



# No Notice, No Duty: The Third Circuit Clarifies When Employers Must Accommodate a Disability

Client Advisories

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“The disability-discrimination and medical-leave laws are shields against discrimination, not get-out-of-discipline-free cards.” That is how the Third Circuit opened its recent decision in Hileman v. West Penn Allegheny Health System, Inc. (3d Cir. July 20, 2026), affirming dismissal of an employee’s case against her former employer. The point drives the ruling: before an employer must accommodate an employee, the employee generally must disclose the disability and clearly ask for help. An employee who stays silent until they are facing discipline cannot recast that discipline as discrimination. This decision is a useful roadmap for employers as to when the duty to accommodate a disability is triggered.

## The Decision

A hospital technologist was reported for sleeping on duty, a fireable offense under the hospital’s employee policies. During the investigation, the technologist admitted to possibly shutting her eyes because of dry eye and fatigue tied to a change in her diabetes medication. This was the first time she disclosed her diabetes to the hospital, and she never asked for an accommodation or medical leave. Following the meeting, the hospital fired the employee for misconduct.

The employee sued for disability discrimination and failure to accommodate her disability. However, the court rejected her claim and dismissed the case entirely against the hospital. The court explained that an employer’s accommodation duty runs on notice, that an employee must first show that their employer knew that they needed a reasonable accommodation yet failed to provide it. Because the employee never asked and raised no concerns until she was on the brink of termination, the employer had no duty to accommodate her disability. An employee about to be fired for misconduct cannot save their job by belatedly telling their employer about a disability or medical need.

Generally, employers need not go digging for disabilities without a signal that one exists. Nevertheless, an exception exists when the need for an accommodation is obvious from visible or known facts, in which case an employer should inquire with the employee about the need for an accommodation.

### Takeaway: When the Duty to Accommodate is Triggered

Two triggers matter. First, the duty generally does not arise until the employee requests an accommodation. Absent a request and absent extenuating circumstances, there is no duty. There are no magic words: the employee need not cite any accommodation laws or use the phrase reasonable accommodation, and the request may be oral, but the employee must convey that they need a change at work because of their medical condition. Second, where a disability is obvious, the employer should start the interactive process on its own. Timing also matters, as a request made only after an employee is caught in misconduct is treated as a plea for a second chance, not an accommodation request.

If you have questions about the new regulations or would like assistance evaluating worker classifications, please contact **Scott Sears** at [ssears@archerlaw.com](mailto:ssears@archerlaw.com) or 201.753.7002 or **Peter Frattarelli** at [pfrattarelli@archerlaw.com](mailto:pfrattarelli@archerlaw.com) or 856.354.3012, or any member of our **Labor and Employment Group**.

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