

POSITIVE



working

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English summary

‘HIV in normal social relations is not transmittable. In the context of normal social relations should special measures against HIV-positive people be avoided. A consequence of establishing such special measures can only lead to false security, discrimination, and ignorance’.

National Coordination Committee for Infection Control
HIV Guidelines, 2005

facts and myths

In general, people with HIV can function normally in the labour market. Thus employers must be aware of what living with HIV means. Unfortunately, people with HIV often still experience a lack of understanding at work. This happens frequently because fellow employees retain a misguided fear of contracting HIV through work contact. Also, there are employers who believe that an employee with HIV comes with additional expense and inconvenience. The following myths are debunked by the facts.



*you cannot get
HIV by sharing a
keyboard*

myth: an employee with HIV can infect other employees or clients

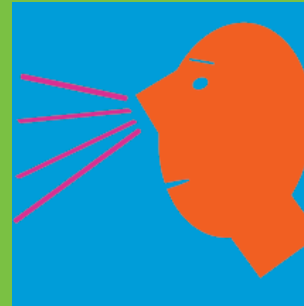
- An employee with HIV does not signal an ‘infringement to safety’. In most workplaces, infection from HIV is not an issue.
- HIV is only transmittable in a prescribed manner, and certainly not in a work environment.
- HIV can’t be transmitted through work-related contact. Therefore, not through any tears, saliva, urine, feces, perspiration, or vomit, which are not contaminated with blood. And not through coughing, sneezing, shaking hands, hugging, kissing or French kissing, the air, insect bites, drinking out of the same cup, swimming in a pool, using the sauna, or using the toilet.

myth: an employee with HIV is more expensive

- Most people with HIV can perform normal work tasks.
- Also, with few complaints, most people with HIV can remain at their jobs.
- Some adjustments might be necessary. These are often easily accomplished or are over a short interval. In either case, they don’t essentially differ from adjustments for people with, for example, a chronic illness such as MS.
- It’s possible to receive subsidies for the adjustments and for opening up the workplace.

myth: an employee with HIV is less productive and less efficient

- Anyone with HIV can expect to remain healthy for years and remain at work without complaint.
- Just because you are HIV-positive does not mean that you are unfit for work or must go on pension.
- An employee with HIV can occasionally become ill, (for example, from the side effects of the medication), similar to an employee getting the flu.
- It is nonsense not to employ someone with HIV based on the chance that they could be out sick for long periods. For example, a smoker has a greater chance of lung cancer, and an employee with high blood pressure is more likely to become ill. Many people with HIV improve their lives by maintaining good health and trying to keep a good equilibrium between work and home.



*you cannot get HIV
by a sneeze*

⦿ **ADVICES**

- take charge of yourself if things are not going right for you
- reduce your income tax by temporarily doing less or other work
- save money and take care of yourself!
- stay in contact with your employer or human resources/ medical officer and be clear about what you want!
- know what is in your records
- decide yourself who you are going to tell that you have HIV. Also, if your HIV status is in your records, you can request that it be removed.

staying healthy working

The last few years have seen rapid strides in the treatment of HIV infection. New possibilities for treatment have had a positive influence on lifespan and the quality of life. This has consequences on the possibilities for work.

Today, employees with HIV need not be excluded from working. In fact, staying in work is the objective and stopping work has become the exception. Company doctors and insurance medical officers play an active role by 'safeguarding work' of employees with HIV.

'Work capability is a very personal thing.'

work capability

Knowledge and understanding of HIV is also crucial before determining suitable sick leave and assessing a person's work capability. The possibilities of staying in or returning to work should be regularly addressed and modified on an individual basis dependent on the duration of the illness. In the *Handboek Arbeid en Belastbaarheid HIV en AIDS (Work and Capability Handbook HIV and AIDS)* many important aspects of HIV and AIDS come up for discussion. The basic principle remains that the assessment of anyone's work capability must be individually determined (see page 61 for information about this handbook).

if you must call in sick

you do not need to mention HIV

If you call in sick, you are not obliged to say anything about HIV, regardless of the nature of your illness. For yourself, it's wise to first describe your situation and your complaint in a written sick notice, you can then think it over and make any necessary adjustments. When possible, discuss your situation with your immediate supervisor. Report in to your employer as soon as you get sick and he or she will then submit a report to the arbodienst (health and safety agency or representative). If you remain ill, then on the sixth week of sick leave a problem analysis is made. A fortnight later a procedural plan is put in place.

the Wet verbetering poortwachter (Eligibility for permanent disability benefit restrictions act)

Soon after you've reported in sick, you will come under the jurisdiction of the Wet verbetering poortwachter. This law regulates sick leave. Employers, trade unions, works councils and the health and safety agency prefer to manage a controlled leave. In ninety percent of absences, the employee returns to work within six weeks. That's an excellent record. In ten percent of the cases, the absence is longer than six weeks. The immediate supervisor is expected to remain in good contact with the person taking the sick leave. Many times sick leaves lack good planning. Thus employees, supervisors and the health and safety representative have difficulty in managing the leave. The purpose of the 'Wet verbetering poortwachter' is to provide a solution to these sorts of problems. The law contains specific

regulations over the treatment, protection, and reintegration of sick employees. It also contains punitive consequences and so applies pressure on all parties involved to abide by its jurisdiction.

'The company doctor is required to maintain confidentiality.'

long-term sickness

If you are off sick for a long time, it is a good idea to maintain a well-ordered file.

procedure: the WIA (Wet werk en inkomen naar arbeidsvermogen - Work and income according to labour capacity act)

Being sick and unable to work is an inconvenience for both employees and employers, especially if the absence is for longer than a few days or weeks. As of January 1, 2006, the WIA replaced the WAO (Wet op de arbeidsongeschiktheidsverzekering - Disability benefits act). The central feature of the WIA is that people continue working as much as they can: 'What's important is what you're still capable of doing.' Both employer and employee, possibly with the support of an health and safety representative or reintegration agency, are for two years expected to strive for a return to work. Under the new law, each party has responsibilities and 'working to ability' is considered

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⊙ ADVICE

If you need assistance or support in your (new) job because of HIV or a related condition, you can request help from UWV (Uitvoeringsinstituut Werknemersverzekeringen - Employed persons insurance administration agency). UWV can help with the costs of adjustment of an office chair, transportation to your work, modification of a car or day-care costs.

⊙ POSSIBLE WORK ADJUSTMENTS

- shorter hours
- flexible work hours
- job sharing
- adjusted task assignments
- slower work pace
- alternative conditions for taking breaks
- support on work issues
- help from fellow employees
- extra time for medical appointments

⊙ POSSIBLE WORKPLACE ADJUSTMENTS

- adjusted furniture
- technical resources for handicaps
- a toilet close to the work area (for people who have chronic diarrhoea)
- access to a cafeteria or lunch room so you can take your medication properly
- a quiet place to take breaks

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financially advantageous to both. If after two years, in spite of all efforts, you're still unable to return to work, UWV will test your case against the Wet verbetering poortwachter. If everything has been done that can be done, then UWV makes a determination on your eligibility to receive social benefit payments. If you're no longer able to work or gain any income, then the WIA budgets twenty percent of your previous salary towards a long-term social benefit payment.

total disability: permanent or temporary?

Sometimes it is not so certain that you can never work again or that you will never get well. This is determined in consultation with your company doctor. You can then apply for an IVA (Inkomensvoorziening volledig arbeidsongeschikten - Income provision for fully incapacitated workers) - social benefit payment through UWV. If you really are totally disabled but there is a chance of improvement, then you are classified as temporarily totally disabled. This means you do not qualify under the IVA, but under the WGA (Werkhervatting gedeeltelijk arbeidsongeschikten - Reintegration scheme for partially incapacitated workers) regulations.

questions & answers concerning sick notices

When do I need to deal with the health and safety representative or company doctor?

Immediately after you've submitted the sick notice.

What does the employer require in the sick notice?

You are not required to reveal any diagnosis of your illness. You don't have to answer the question, 'What is going on?' The employer can always ask when you expect to return to work and how much work you will be able to do.

My employer does not have a health and safety representative. According to him, this is not necessary. Is that true?

No. The employer can hire or contract health and safety representatives for consultation. However, he is required to enter into a contract with a health and safety representative.

Must I inform the company doctor of everything concerning my illness?

You must reveal all relevant information contained in the sick notice; as in a normal notification about having the flu, but you are not obliged to mention HIV. The company doctor is bound by an oath of confidentiality and is constrained not to impart any medical information to your employer. Emphasize this when you consult him or her.

What can the company doctor tell my employer?

The company doctor can only report if you are able to work. He is constrained by confidentiality not to reveal the nature of your condi-

tion to the employer. If, at all costs, you do not want the employer to know about certain personal details, such as problems at home, then it would be wise to point this out in the consultation with the company doctor.

Who does what between the employer and the health and safety representative/company doctor?

The employer does not determine if you are ill. That is what the health and safety representative or the company doctor does.

The company doctor does not think I am sick but I believe I am. What now?

You can request a professional second opinion from UWV. This will cost you € 50,00. An independent specialist, an insurance medical officer or human relations specialist from UWV will re-examine your case. Talk beforehand with your employer about what happens with the advice given, as this advice is not binding.

I have no obvious complaints. However, I am sick and I can't work. I get the impression that the company doctor doesn't believe me. How can I defend myself against disbelief and prejudice?

Undefinable effects of HIV, such as painful general malaise and fatigue are difficult to identify. First get a diagnosis from your medical specialist or family doctor in order to convince the company doctor. A diagnosis can be that the doctor is aware of your complaints. Your specialist or family doctor can also include in his diagnosis what it is best for you to do in order to deal with your complaints.

THE WIA IN SUMMARY

If you are less than 35 percent disabled, then you do not qualify for a WIA social benefit payment. This means that you are still considered as employed by your current employer.

TWO REGULATION CRITERIA CONCERNING THE EMPLOYEE

- Temporary total disability (WGA)
If you are between 35 and 80 percent disabled.
- Permanent total disability (IVA)
If you are more than 80 percent disabled.

REGULATION CRITERIUM CONCERNING THE EMPLOYER

By reinstating or placing a partially disabled employee in service, UWV can apply compensation towards sick pay, health benefits and allocate substantial subsidy towards discounted premiums.

🕒 ADVICE

- Keep a folder of all correspondence; print out emails and file them away in the folder.
- Communicate in a cooperative way.
- Through arbitration, try to stay on part-time at work.
- Maintain a good relationship with the health and safety representative.

applying for a job

During the application process, questions about health cannot be posed. Nevertheless, people with HIV can still experience difficulty in seeking and finding work. For example, due to a long period of illness, a gap in the CV may be discernible. Many people ask themselves to what extent should they discuss their HIV status.

letter of application and CV

For the employer, the application letter is often the initial contact. Provide information about who you are and what you can offer to fill the open position. That is the most important issue at this stage. In your CV, mention your work experience, including any volunteer work, education, and any other relevant information such as special skills and interests. A gap in your CV can encourage questions. Since your HIV status is inconsequential to the position you're applying for, you can make the gap less conspicuous by reporting less precise information.

your HIV status: to tell or not to tell?

Questions about your health and medical history are not permitted during the job interview (in compliance with the Wet op de medische keuringen - Medical examinations act). According to this law, this is absolutely forbidden. On the other hand you're obliged to inform the employer on any matters which might affect how you perform in the position. This does not mean that you need to say anything about your HIV status, but, for example, you might mention that your energy levels vary, or that you find it difficult to do

shift work. Get well-informed about HIV if you are in doubt about talking about it. Consider beforehand what the advantage is in talking about your HIV status.

dealing with medicines

Before the combination therapies were available, people with HIV had to take a lot of medication on a daily basis; on strict schedules and often with prescribed foods. For most people today, taking HIV medication is not as difficult. There are less pills to take, less scheduling of medication, and it is less common that you must take the medication with food or drink. Thus, it has become easier to take the medication without others, such as fellow employees, being aware. So there is no reason why you should talk about your HIV.

any health questions or complaints?

If you have a complaint about the application process, take this up with the organisation where you first applied.

If an employer does not hire you because of your HIV status, then he is violating the Wet gelijke behandeling (Equal treatment act) concerning equal treatment of persons with handicaps or chronic illnesses. You can then file a complaint with the Commissie gelijke behandeling (Commission on equal treatment).

the medical examination

A medical examination poses questions about your health and includes a medical check-up to determine if you can perform the

functions of the job. The examination is only allowed if there is concern about performing certain functions; whereby the medical exam clarifies this in writing. For most jobs a medical examination is not necessary.

Since medical examinations for other serious illnesses do not result in an investigation, thus the same for HIV. Queries about HIV, hereditary conditions and pregnancy (including planned pregnancies) are not allowed; you should decline to answer. If you're accepted on condition of medical approval, then the examination can only take place at the end of the application process. Only the company doctor or health and safety representative is authorised to perform the examination.

disagreeing with the reason for the examination

You can object if you're not given notice of the medical examination, and if it is not explained to you.

You can submit your objection to whomever performs the exam: the company doctor or health and safety representative. If the examination is to be held regardless, then you can lodge a complaint with the company doctor, the health and safety representative or the Commissie klachtenbehandeling aanstellingskeuringen (Medical examinations complaints commission).

ADVICE

Sometimes job applicants are required to complete a written questionnaire or an application form. Questions about health might be included in these forms. You can respond with 'no comment' or 'not applicable' (n/a).

If you need help in preparing for a job interview contact the Servicepunt at Hiv Vereniging Nederland (Dutch HIV Association) or the Helpdesk BPV&W.

REASONS FOR NOT TALKING ABOUT HIV

- There is no direct relationship between your health and the new job.
- HIV plays no role in being considered for the position.

REASONS FOR TALKING ABOUT HIV

- In some positions experience maybe an advantage.
- You should realise that you need to be careful about information between fellow employees and managerial staff.

DEALING WITH CURIOUS EMPLOYERS?

- You can deny that you have a health problem or claim that you've only rarely been sick.
- Your denial cannot be used later as grounds for dismissal. The law clearly states that you cannot be queried about your health.
- You can also counter with a question: 'What is the relevance of this question? If there was something that I had that would influence my job performance, I would have reported it, but I don't believe my health has anything to do with that.'

You stand up for yourself therefore, that is also a skill.

the job interview

personal considerations

In a job interview you lay your credentials before an employer in order to convince him of your capabilities. Talk about why you are qualified for the position, but above all, also why you are enthusiastic about the position. Careful preparation is very important. Don't be taken by surprise by unexpected questions. Make a good decision about what you want or don't want to reveal, and if so, how much you want to reveal.

Always be in control of the situation!

do you want to mention your HIV?

If you feel that you must mention your HIV or the state of your health, you should initiate the revelation. Be brief in talking about this, and endeavour to steer the discussion back to the open position and your qualifications. Staying in control during the interview is important; this will make a good impression. Phrase things as positive as possible. Emphasize your positive qualities. Convey that you understand your limits or that you have relevant experience to offer.

a long period of no work

Perhaps you've not worked for a couple of years. It can appear that you are hiding this fact. Your CV could also highlight this issue. Volunteer work could be considered as regular work; try to avoid too much information. Keep the mention of this period brief and make it clear that it is laid behind you now.

working abroad

Many countries do not issue work permits to anyone with HIV. You may be confronted with travel restrictions when visiting other countries.

proof of being free of HIV often required for long-term visits

Less restrictions apply for short-term or tourist visits. More restrictions apply if you plan to remain in that country for longer than three months. If you want to work in that country, you will be more than likely required to provide proof that you are free of HIV. This must be in the form of an official declaration indicating that you are not HIV-positive. According to the Dutch government, travel restrictions which require proof of being free of HIV are in violation of international human rights guidelines. Consequently, the ministry of Health has issued a formal protest in reference to the international guidelines which do not test for HIV. Unfortunately more and more countries are requiring HIV tests.

get well-informed beforehand

If you have to go abroad for work for shorter or longer periods, the best thing to do is to find out which countries have travel restrictions that impact HIV-positive people. You should also check how you can continue your HIV treatment in a responsible way. Be prepared for the possibility that your application for a work permit could be rejected due to your HIV status. Thus, if you had not wanted to discuss your HIV status with your employer, you will then be obliged to be open about it.

company doctor & health and safety representative

The health and safety representative must inform the employer of any long-term medical absence. This is also true for doctors working for the company or for a supporting reintegration agency, as of July 1 2005.

The works council must be in agreement with this action:
www.jebedrijfsarts.nl.

'A person's HIV status is not relevant to the job description.'

There is a special pamphlet for company doctors, which includes information that can guide you in making choices. Ask your company doctor if he/she has heard of the *De werknemer als regisseur* (The employer as director) pamphlet. It is published by STECR, the reintegration foundation for health and safety professionals: www.stecr.nl.

▶ THE PROJECT SOCIALE ACTIVERING EN REÏNTEGRATIE (SOCIAL STIMULATION AND REINTEGRATION PROGRAMME) OFFERS:

- a survey and understanding of personal situations
- understanding of obstacles and problems, and assistance in dealing with them
- a sympathetic ear at all times
- personal support
- help referral
- information on social security, insurance and labour issues
- assistance in learning to deal with energy-levels and making good plans
- assistance in making choices and planning daily routines

◎ ADVICE

Article 44 of the WAO (Wet arbeidsongeschiktheid - Work disability act) gives older workers returning to the work force the chance to find work within six months. Should they fail to secure employment, they remain eligible for their prior benefit.

▶ INFORMATION

- www.hivnet.org
- www.uwv.nl
- www.bpv.nl/lma

starting your own business

It is not always easy to secure a job with an employer. Some handicapped people start their own business or work freelance and thus become self-employed: zelfstandige zonder personeel (zzp'er).

'When you've accepted that you have HIV, then you can move forward with your life.'

safety-net insurance

This insurance is designed for the newly self-employed for whom normal disability insurance has either been denied or only policies with exclusions and high premiums are available. You can apply for this insurance within three months of starting the new business. The group of 'difficult-to-insure self-employed people' has increased. This is due to the fact that a lot of people have been re-examined and they have since returned to the workforce, having thus lost their eligibility for a 'zelfstandige zonder personeel' (zzp'er) social benefit payment.

If you're denied insurance you could secure alternate insurance. To do this, you must apply with an insurer within three months after the WAZ social benefit payment has ceased.

For more information contact the BPV&W help desk.

delicate situations

Nowadays, thanks to the combination therapies, people with HIV can look forward to a future. But living with HIV has its moments, with particular socio-psychological effects, such as:

- the realisation of the diagnosis
- disease symptoms, the decrease in CD4 count, the rise of viral load, and everything that emphasizes the development of the disease
- beginning and switching medical regimens and the handling of side-effects demands difficult adjustments to daily life
- therapy failure or resistant virus
- subjects such as the desire to have children, sexuality, and relationships
- informing people of HIV-positivity and the fear of rejection and negative reactions

These reactions can make you vulnerable and put you off balance. You are confronted with the presence of HIV in all aspects of life, just at a time when you need support and understanding.

feasible plan of action

The company doctor or insurance medical adjustor can work with you to map out a feasible plan of action.

1 at what stage are you with your condition?

Aspects of the clinical overview, disorder, or condition.

2 what are the possibilities in dealing with the condition and in remaining functional?

Taking care of yourself, dealing with the illness, family and your home environment, work and fellow employees.

3 what is the prognosis and what are reasonable expectations?

Dealing with disabilities and the possibilities of working.

4 what role can the company doctor and insurance medical adjustor have in the reintegration?

Think of other possibilities within the company, not only adjusting tasks or reducing hours.

- Is there a need in the company to educate people or provide information about HIV?
- Must confidentiality be guaranteed, or can there be openness? This issue urgently needs to be addressed!
- How important is the employer's legal position? Is this a source of uncertainty?

5 discuss additional actions

Think about the reintegration approach of the company doctor and the labour liaison officer or about the follow-up after resumption of work.

UNFAIR TREATMENT DUE TO HIV STATUS IS ILLEGAL

With regard to handicaps or chronic illnesses, the Wet gelijke behandeling (Equal treatment act) specifies that in a working environment or in the performance of independent professions (such as law or medical practices) unfair treatment based on handicap or chronic illness, including HIV, is illegal.

DISCRIMINATION DUE TO HIV STATUS?

As of January 1, 2006, there can be no discrimination on the basis of handicap or chronic illness, including HIV. Anyone discriminating can expect legal action. For example, a person is discriminating if he insults or excludes another person based on his physical condition.

ARE YOU EXPERIENCING DISCRIMINATION?

Visit your local Anti-discriminatie Bureau (Anti-discrimination Office). The people working there can advise and determine whether you have a legal case or whether you would be better served taking it up with the Commissie gelijke behandeling' (Commission for equal treatment). For more explanation and examples of unequal treatment, go to the Commissie gelijke behandeling; website: www.cgb.nl.

clear hygienic guidelines prevent transmission

People with HIV can perform their work without danger of transmitting infection to consumers, patients, or fellow employees. That applies for all employment sectors, including health care, hotel and catering, sex work and prostitution, education, or the food industry. Obviously, in so doing, this implies sticking to general hygienic guidelines. These guidelines are meant to avoid the transmission of all infectious diseases, not only HIV, but also more easily transmitted conditions including hepatitis-B or -C.

example of work situation and professions

- Drawing blood, caring for wounds, operations and intimate care are risk procedures for staff working at hospitals, dental clinics, health centres, hospital laboratories, and acupuncture practices.
- Places where risk could exist include laboratories where bodily fluids are handled such as at clinical, forensic and research laboratories, and locations where autopsies are performed.
- Statistics reveal a greater chance of risk in prisons, asylum centres, and shelters due to the greater number of drug users and people from HIV endemic regions therein. Aggressive behaviour can also pose additional risk factors.
- People working in public services could possibly be at risk in doing their jobs; for example in collecting and processing garbage (bin bags, for example, could contain things such as hypodermic needles).

the case of the wrongfully-sacked barber

In January, 2005, a magistrate in Utrecht passed judgement in the case of a HIV-infected barber. At the time of applying for the job, the barber did not make any mention of his HIV status. Later when he revealed his HIV status, he was immediately dismissed. The magistrate ruled on the side of the employee (during the application process, the barber did not mislead the employer in saying nothing about his HIV).

‘The employer is expected to comply with the appropriate hygienic protocols that form the foundation of labour legislation.’

In fact, an employer is expected to comply with the appropriate hygienic protocols that form the foundation of labour legislation. Furthermore, in performing his job, the applicant was not constrained by his HIV infection. The barber was awarded compensation for intangible damage due to the inappropriate action of the employer.



a HIV-positive barber can do his job normally

'It's good that I'm working. For my personal development it was right to return to work, but it was a bit of a hassle before it panned out. There was a total lack of understanding. It took way too much energy. Luckily today people with HIV are handled better by social welfare agencies.'

PEP: IF YOU THINK YOU'VE BEEN EXPOSED TO RISK
PEP (Post-exposure Prophylaxis) is a treatment of HIV medication which should be taken as quickly as possible (preferably between 2 and 72 hours) after possible exposure to HIV. There is a strong probability that PEP can reduce the chance of contracting HIV, but the effectiveness has not yet been proven. PEP is available at the GGD and after hours at your local hospital. It is recommended that you first ring the Aids Soa Infolijn to find out where you can be treated (page 55). PEP is prescribed depending on the risks taken. Guidelines have been established in order to determine this (LCI, 2006). Health sector personnel have the right to PEP treatment under the Arboret (Labour act).

🕒 ADVICE IN CASE OF AN ACCIDENT

Should there be an accident at work in which there is a chance of HIV transmission, make sure that both the victim and anyone who helped are seen to by the company doctor. They can then be informed about the risks of infection, any need for an HIV-test and the pros and cons of treatment.

what must I do...

about lodging a complaint on how the application procedure was carried out?

First, lodge your complaint with the organisation where the complaint occurred. In a letter to the managing director of the company with whom you applied, describe what happened to you and why you disagree with the actions.

about being dismissed during the application procedure because of HIV?

If an employer does not employ you due to your HIV status then he is in violation of the Wet gelijke behandeling (Equal treatment act) on the grounds of discrimination against handicapped and chronically ill people. You can then file a complaint with the Commissie gelijke behandeling (Commission on equal treatment).

about an examination given by an medical examiner?

The medical examiner is required to first inform you of the results of the exam. The results can only indicate the following: suitable for the job, unsuitable for the job, or suitable under certain conditions. Thus the employer is not privy to your medical particulars. Only you can authorise the medical examiner to pass on the results of the exam on to the employer. You retain the right to withdraw from the application procedure without the employer becoming aware of your results.

about an examination given by a company doctor?

You can make use of the in-place procedure which each health and safety representative has for complaints about a medical examination by a company doctor.

about a scheduled medical examination or a health questionnaire?

Lodge the complaint with the Commissie klachtenbehandeling aanstellingskeuringen (Medical examinations complaints commission) through their website: www.aanstellingskeuringen.nl. This independent commission will investigate the complaint and make a decision.

about feeling that I was unfairly treated in a work situation due to HIV?

The Wet gelijke behandeling (Equal treatment act) has been in place since December 1, 2004 to safeguard the handicapped and chronically ill. The law states that unfair treatment on the grounds of a handicap or chronic illness, including HIV, in the work environment or at a private practice (such as a lawyer's or doctor's) is prohibited. For more information about unfair treatment, go to the Commissie gelijke behandeling (Commission on equal treatment). website: www.cgb.nl.

about an examination for work-related insurance?

Examinations and declarations of health cannot be required for insurance covering additional disabilities and pensions.

about violations of the rules of application?

After you have lodged a written complaint with the organisation or company with whom you applied for a job, can you then submit a complaint with the Nederlandse Vereniging voor Personeelsbeleid (Dutch Association of Human Resource Management). They have

drawn up a set of rules which defines how the job application procedure should be conducted.

about being fired due to my HIV status?

An employer can never lay you off because of your HIV status. Employers who do this are discriminating and are in violation of the law. This is indirect discrimination since you cannot determine, through appearance, whether a person is HIV-positive. This kind of dismissal can be declared invalid. In principal, an employee with HIV who has been ill for a considerable period, cannot be dismissed. This can only occur after two years, provided that the employer has made considerable effort at reintegration.

about calling in sick?

You're not required to inform your employer of the nature of your illness. Your employer can enquire about when you expect to return to work and how much work you expect to be able to perform. The company doctor cannot inform the employer of the nature of your illness: he is expected to maintain professional confidentiality.

if I need to make adjustments at work?

The employer is expected to implement any identifiable adjustments that an employee with HIV requires to properly perform the work. To help in doing this, the employer can request a 'subsidised settlement for the adjustment of the workplace of an employee with a handicap or chronic illness.'

▶ 'KENNISPUNT KEURINGEN' (EXAMINATION INFORMATION CENTRE)

The Kennispunt Keuringen provides a knowledge-base on their website: www.bpv.nl/keuringen. Here you can find comprehensive information about legislation and regulations, frequently-asked questions, advice and examples of letters, practical information, and a judicial database containing verdicts from the complaint authority.

▶ LEGAL SUPPORT

For legal questions dealing with disability and work, get help from the Juridisch Steunpunt Chronisch Zieken en Gehandicaptten (Legal Support Centre for the Chronically Ill and Handicapped) via their website: www.juridischsteunpunt.nl. Members of the Hiv Vereniging Nederland are entitled to free advice and support.

▶ QUESTIONS ABOUT WORK CONDITIONS IN YOUR CONTRACT?

Can I really be fired? How does that affect my WW (Wet werkloosheid - Unemployment act)? Will my WAO (Wet arbeidsongeschiktheid - Work disability act) payment be cancelled? Does my complaint run out?

For these sorts of legal queries refer to the Juridisch Loket (Legal Counter) for the guide in Recht (Law) via website: www.hetj.nl.

▶ FOR EMERGENCY HELP ABOUT PROBLEMS WITH THESE LAWS

Go to the Jurofoon website: www.jurofoon.nl.

Summary of legal and financial issues for the employee

legal

According to the Wet medische keuringen (Medical examinations act), the employee is under no obligation to reveal his or her HIV status during the course of the job interview. The employee retains the right of privacy. The employee is also assured of the company doctor's oath of confidentiality. In the event of any questions or doubts, the employee can avail him or herself of a second opinion.

financial

After two years of illness, the sick employee can apply for a WIA (Wet werk en inkomen naar arbeidsvermogen - Work and income according to labour capacity act) allowance. This amounts to 75 percent of the employee's most recent salary.

glossary of Dutch governmental, employment and legal nomenclature

Anti-discriminatie Bureau Anti-discrimination Office

Arbowet Labour act

Commissie gelijke behandeling Commission for equal treatment

Commissie klachtenbehandeling aanstellingskeuringen Medical examinations complaints commission

FNV (Federatie Nederlandse Vakbeweging) Dutch Trade Union Federation

Handboek Arbeid en Belastbaarheid HIV en AIDS Work and Capability Handbook HIV and AIDS

Hiv Vereniging Nederland Dutch HIV Association

IRO (Individuele Reïntegratie Overeenkomst) Individual Reintegration Agreement

IVA (Inkomensvoorziening volledig arbeidsongeschikten) Income provision for fully incapacitated workers

Juridisch Loket Legal Counter

Juridisch Steunpunt Chronisch Zieken en Gehandicapten Legal Support Centre for the Chronically Ill and Handicapped

Kennispunt Keuringen Examination Information Centre

Landelijke Coördinatiestructuur Infectiebestrijding National Coordination Committee for Infection Control

LMA (Landelijk Meldpunt Arbo- en Reïntegratiedienstverlening) National Contact Point for the Work and Reintegration Service

Nederlandse Vereniging voor Personeelsbeleid Dutch Association of Human Resource Management

Reisgids voor de werknemer Guide book for the worker

Project sociale activering en reïntegratie Social stimulation and reintegration Programme

UWV (Uitvoeringsinstituut Werknemersverzekeringen)

Employed Persons Insurance Administration Agency

WAO (Wet arbeidsongeschiktheid) Work disability act

Wet gelijke behandeling Equal treatment act

Wet op de medische keuringen Medical examinations act

Wet verbetering poortwachter Eligibility for permanent disability benefit restrictions act

WGA (Werkhervatting gedeeltelijk arbeidsgeschikten)

Reintegration scheme for partially incapacitated workers

WIA (Wet werk en inkomen naar arbeidsvermogen) Work and income according to labour capacity act

WW (Wet werkloosheid) Unemployment act

zzp'er (zelfstandige zonder personeel) self-employed



HIV can't be transmitted through the swimming-pool

CASE OF THE SWIM-INSTRUCTOR

In 2005 a swim-instructor was dismissed due to HIV. The reason for dismissal was that in the event of giving first-aid he could not perform mouth-to-mouth resuscitation (since HIV could be transmitted by blood contact). That presumption is unfair when regulations are well observed, as someone with HIV can complete their work satisfactorily (including giving first-aid). Since his temporary contract was almost completed, the instructor did not challenge the decision; he had already secured work elsewhere without any problem.

COLOFON

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