

## New EEOC guidance allows for estimated leave

The Equal Employment Opportunity Commission (EEOC) recently issued new guidance regarding workers who have cancer. Employers may have to grant or extend leave to workers who give an approximate rather than a fixed return date, according to the new guidance.

### **Indefinite Leave vs. Estimated Leave**

Most courts have rejected that indefinite leave is sometimes required by the Americans with Disabilities Act (ADA), but approximate return dates are different. With indefinite leave, an employee does not provide a return date.

A reasonable estimate of a return date, even if provided in a range of dates, is not the same thing as indefinite leave.

### **Estimated Leave and Employees with Cancer**

The EEOC guidance states that an employee with cancer may only be able to specify an approximate date of return and it may be as vague as “in six to eight weeks” or “in about three months.”

“Although many types of cancer can be successfully treated – and often cured – the treatment and severity of side effects often are unpredictable and do not permit exact timetables. An employee requesting leave because of cancer,

therefore, may be able to provide only an approximate date of return,” according to the EEOC guidance.

### **Requirements of the Employee**

However, the EEOC also noted that employees should stay in regular communication with their employers to inform them of their progress and to discuss any need for additional leave beyond what was originally granted. The employer has the right to require that the employee give periodic updates on the condition and a possible date of return.

### **What This Means to Counties**

Counties should be aware of this new guidance in order to avoid discriminating against employees who must take leave because of cancer.

For more information, visit the EEOC’s website at [www.eeoc.gov](http://www.eeoc.gov), or contact CTSI at 303-861-0507.