



Municipality May Require Employees to Disclose Medical Information When Returning From Sick Leave

Michael R. Blum

Foster Swift Municipal Law News

March 2011

In a decision issued February 23, 2011, the U.S. Court of Appeals for the Sixth Circuit, which covers Michigan, found that a municipal employer did not violate its employees' legal rights by requiring workers returning from sick leave or restricted duty to submit a doctor's note disclosing the "nature of the illness" to their immediate supervisors.

The City of Columbus Division of Police issued a directive that required returning employees to submit to their immediate supervisor a doctor's note that states the nature of the illness and whether the employee was capable of returning to regular duty. Employees, upset that they had to provide medical information to their immediate supervisors, filed a class action lawsuit claiming violations of the Rehabilitation Act and privacy provisions of the United States Constitution.

The federal trial court sided with the employees, finding the directive to be overly intrusive. The Sixth Circuit appellate court disagreed, siding with the employer. It determined that it is lawful for municipalities to ask a returning employee about his or her general diagnosis, even if it could lead to information about an employee's disability. The appellate court further held that even if Columbus's policy could be characterized as a disability-related inquiry, it was okay because it applied uniformly to all employees returning from leave. This is consistent with the Equal Employment Opportunity Commission's stance – that an employer may ask workers requesting or returning from sick leave to provide a doctor's note if the employer's policy is uniformly applied.

The federal appellate court ruled that Columbus's directive did not violate employee privacy rights under the United States Constitution. It found that the directive was not an "unwarranted intrusion" into "all areas of an employee's personal medical information" without sufficient justification. So there was no violation of privacy rights protected under the Constitution.

AUTHORS/ CONTRIBUTORS

Michael R. Blum

PRACTICE AREAS

Employment Law

Labor Relations



This decision provides assistance to municipalities in their efforts to guard against fraudulent use of sick or leave time. However, to do so, municipalities must implement and apply non-discriminatory policies, uniformly apply such policies to all employees returning from sick leave or restricted duty, and ensure compliance with other aspects of federal or state laws governing employee leaves of absence.

If you have questions about this case summary or non-discriminatory policies regarding sick leave or restricted duty, please contact Michael Blum at 248.785.4722.

