



The Second Circuit Reviews New York Methodist Hospital Worker's FMLA Suit

July 18, 2017

On June 30, 2017, the U.S. Court of Appeals for the Second Circuit found that the District Court erred when it held that an employee had not proven a “serious health condition” to qualify for medical leave. The Second Circuit reasoned that the District Court used an interpretation of the regulation that was too narrow.

Jacintha Pollard was employed by New York Methodist Hospital from September 2000 - April 2013. Pollard worked as a hospital file clerk, a position that required her to stand for most of the day. In 2013, she discovered a mass on her foot which became increasingly painful and limited her ability to work. On March 19, 2013, Pollard sought medical attention from Podiatrist, Dr. Sadhnani. Dr. Sadhnani scheduled surgery to remove Pollard’s growth on March 28, 2013. The procedure required two follow up appointments for further treatment. Pollard provided the Hospital with a medical note from Dr. Sandhani entitling her to medical leave until April 18, 2013.

New York Methodist Hospital denied Pollard’s request for medical leave and stated that the Family Medical Leave Act (FMLA) required the employee to provide their employer with thirty days’ notice when medical leave is foreseeable. On March 26, 2013, Pollard provided the Hospital with an FMLA medical form certified by Dr. Sadhnani stating that the mass was a “serious health condition,” which required medical leave for several weeks. The Hospital reiterated its position regarding the thirty days’ notice and denied Pollard’s request for FMLA leave. On March 28, Pollard underwent the surgery. On April 1, 2013, she was terminated from her position.

Pollard brought suit in federal court alleging that her termination was a violation of the FMLA. She alleged that the mass on her foot constituted a “serious health condition” and that she had provided the Hospital with adequate notice. The Hospital moved for summary judgment claiming that Pollard’s medical problem was not a “serious health condition.” The District Court granted the Hospital’s motion and confirmed that Pollard’s injury was not a “serious health condition” and that she had failed to establish a valid FMLA claim. The District Court reasoned that Pollard’s surgery did not “require or occasion multiple treatments” since she only underwent one surgery on March 28th and the follow-up appointments were merely to treat her wound, rather than the medical problem itself. The Court reasoned that the follow-up appointments did not constitute multiple treatments.

Pollard appealed to the Second Circuit. The Second Circuit found the lower court erred in finding that Pollard failed to establish that her medical issues constituted a “serious health condition.” The Second Circuit reasoned that the lower court had used an “excessively narrow” interpretation of multiple treatments, which was inconsistent with the regulations. It also noted that during the two required to follow up appointments, Dr. Sadhnani examined the wound, changed the dressing and removed the sutures. The Hospital failed to prove that

these appointments were not reasonably expected or a reasonably required part of the procedure. Therefore, the Second Circuit found that Pollard's multiple treatments satisfied the FMLA requirement for "serious health condition" and reaffirmed the use of a broader interpretation of the statute.

Employers should take the time to ensure that all employees who handle the evaluation of requests for medical leave are aware of the FMLA's requirements and the potential impact of this decision.

If you have any questions or concerns regarding employment related issues, please contact James G. Ryan at jryan@cullenanddykman.com or at 516-357-3750.

Thank you to Victoria Jaus, a law clerk at Cullen and Dykman, for her assistance with this blog post.

*Please note that this is a general description of law and does not constitute legal advice.