**Section 2500.20 What Constitutes a "Disability"**

a) Statutory Definition – According to Section 1-103(I) of the Act, the term "disability" in employment contexts *means a determinable physical or mental characteristic of a person, including but not limited to a determinable physical characteristic which necessitates the person's use of a guide or hearing dog, the history of such characteristic, or the perception of such characteristic by the person complained against, which may result from disease, injury, congenital condition of birth or functional disorder and which characteristic is unrelated to the person's ability to perform the duties of a particular job or position*. This Section, together with Section 2500.30, interprets the various clauses within this definition.

b) *Determinable Physical or Mental Characteristic*

1) The definition is not confined to only those physical and mental conditions that are grave or extreme in nature. However, it is interpreted as excluding:

A) conditions that are transitory and insubstantial; and

B) conditions that are not significantly debilitating or disfiguring.

2) To be covered, a condition must be "determinable" by recognized clinical or laboratory diagnostic techniques.

c) *Resulting from Disease, Injury, Congenital Condition of Birth or Functional Disorder*

If a dispute arises as to whether a condition constitutes a disablity, it is the burden of the person claiming the disability to establish that the condition results from disease, injury, congenital condition of birth or functional disorder. For example, the conditions of obesity and drug or alcohol abuse shall not be deemed "disabilities" unless the person can demonstrate that the condition arises from or constitutes the equivalent of a disease or functional disorder. (Even when alcohol or drug dependence is established as constituting a disease or functional disorder, see subsection (d) of this Part regarding whether the condition is "unrelated to the person's ability".)

d) *Unrelated to the Person's Ability to Perform the Duties of a Particular Job or Position*

1) Under this language, the real or suspected implications of a person's physical or mental condition are irrelevant, and therefore cannot justify discrimination against the person, if those implications do not affect the person's ability to acceptably perform the particular job in question. Irrelevant implications include the preferences of co-workers, clients and customers; the expense of providing fringe benefits such as group insurance; and potential workers' compensation liability. Moreover, a condition is "unrelated to a person's ability to perform the duties of a particular job or position" if it merely affects the person's ability to perform tasks or engage in activities that are apart from or only incidental to the job in question.

2) On the other hand, a person's condition is related to his/her ability if it would make employment of the person in the particular position demonstrably hazardous to the health or safety of the person or others, or if it is manifested or results in behavior (e.g., absenteeism, poor quality or quantity of production or disruptiveness) that fails to meet acceptable standards. Reasonable accommodation of a person's physical or mental limitations must be explored, in accordance with Section 2500.40, to determine whether the condition prevents acceptable or safe performance of the activities necessary to the job. However, a person's alcoholism or drug dependence, manifested in intoxication or excessive absence or tardiness at work, is presumptively related to the person's ability to perform.

(Source: Amended at 33 Ill. Reg. 3506, effective February 5, 2009)