can be a monumental task.

Discrimination is one of the larger issues at hand, and there are lots of legal ways employers look for to get rid of someone who isn't a "good fit."

So what can anyone do to help?

- Help stop the stigma, correct people when they talk about Hep C as some kind of monster. Like we said at the school I worked at: "Be an upstander, not a bystander."
- Support organizations like the AASLD and NVHR.
- Vote for candidates who make it a priority to stand for patients' rights.

© 2026 Smart + Strong All Rights Reserved.
http://beta.docker.hepmag.com/blog/is-hep-c-ada-protect