



U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
Washington, D.C. 20507

Office of
Legal Counsel

August 21, 2015

SUBMITTED VIA E-MAIL

Office of Information and Regulatory Affairs
Attn: OMB Desk Officer for DOL– OWCP
Office of Management and Budget
Room 10235
725 17th Street NW
Washington, DC 20503

U.S. Department of Labor
OASAM, Office of the Chief Information Officer
Attn: Departmental Information Compliance Management Program
Room N1301
200 Constitution Avenue NW
Washington, DC 20210

Re: Comment Request: Rehabilitation Maintenance Certificate, Form OWCP-17

To Whom It May Concern:

The U.S. Equal Employment Opportunity Commission (EEOC) submits this comment in response to the request for comments on the Department of Labor (DOL), Office of Workers' Compensation Programs' sponsored information collection request, "Rehabilitation Maintenance Certificate."¹

As you know, the EEOC enforces the federal laws that prohibit discrimination against job applicants and employees on the basis of race, color, religion, sex, national origin, age, disability, and genetic information.² The laws enforced by EEOC also prohibit retaliation for filing a charge or complaint of employment discrimination, participating in an employment

¹ Agency Information Collection Activities; Submission for OMB Review; Comment Request; Rehabilitation Maintenance Certificate, 80 Fed. Reg. 43,795 (July 23, 2015).

² See Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.; the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 et seq.; Section 501 of the Rehabilitation Act of 1973, as amended (Rehabilitation Act), 29 U.S.C. § 791; Titles I and V of the Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq.; the Equal Pay Act of 1963, 29 U.S.C. § 206(d); and Title II of the Genetic Information Nondiscrimination Act of 2008, 42 U.S.C. § 2000ff et seq.

discrimination proceeding, or otherwise opposing such discrimination.³ Further, the EEOC coordinates and leads the federal government's efforts to eradicate unlawful workplace discrimination.⁴

To ensure consistency with the Rehabilitation Act of 1973, as amended (Rehabilitation Act), we have a few minor comments regarding the Notice at the bottom of the Rehabilitation Maintenance Certificate. First, we suggest that DOL replace “substantially limiting physical or mental impairment” with “disability” in the first sentence of the Notice. Individuals who complete the form may not know whether or not their impairments are substantially limiting as that term is defined under the Rehabilitation Act and accompanying regulations. Further, this edit would be consistent with the Americans with Disabilities Act Amendments Act of 2008, which superseded prior judicial interpretations of the “substantially limits” standard and stated that determining whether an individual has a covered disability “should not demand extensive analysis.”⁵ In addition, DOL might consider revising “Federal disability nondiscrimination law” to “federal law” for the sake of simplicity.

Finally, we suggest that DOL delete “to account for the limitations of your disability” from the second to last sentence of the Notice. Although unintentional, this language could be perceived negatively by individuals with disabilities, and removing it would not affect the substance of the sentence.

Thank you for the opportunity to comment on the Rehabilitation Maintenance Certificate. Should you wish to discuss these comments, please feel free to contact me at (202) 663-4845.

Sincerely,

/s/

Lisa M. Schnall

Senior Attorney Advisor

³ 42 U.S.C. § 2000e-3(a); 29 U.S.C. § 623(d); 29 U.S.C. § 791(g) (incorporating, among other provisions, the anti-retaliation provision of the ADA into the Rehabilitation Act); 29 U.S.C. § 215(a)(3); 42 U.S.C. § 2000ff-6(f).

⁴ Exec. Order No. 12,067, 43 Fed. Reg. 28,967 (June 30, 1978).

⁵ Americans with Disabilities Act Amendments Act, Pub. L. No. 110-325 §2(b)(5), 122 Stat 3553.