

Obesity: A Disability Recognized Under Federal Law?

By Maureen E. Carr, Esq.

Obesity may soon be recognized as a disability under the Americans with Disabilities Act (ADA). In June 2013, the American Medical Association (AMA) formally upgraded obesity (defined as having a body mass index of 30 or over) from a “condition” to a “disease,” which could have far-reaching legal implications.

Until recently, the Equal Employment Opportunity Commission (EEOC), which is charged with enforcing the ADA, did not recognize obesity as a disability. After Congress enacted the ADA Amendments Act (ADAAA) in 2008 to broaden the ADA’s coverage, the EEOC reversed its position. Federal courts have generally held that obesity is not a disability unless it is a symptom of an underlying physiological condition that constitutes a disabling impairment, although some courts have tempered their positions recently in light of the ADAAA and the EEOC decision.

In response to the ADAAA and the AMA’s recent designation of obesity as a disability, it is likely that courts will increasingly recognize obesity as an ADA disability without the need to establish an underlying physiological condition. This could have a profound effect on the employment landscape.

If obesity is recognized as a disability under the ADA, employers can expect increased requests for reasonable accommodations and discrimination claims based on obesity. The Center for Disease Control estimates that 35.7% of American adults are obese, which represents a significant portion of the workforce. Reasonable accommodation requests may range from providing ergonomic chairs to modifying job junctions to accommodating work-from-home requests. In the meantime, employers should tread lightly in making employment decisions that are related to an employee’s weight or that may disproportionately affect obese employees.

Maureen E. Carr, Esq. is an employment and litigation attorney at Rees Broome, PC in Tysons, Virginia. For more information, please contact Maureen at mcarr@reesbroome.com or 703-790-1911.