357: Reasonable Accommodation for Covered Individuals

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Section: Human Resources
Subject: Reasonable Accommodations for Covered Individuals
Approved by: Tony Massey
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Policy Owner: Director of Benefits

Policy

It is the policy of Massey Services, Inc. to comply with the Americans with Disabilities Act (ADA) and the Pregnant Workers Fairness Act (PWFA) and offer equal employment opportunities covered to applicants and team members. This policy applies to the employment application process, performance of essential job functions, and administration of benefits and leave time. Massey Services, Inc. will accommodate an applicant or team member unless the accommodation would: (a) impose an undue hardship on the Company, or (b) if the applicant or team member would pose a direct, significant, and identifiable threat to the health and safety of themselves or others. Management reserves the right to make all work-related decisions concerning reasonable accommodation. These decisions will exemplify and take into consideration our commitment to equal employment opportunity.

Definitions

Covered Individual: Covered individuals under this policy include an individual with a disability or an individual experiencing a current pregnancy, past pregnancy, potential or intended pregnancy, labor, childbirth, and related medical conditions.

Disability: A person has a disability if he or she has a physical or mental impairment that substantially limits a major life activity. The ADA also protects individuals who have a record of a substantially limiting impairment, and people who are regarded as having a substantially limiting impairment.

Reasonable Accommodation: Reasonable accommodation is defined as any modification or change to a job, employment practice, or work environment which makes it possible for a qualified applicant or team member who is a covered individual to receive equal opportunities in employment.

Reasonable Accommodation

Massey Services, Inc. provides reasonable accommodations:

- When a covered individual needs an accommodation to have an equal opportunity to compete for a job.
- When a team member who is a covered individual needs an accommodation to perform the essential functions of the job or to gain access to the workplace.
- When a team member needs additional leave time when necessary to provide a reasonable accommodation.
- When a covered individual needs an accommodation to enjoy equal access to benefits and privileges of employment.

Common types of reasonable accommodations may include:

- Modifying work schedules.
- Providing assistive technology.
- Exceptions to leave of absence provisions to include unpaid medical/disability leave when necessary to provide reasonable accommodation (see Policy & Procedure 348 Leaves of Absences).
- Making the workplace readily accessible to and usable by covered individuals.
- Altering how or when job duties are performed.
- For conditions relating to pregnancy or childbirth, this may include additional break time, changes in equipment, sitting while working, leave, or temporary reassignment.

When an accommodation request may not be considered reasonable?

- When it creates an undue hardship on the Company.
- If the individual would pose a direct, significant, or an identifiable threat to health and safety.

Reasonable Accommodation and Interactive Process

Requesting a Reasonable Accommodation

A team member may request a reasonable accommodation at any time. Such requests should be directed to the Benefits Department. While reasonable accommodation requests may be made verbally, it is the Company's preference that the team member send their request by email to benefits@masseyservices.com.

If a reasonable accommodation request is made to a manager, rather than directly to the Benefits Department, the manager is required to forward the request immediately (not to exceed two (2) business days after the individual turned in the request) to the Benefits Department. Failure to relay a reasonable accommodation request or to forward an email regarding a reasonable accommodation request may result in disciplinary action up to and including termination of employment.

Under this policy, reasonable accommodation may include leave time. If this occurs, the team member will be required to use any accrued PTO and/or vacation time and additional leave time may be taken on an unpaid basis, if no additional paid time is available. The team member will not be required to take leave or time off if another reasonable accommodation can be provided which would allow the team member to continue to work.

Reviewing the Request and the Interactive Process

The Director of Benefits will be primarily responsible for reviewing requests for reasonable accommodation and engaging in the interactive process. This responsibility may be delegated to another team member in the Benefits Department but will not be delegated to the team member's manager. Requests will be reviewed, and a decision made in as short of a period of time as possible presuming all parties participate in the interactive process in good faith.

Steps in the interactive process may include, but not be limited to: (1) Providing a Reasonable Accommodation Form and job description to the team member to have their healthcare provider complete, (2) analyzing the particular job involved and determining its purpose and essential functions, (3) consult with the covered individual to ascertain the precise job-related limitations

imposed by the disability or condition and how those limitations could be overcome with a reasonable accommodation, (4) jointly identifying potential accommodations and assessing the effectiveness each would have in enabling the team member to perform the essential functions of the position, and (5) selecting and implementing the accommodation that is most appropriate for both the team member and the Company.

During this process, the Benefits Department will gather relevant information necessary to respond to the request and to determine if a requested accommodation is achievable or if there may be other alternatives. To ensure this process is effective, all parties (team member, manager, Director of Benefits) will be required to participate and communicate in good faith; this includes communicating regarding the request, the precise nature of the issue that is generating the request, how a disability or condition is prompting a need for an accommodation, and alternative accommodations that may be effective in meeting the individual's needs.

Requests for Additional Information

If documentation of the team member's disability or condition and/or need for an accommodation is not provided, Massey Services, Inc. may request that a medical or healthcare provider complete the Reasonable Accommodation Form attached to this policy. A job description will also be provided with the Reasonable Accommodation Form. The completed form will assist in determining if a team member has a disability or condition and confirming the need for an accommodation, as well as accommodation alternatives.

If the information provided by the team member or provided by a health professional is insufficient to determine whether they are a covered individual, or that an accommodation is needed, or more detail is required to ensure the proper accommodation is needed, the Director of Benefits will explain what additional information is needed.

Confidentiality

Information obtained in connection with the reasonable accommodation process will be kept confidential. This means that medical information Massey Services, Inc. obtains in connection with a request for a reasonable accommodation will be kept in files separate from the individual's personnel file. Medical information should not be maintained by the manager. If a manager is given documentation by the team member to submit on their behalf, the manager should promptly forward

the documentation to the Benefits Department.

Individualized Assessment

In determining the existence and nature of a team member's disability or condition, their request for an accommodation, and how these might impact the performance of the essential functions of the job, the Company will make an individualized assessment. Similarly, in determining if an accommodation request would cause an undue hardship or pose a health or safety risk, the Company will make an individualized assessment of the team member's or applicant's ability to safely perform the essential functions of the job. An individualized assessment conducted to determine if an applicant or team member poses a health or safety risk will usually consider the individual's present ability to perform the essential functions of the job considering the duration of the risk, the nature and severity of the potential harm, the likelihood of the harm, and the imminence of any potential harm. A direct threat must be objectively reasonable and supported by medical evidence and/or the best available objective evidence.

Communication of the Reasonable Accommodation Request Decision

If approved – The Benefits Department representative will communicate with the individual and their manager and discuss implementation of the accommodation. A decision to provide an accommodation other than the one specifically requested will be considered a decision to grant an accommodation.

If denied – The Director of Benefits will communicate with the individual and may explore with the individual whether another accommodation would be possible. The fact that one accommodation proves ineffective or would cause an undue hardship does not necessarily mean that this would be true of another accommodation.

After the Completion of the Reasonable Accommodation Process

If a team member is dissatisfied with the resolution of a reasonable accommodation request, they can request, in writing, that the Director of Benefits reconsider the decision. This request must be done within ten (10) business days of being notified of the decision.

An individual’s receipt or denial of an accommodation does not prevent the individual from making another request at a later time if circumstances change and they believe that an accommodation is needed (e.g. health condition worsens, team member is assigned a new job duty that requires an additional or different reasonable accommodation).

Some accommodations may be temporary in nature and, if an accommodation is no longer necessary, it is the team member’s responsibility to contact the Benefits Department. The Director of Benefits may also engage in an interactive process, at any time, to determine if there is a continuing need for an accommodation that has been granted.

No Retaliation

Team Member and applicants will not be subjected to retaliation or discipline because they have requested a reasonable accommodation. If a team member believes they have experienced retaliation as a result of the approval or denial of a reasonable accommodation request, they should immediately report this retaliation to the Benefits or the Human Resources Department.

Questions

any team member who has questions or needs additional information about this policy and procedure should contact:

Benefits Department

benefits@masseyservices.com

407-505-4608 or 1-888-262-7739

Downloads

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