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FEDERAL COURT SENDS EEOC'S MANDATORY FLU VACCINE CASE TO TRIAL ON RELIGIOUS DISCRIMINATION CLAIM

Health care employers today regularly impose flu vaccines on their employees. One hospital in North Carolina now faces a trial over whether it violated Title VII of the Civil Rights Act of 1964 in treating differently a group of employees who refused to get vaccinated.

THE HOSPITAL'S FLU VACCINE POLICY AND RELIGIOUS EXEMPTION

In 2016, the U.S. Equal Employment Opportunity Commission ("EEOC") filed a lawsuit against a hospital in western North Carolina and alleged religious discrimination in violation of Title VII. In the lawsuit, the EEOC claimed that the hospital failed to accommodate three employees (a preschool teacher, a psychiatric technician and a mental health intake specialist) whose religious beliefs made them opposed to flu vaccines. Two employees believed that vaccinations were contrary to God's will, while a third employee believed that her religion only permits the body to be "healed by plants, fruits, and grains." Under the policy, claims for religious exemption from the policy were due by September 1, while vaccines were to be completed by December 1 but subject to a grace period.

THREE EMPLOYEES TERMINATED FOR NOT COMPLYING WITH THE VACCINE REQUIREMENT

None of the three employees sought exemptions under the policy by September 1. When the three employees did not get vaccines by December 1, the hospital terminated each of them for violation of the policy. The hospital did not contest the sincerity of these employees' religious beliefs, but, in its view, the issue was about policy compliance.

The federal district judge concluded that a jury could find that the vaccines were important to protect vulnerable populations, but the jury also could find that the hospital treated the three employees differently than those who did not seek religious exemptions. Specifically, the court noted that employees who did not seek a religious exemption and who missed the December 1 vaccine deadline were given a grace period to get the vaccines, while no similar grace period was given to employees who missed the exemption deadline.

PRACTICAL TAKEAWAYS

Although postured as a case about the accommodation of religious beliefs, the court's concern seemed to rest mainly on whether the hospital's implementation of its policy was lawful. Therefore, in addition to arguing over whether granting the accommodation (exemption from the vaccines) would impose undue hardship, the hospital must also explain why it gave a grace period to those who did not seek exemptions, while it did not give a grace period for those who sought exemptions.

If you have questions about this case or about mandatory flu vaccines in general, please contact Jon Rabin at jrabin@hallrender.com or (248) 457-7835 or your regular Hall Render attorney.

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