

ADA Accommodation Services

Salem Health



Agenda

- Who is The Standard?
- ADAAA Background
- ADA Accommodation Services: Process
 - How to Refer an ADA Case
 - ADAAA Correspondence and Communication
- Roles and Responsibilities
- Support for You and Your Employees

Who is The Standard?

We are a proud partner of Salem Health offering the following services and coverages:

- Absence Management
- Oregon PFML
- ADA Accommodation Services
- Short Term Disability
- Long Term Disability
- Life/AD&D Insurance



ADAAA

Background on the ADAAA

- The Americans with Disabilities Act (ADA) was signed into law in 1990 to make American society more accessible to people with disabilities
- The ADA Amendments Act (ADAAA) of 2008 was enacted in 2009 to broaden the definition of disability
 - The actual definition of disability did not change
 - Emphasizes the importance of an interactive accommodation process with employees
- Title I of the ADA requires employers to provide reasonable accommodations for applicants and employees with disabilities and prohibits discrimination on the basis of disability in all aspects of employment

Source: JAN, The Americans with Disabilities Act: A Brief Overview, <https://askjan.org/links/adasummary.htm>

ADA Definition of Disability

Three-Pronged Approach

1. Actual disability

A physical or mental impairment that substantially limits one or more major life activities; or

2. Record of

A record of physical or mental impairment that substantially limits a major life activity; or

3. Regarded as

Being regarded as having such an impairment

Source: US Equal Employment Opportunity Commission: https://www.eeoc.gov/laws/regulations/ada_qa_final_rule.cfm



ADA Requirements

What does the ADA require when an employee has a disability and requests assistance performing their job?

The law requires employers to engage in an interactive process to determine and implement a reasonable accommodation for the employee.

What do these terms mean?

- **Interactive process:**
An ongoing conversation between the employer and the employee about the employee's work restrictions, limitations and/or accommodations that would enable the employee to perform the job
- **Reasonable accommodations:**
Adjustments or modifications provided by an employer to enable people with disabilities to enjoy equal employment opportunities*

*Source: <https://www.eeoc.gov/eeoc/publications/adahandbook.cfm#reasonable>

FMLA vs. ADA

	FMLA	ADA
Covered Employees	Eligible employee: 1. Worked 1,250 hours in the past 12 months 2. Worked at least 12 months for employer; or 3. Reports out of a facility where at least 50 employees work, within a 75-mile radius of the facility.	All employees and applicants that have a qualifying disability
General Purpose	Provides limited leave from work	1. Prohibits discrimination against certain disabled employees/applicants 2. Requires employer-provided “reasonable accommodations” to applicants and employees with qualifying disabilities
Qualifying Conditions	Broadly covers many illnesses and injuries	1. Impairment that substantially limits one or more major life activities 2. History of such impairment, or 3. Perceived as having such impairment
Reasons for Leave	1. employee’s serious health condition 2. Spouse, parent, or child’s serious health condition 3. Birth, adoption, or foster care placement of employee’s child; or 4. Covered spouse, son, daughter, or parent to deal with “qualified exigencies” caused by the call to active duty of members of the National Guard, military reserves, and some retirees	Leave for the employee’s own health condition but not for care of others
Length of Leave	Up to 12 weeks in a 12-month period	Leave for a defined period unless and until it causes undue hardship
Reinstatement	Reinstatement to the same or substantially equivalent position generally required	Reinstatement to the same position unless that is an undue hardship. Employer has the duty to reasonably accommodate if the employee cannot perform essential functions and should consider job reassignment as a last resort

ADA Interactive Process



KEY
The Standard's Responsibility
Shared Responsibility
Employer's Responsibility

Roles and Responsibilities

The Standard	HR	Manager	Employee
<p>Key Activities: Initiate ADA case and interactive process, identify accommodations, create a consistent process for all employees</p> <ul style="list-style-type: none"> • Proactive case identification • Initiate the interactive process with an employee when a referral is received directly from Salem Health or identified through absence reports • Review medical documentation and information from employee • Seek clarification from medical provider on limitations and restrictions • Collaborate with HR, managers, supervisors and other stakeholders to ensure accommodation success before, during and after implementation • Send accommodation options to employer, and obtain response from the employer • Notify employee of accommodation decision 	<p>Key Activities: Identify stay at work requests and refer cases, collaborate with The Standard and employee, make accommodation decisions</p> <ul style="list-style-type: none"> • Recognize ADA accommodation requests and refer employee for services • Collaborate with managers and supervisors to facilitate decisions about accommodation requests • Assist in coordinating return to work, accommodation placement, changes to established accommodation, equipment placement, or transitional duty 	<p>Key Activities: Identify stay at work candidates and refer cases, collaborate with The Standard, HR, and employee on accommodation requests.</p> <ul style="list-style-type: none"> • Identify transitional duty tasks with assistance of accommodation specialist • Communicate clear expectations when an accommodation is made • Focus on what the employee can do • Maintain contact to monitor employee in a transitional workplace 	<p>Key Activities: Engage in the interactive process, respond to outreach and requests for information</p> <ul style="list-style-type: none"> • Participate and stay engaged in the interactive process • Respond to outreach attempts • Provide information that will help the ADA team understand the request • Have flexibility and the willingness to consider many accommodation options • Comply with medical restrictions • Notify Salem Health and The Standard regarding return to work status • Communicate any difficulties encountered while working with an accommodation

How to Refer an ADA Case

Salem Health initiates a referral:

- HR/Manager receives a request for accommodation directly from Employee and refers case via email to the Salem Health Accommodation Services team: adaservices@standard.com

The Standard proactively initiates a referral (no action needed from Salem Health):

- The Standard reviews continuous leave exhaust reports weekly to identify employees who may exhaust eligible leaves (referral initiated at 8-10 weeks)

– OR –
- The Standard identifies an employee who is ineligible for FMLA and other leaves due to hours worked or length of service
- The Standard's Absence Management team refers employees released to return to work with limitations and restrictions to the ADA Team

ADA Correspondence

ADA Event	Associated Correspondence/Forms	Communication Specifics
ADA case identified/referred	ADA Pending letter and forms	<p>ADA pending letter and forms (Healthcare Provider Questionnaire, Employee Request for Accommodation, Authorization) sent to employee and employer</p> <p>Response required by Employee within 15 days</p>
Pending case: no response within 15 calendar days, or no medical received	ADA Closure letter	Case closed to lack of response or lack of medical certification, ADA closure letter sent to Employee and Employer.
ADA accommodation recommendation	Email to Employer	<p>Accommodation Request sent to manager/HR for decision</p> <p>Response required by Manager</p>
Accommodation request: Decision communicated to employee	ADA Approval or Denial letter	<p>The Standard to communicate decision to employee (approval or denial) and copy employer</p> <p>For continuous leave approval, a Return-to-Work (RTW) form is included</p>
RTW or recertification	RTW form, or new medical form sent to employee	RTW form received, and employer notified; or recertification/extension process initiated

ADA Accommodation Request Email to Manager/HR Team

Dear [Manager],

We've received and reviewed information from the employee as well as medical information noting limitations and restrictions that support an ADA accommodation request as follows:

Limitations and Restrictions:

Anticipated RTW or End of Accommodation date:

Request for Accommodation:

Please advise:

1. Are you able to approve this?
2. If so, what is the duration of approval?

Thank you,

Accommodation Specialist
The Standard

Support for You and Your Employees

Signs an Employee Might Need an Accommodation

- Struggling to perform job duties
- Complaining of pain
- Missing work often
- Showing up late
- Exhibiting a sudden decline in job performance
- Asking for accommodations that are more complex



Objectives of Our Services

- Engage the employee and their medical provider in the interactive process
- Clearly define limitations and restrictions and anticipated durations
- Identify accommodation options
- Help employees remain productive and stay on the job safely
- Assist employees in returning to work after a disability, as soon as is medically appropriate
- Ensure that employees maintain positive connections with the workplace
- Help employees feel valued and avoid the “disability mentality”
- Reduce turnover
- Lower the impact and costs of disability



Enhanced Services: Workplace Possibilities

Focusing on Stay at Work and Return to Work

Through early intervention and collaboration, we can customize a plan for each employee that can keep the individual at work and productive.

We can:

- Complete on-site evaluations and assessments including determining the employee's job demands
- Consult and determine the appropriate way to address employees with behavioral health conditions
- Research potential accommodations and recommend those that adapt to employees' needs
- Work directly with HR to develop a plan for each employee as well as provide training for HR and supervisors
- Utilize the Reasonable Accommodation Expense Benefit (\$25,000), even if no claim is ever filed
- Coordinate the delivery and installation of accommodation equipment
- Provide training on any equipment and follow up to ensure accommodations are successful



Enhanced Services

We offer enhanced clinical case management, ergonomic assessments and equipment purchases to support return to work or stay at work for employees covered by the LTD policy.

Up to
\$25,000

Reasonable Accommodation
Expense Benefit

- \$4,072
Average claim savings per case*
- \$3.65
Average savings for every dollar spent on services and equipment for return to work*
- \$1,326
Average cost for accommodations*

* Statistics are based on combined group short term disability and group long term disability data developed by Standard Insurance Company, including benefit savings on insured and self-funded plans, between Jan. 1, 2014, through Dec. 31, 2022.

Additional Resources

- EEOC FAQ:
https://www.eeoc.gov/laws/regulations/ada_qa_final_rule.cfm
- Job Accommodation Network ADA Library:
<https://askjan.org/links/adalinks.htm>
- International Association of Rehabilitation Professionals:
<http://www.rehabpro.org>
- Disability Management Employer Coalition (DMEC):
<http://DMEC.org>
- The Standard's Workplace Possibilities Program:
<http://workplacepossibilities.com/>



Questions?



The Standard is a marketing name for StanCorp Financial Group, Inc. and subsidiaries. Insurance products are offered by Standard Insurance Company of 1100 SW Sixth Avenue, Portland, Oregon, in all states except New York, where insurance products are offered by The Standard Life Insurance Company of New York of 333 Westchester Avenue, West Building, Suite 300, White Plains, New York. Product features and availability vary by state and company and are solely the responsibility of each subsidiary. Each company is solely responsible for its own financial condition. Standard Insurance Company is licensed to solicit insurance business in all states except New York. The Standard Life Insurance Company of New York is licensed to solicit insurance business in only the state of New York.