

Contractors in Federally Funded Programs Have Disability Protections

Those working for public employers, may be covered under the Rehabilitation Act of 1973, the 9th U.S. Circuit Court of Appeals ruled. The court joined the 10th Circuit with this ruling because, the Americans with Disabilities Act (ADA) provides no such protection for contractors with private companies — and because the two laws are so closely related that they often refer to each other — some courts have interpreted this to mean that the Rehabilitation Act also exempts contractors from its coverage.

The 9th Circuit however, reasoned that Section 504 of the Rehabilitation Act incorporates only specific parts of the ADA and that employee eligibility is not one of them.

A contractor entered into an employment contract with a medical center. The hospital later asked him to sign an addendum requiring him to work a certain schedule. He refused because the schedule would not accommodate his sickle cell anemia, and so his contract was terminated.

The trial court found that because the ADA does not cover contractors, and because Section 504 incorporates relevant parts of the ADA into its standards, the contractor was not eligible to sue. He appealed, and the appeals court agreed with the contractor arguing that employee eligibility is not technically incorporated in Section 504. The 9th and 10th Circuit Court of Appeals ruled:

Section 504 does not literally incorporate Title 1 of the ADA and therefore, '*Section 504(d) addresses only the substantive standards for determining **what** conduct violates the Rehabilitation Act, not the definition of **who** is covered.*' The scope of the Rehabilitation Act is broader than that of the ADA. It covers all programs and activities of federally funded entities.

Therefore, it could be argued that an individual's ability to contract with — and practice at — a hospital is an activity of a public entity, not an employment relationship.

What This Means For Counties

Counties should be aware that contractors in federally funded programs may also claim disability protections.

For more information, contact CTSI at 303-861-0507.