The Impact of the Americans with Disabilities Amendments Act on Persons with Epilepsy

What is the Americans with Disabilities Act Amendments Act?

The Americans with Disabilities Act Amendments Act (ADAAA) is a new law that was signed by President Bush on September 25, 2008. It amends the Americans with Disabilities Act (ADA) and restores the original intent of Congress when it drafted the law in 1990 with regard to who is protected from discrimination on the basis of disability.

Why was a new law needed?

When the ADA was enacted it promised to be a vital means of protecting the interests of people who are treated unfairly because of their epilepsy. But a series of Supreme Court decisions severely narrowed who was covered by the law and many individuals with epilepsy and other chronic illnesses found themselves no longer protected by the law. Thus, while some people with epilepsy were able to prove that their condition was a disability under the original ADA, many others – especially workers – had trouble proving to courts that their epilepsy met the Court’s narrow definition of "disability," usually because they were able to manage their condition with medication.

Why is it important to be covered by the Americans with Disabilities Act?

If an individual with epilepsy is unable to show that he or she has a disability, is regarded as having a disability, or has a record of a disability, then nothing in federal law protects that person from discrimination. Thus, without the law's protection, an employer could explicitly refuse to hire a person simply because that person has epilepsy.

How does the ADAAA affect people with epilepsy?

The ADAAA now makes it clear that Congress intends for people with conditions such as epilepsy to be covered by the law and protected from discrimination on the basis of their epilepsy.

Does the ADAAA change anything other than who is covered by the law?

No. All other provisions of the ADA – including the requirement for an employee to prove that the discrimination was based on epilepsy and the employer's obligation to provide reasonable accommodations – remain the same.

Does the ADAAA affect the rights of people with epilepsy outside of the workplace?

Yes. While most of the problems with coverage occurred in the workplace, the revised definition of disability applies everywhere that the ADA applies, including day care centers, schools, hotels, restaurants, concert venues, correctional institutions, and public transportation.
When does the new law go into effect?

The new law is effective on January 1, 2009. It will apply to acts of discrimination occurring on or after January 1, 2009.

How can I get help to fight discrimination?

Individuals experiencing discrimination based on epilepsy in employment, education and other areas can get legal help from the Epilepsy Foundation’s Jeanne A. Carpenter Epilepsy Legal Defense Fund. The mission of the Fund is to work toward ending epilepsy-related discrimination and injustice through education, advocacy and increased access to legal services for individuals with epilepsy. The Fund provides legal guidance to individuals and their families, along with referrals to a nationwide network of cooperating attorneys, who can provide legal advice and representation. These attorneys have agreed to provide at least three hours of free legal help to persons referred by the Fund. Individuals may request legal help through the Fund’s Web site, www.epilepsylegal.org, or by calling 1-800-332-1000 (select option 2).