

Q & A

MCS Under the ADA

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Q: Can my multiple chemical sensitivity (MCS) be reasonably accommodated under the Americans with Disabilities Act (ADA)?

A: Yes, MCS may be reasonably accommodated. The challenge is that employers generally don't want to accommodate disabilities. It's not the ease of simple and reasonable accommodations that is the issue. It's the fact that employers just refuse to provide them and view people with MCS (and other disabilities) as a lawsuit risk and try to push them out of the company or school in favor of someone else who "won't be such a hassle".

It's discrimination and most faced with needing accommodations for work are really faced with a choice. Do I try to work without accommodations and harm my health? Do I try to work without Accommodations and get fired for not being productive as a result of exposures? Or, do I ask for accommodations and know I'll be intentional stressed and hassled to encourage me to quit, if I'm not fired directly?

Unfortunately, despite recent changes, the ADA is practically useless. This is especially apparent with invisible disabilities which cannot be easily observed by looking at a person. Even if one can get it to work for them, it takes months and years of things like being asked for a second and third diagnosis, providing additional letters, test results, and

more.

A simple letter from a doctor stating the nature of the condition and accommodations needed should suffice under the law. But in the experience of many who have shared their stories, they are told they need a second medical opinion and then they can be accommodated.

So, time and money waste while a second opinion is obtained and they say "that's not good enough, now we need a copy of your lab tests that PROVE you have the condition."

More time and money passes and the doctor explains how MCS is diagnosed and shows copies of various abnormal results or hospitalizations due to exposures and then they ask for a specific list of each and every product which causes a reaction and exactly what the symptoms are for each one. They want the products, not the chemical class in general. In other words, the list would be thousands of products long.

Then, while time is wasted getting all that, they want a third opinion.

These are all stalling tactics designed to avoid giving needed accommodations. In the meantime, months, if not years, have passed. It would be less time consuming and costly for employers and schools if accommodations were just simply made. If it's a school, the person either long left the school or graduated without ever getting accommodated.



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In some cases, administrators say outright, "MCS doesn't exist, you're just mentally ill so we don't have to provide accommodations". Then the battle turns to proving MCS exists. Irregardless, a mental illness may be reasonably accommodated as a disability too.

The bottom line is that administrator simply won't provide the accommodations even though they are easy and simple things.

This is not limited to MCS. Some employers and schools are so hard nosed against anyone with a disability that they do everything they can to avoid giving them what they perceive as "special treatment".

While the "special treatment" would enable a person with a disability to engage in work or school, administrators may misinterpret accommodations as somehow providing an unfair advantage.

Accommodations are made based on functional limitations, not just a diag-

nosed condition. In the end, it can be a long and arduous journey and may not be fruitful.

Generally, accommodations should be implemented immediately. A letter or other documentation from a physician may be requested. If it's not accepted and "proof" or second opinions are requested, chances are it's better to go somewhere else unless you are prepared to be a trail blazer and buckle down for a long battle and hire an attorney. If, on the other hand, you don't have energy for that and are just trying to earn a living, it may be better to get out early before the stress builds up and adds to your physical limitations.

Once you have an open and receptive ear, accommodations can be simple. Some accommodations may include:

1. Sitting near a window which opens.
2. A private office.
3. Taking exams in a private room.
4. Disconnecting florescent lights above your desk.
5. Allowing an air filter to be brought in.
6. Requesting staff and visitors avoid the use of fragranced products.
7. Being allowed frequent breaks.
8. Being allowed to work from home some days or all the time.
9. Attending meetings via speakerphone from another room.
10. Being reassigned to a position with less exposure.

For more information about accommodations for MCS, fibromyalgia, and chronic fatigue syndrome, visit the Jobs Accommodation Network (JAN) at:

<http://www.jan.wvu.edu/media/atoz.htm>

