

Working with MS

It is natural to wonder how MS might affect your ability to work. It is not possible to predict how MS might affect you, but the majority of people with MS lead fulfilling lives. Medications that help manage MS and its symptoms, in addition to certain technical aids are available to help many people remain in the workplace. There are also laws to protect you from on-the-job discrimination and overall, employers are becoming more adept at accommodating employees with chronic illness or disability.

Advantages of staying employed.

- Maintain financial security.
- It provides extra time to plan for future changes in abilities, consider other options for employment and income support, and tap into available resources.
- Work provides structure, familiarity and focus.
- Work helps to maintain sense of identity and self-esteem.
- Work keeps people socially connected.
- It is easier to stay employed through periods of illness than to quit work and find a new job.

Job requirements.

- Are your symptoms interfering with your ability to fulfil your job duties and affecting your work performance? If so, how?
- What can you do to manage your symptoms without giving up your job?
- Can your healthcare team help you manage symptoms?
- Is it time to disclose to your employer that you have MS and need workplace accommodation to enable you to do your job?
- Have you exhausted all the opportunities for accommodation in your workplace?

Employment benefits.

Review your employment benefits and pension plan. Look for any restrictions relating to a diagnosis of chronic illness, such as MS.

- What sick leave, short-term disability and long-term disability insurance benefits does your employer provide?
- What percentage of your normal earnings will you receive if you apply for short-term or long-term disability benefits?
- Can you receive some of your pension before age 65 if you are disabled and unable to work?

- Does your group plan or collective agreement allow for partial disability and/or part-time work?
- What other health benefits are provided? Is there coverage for prescription drugs, disease-modifying therapies, extended health benefits, complementary and alternative therapies, hospital insurance, home care?
- What are the deductibles, co-payments and lifetime limits?
- Does your group plan have exclusions or limitations for pre-existing conditions?

Pre-existing condition.

A pre-existing condition is any illness or disability for which you received medical advice, diagnosis, treatment or care before you applied for insurance coverage or before the coverage became effective. Most group plans for long-term disability and extended care benefits have a clause excluding employees from claiming benefits for pre-existing conditions. Some group plans set aside this restriction after you have been a group plan member for a specified time.

Changing jobs.

If you change jobs or voluntarily leave your current employer, you will likely lose your benefits. With a new employer, you may not be able to get comparable, or any benefits because the new group plan is likely to have an exclusion for pre-existing conditions. A large company's group plan may provide coverage even with an MS diagnosis, but there may be a waiting period before you qualify.

Private disability and/or health insurance plans.

If you have private disability and/or health insurance, review your policy and the benefits you are entitled to. Once you have been diagnosed with MS, your pre-existing condition may disqualify you from purchasing private disability, health or life insurance.

Government benefits.

There are [government benefits](#) available to people who need to take time off from work because of illness or disability.

Personal and family finances.

Review your financial situation, responsibilities and resources. Consider how they will be affected if your work hours and income are reduced. Investigate alternative sources of financial support.

Disclosing the diagnosis.

You are not legally required to disclose your diagnosis or discuss your medical condition with an employer. There are some occupations, where an employer may ask you to undergo a medical exam as a condition of employment. In that case, you may have to disclose your MS diagnosis. Otherwise, the only questions an employer can legally ask you about an illness or disability are questions relating to your ability to perform the

essential duties of the job. You should disclose to your employer that you have a disability if you need workplace accommodation.

Accommodation.

When MS affects your job performance, you have a right to ask for accommodation. Accommodation is any change in your work environment that gives you an equal opportunity to do your job. Small accommodations can make a big difference to your effectiveness on the job. There are different types of accommodation. You may **modify your work schedule** (flexible work hours, shift change, compressed work week, work on weekends, work from home, time off (without penalty) for medical appointments. You may also **modify job tasks** (e.g. exchange of one type of job duty for another or job sharing). You may also **modify a workstation** (e.g. relocating closer to a washroom, raising a desk, installing a ramp or handrails or using technical aids). You may also request a transfer to another position in the organization or training for another position in the organization.

Employer rights and responsibilities.

Canadian employers and unions have a legal obligation to accommodate the needs of employees or union members with disabilities, up to the point of undue hardship. This obligation is known as the **duty to accommodate**. It is set out in the federal [Canadian Human Rights Act, Employment Equity Act](#) and provincial human rights legislation, and is reinforced in Supreme Court of Canada rulings.

The **duty to accommodate** means that your employer and/or union must take whatever measures are necessary to enable employees with disabilities to perform their jobs to the best of their abilities. The duty to accommodate is not open-ended, however. It may not be required if your employer can show that providing accommodation would cause undue hardship to the organization or business.

Undue hardship is measured mainly in terms of health, safety and cost. That means your employer would have to provide evidence that the proposed accommodation would pose an undue risk to the health and safety of people in the workplace. Or that the cost of the proposed accommodation is so high that it would affect the very survival of the organization or business or threaten to change its essential nature.

Disability and the duty to accommodate

For the purposes of workplace accommodation, a disability is a physical or mental condition that is both permanent, ongoing, episodic or of some persistence; and a substantial or significant limit on a person’s ability to carry out some of life’s important functions or activities, such as employment. When approached with a request for

accommodation, your employer is expected to determine what barriers might affect you, explore options for removing those barriers, and accommodate to the point of undue hardship.

Your employer has a responsibility to obtain enough information to assess your accommodation requirements. This may include asking you to provide a medical report or undergo a medical assessment identifying your functional limitations, suggesting types of accommodation that might be useful, and indicating your prognosis – how long you are likely to need accommodation. Employers and unions have a responsibility to work with you to implement reasonable accommodation.

Your employer does not have to provide accommodation:

- If removing a barrier or changing a workplace rule creates an undue hardship on the business; or
- If it can be shown that a specific work rule, standard or practice, is based on a bona fide occupational requirement (BFOR) or bona fide justification (BFJ). An example of a BFOR would be, if you cannot meet a specific requirement of the job; for example, the vision requirements for a position as an airline pilot or air traffic controller.

Strategies to try before requesting workplace accommodation.

- Talk with your doctor about the demands of your job and how you can manage your symptoms considering those demands.
- Consult with other health care professionals, such as occupational therapists, about strategies and tools for improving your work performance.
- Organize your workload, set priorities and pace yourself.
- Arrange your work environment so that you conserve energy and minimize physical demands.
- Discuss your concerns with family members and determine if some responsibilities can be delegated to lessen the burden at home so you can focus on saving your energy for work.

Employee rights and responsibilities.

As an employee with a disability, you have a right to ask for accommodation in the workplace. You are responsible for letting your employer know that you need accommodation and for suggesting, if possible, the type of accommodation that would be appropriate. If you don't let your employer know that you need accommodation, your employer may be absolved from the legal duty to accommodate. You are expected to provide your employer with enough information to determine suitable accommodation. This includes being flexible in considering the options and having realistic expectations. If your employer offers reasonable accommodation that enables you to perform the essential duties of your job and you reject it, you may be absolving your employer from the legal duty to accommodate. If you think your employer has refused accommodation

or deliberately discriminated against you because of your MS, you have the right to make a formal complaint to the appropriate [human rights commission](#).

Before you request workplace accommodation from your employer, identify your need for accommodation and ask your doctor for a letter clearly outlining your capabilities and limitations in relation to the demands of your job or workplace. Your doctor should supply only the medical information your employer needs to know to help you get workplace accommodation. If you are asked to provide a medical report and you don't plan to disclose your MS diagnosis to your employer, you can ask your doctor to focus on the symptoms that specifically affect your job performance without stating that you have MS.

Meet with your employer.

In your meeting remain positive and focus on the goals of your job. Mention only the symptoms that interfere with your work. If you plan to disclose your MS diagnosis (not just your symptoms), be prepared to explain the unpredictable and often episodic nature of MS. The MS Society of Canada can provide you with information to share with your employer. If you reach an agreement, discuss follow-up procedures and plan of action.

Once the accommodation has been implemented, let your employer know how the accommodation is working and how it is benefiting your work performance. Your MS symptoms may change over time. Your accommodation needs may also change and if so, follow the same procedures as before.

If your employer proposes an unreasonable compromise, ask for time to think it over. If you still cannot agree, arrange a follow-up meeting but if you cannot negotiate a satisfactory solution, you have the right to appeal. First, try informal avenues of appeal in the workplace. In a unionized workplace, you have a right to labour representation. If accommodation is covered in the collective agreement, you can file a grievance.

When can employment be terminated?

If the reason for termination is related to disability, accommodation must be considered first. Termination of your employment may be justified if your employer can prove statistically and medically that your illness or disability makes you incapable of safely and satisfactorily performing your job duties, even with accommodation. If the reason for termination is not related to disability, then terminating an employee with MS is like terminating any other employee. Your employer must document in writing and discuss performance problems with you before terminating you legally.

Employers cannot

- advertise for a job in a way that discriminates against you because you have a disability;
- refuse to hire you, demote you, lay you off or fire you because you have a disability;
- refuse to hire or continue to employ you because of the potential impact of your current medical condition on your future job performance.

What if my employer refuses accommodation?

The Canadian Human Rights Act and all provincial/territorial human rights acts explicitly prohibit discrimination in employment based on physical or mental disability. Your employer must provide accommodation unless he or she can provide evidence that the proposed accommodation would pose an undue risk to the health and safety of people in the workplace, or that the cost of the proposed accommodation is so high that it would affect the very survival of the organization or business or threaten to change its essential nature.

For additional information please contact an MS Navigator at 1-844-859-6789 or msnavigators@mssociety.ca