

Due to early diagnosis and the availability of HIV medications, many people living with HIV are now able to keep working or to return to work. This is an exciting opportunity for many individuals, but can also bring up many questions as people try to figure out what their rights and responsibilities are in the workplace.

### **Do I need to tell my employer about my HIV status?**

HIV is not transmitted by casual contact, so in most jobs (e.g. office work, food services etc.) there is no risk of passing it on to your coworkers, employer or clients. Because there is no risk of HIV transmission, the law does not require you to disclose your HIV status with your employer.<sup>1</sup> Also, employers are not allowed to ask you specific questions about your health (including your HIV status) on a job application, during an interview or when you request time off. Instead, they can ask general questions about your ability to carry out your job duties and, once you are hired, can require a note from your doctor confirming that you have a health issue. Also, employers can require a medical exam, after making an offer of employment, in order to determine a person's ability to perform the job (e.g. ability to lift heavy objects).<sup>2</sup> However, an HIV test should not be included in medical testing as a positive test result could not directly speak to a person's ability to carry out their job duties.

It is up to you whether you want to tell your employer about your HIV status. This can be a difficult decision due to the stigma attached to HIV and the possibility you may experience discrimination. People living with HIV continue to experience discrimination in the workplace, so it is important to take time when deciding if your work environment provides a safe place to share your HIV status. If you choose to share your HIV status with your employer, they are required to treat this information confidentially and not to share it with coworkers or others.

In jobs where there may be a risk of HIV transmission in carrying out job duties (e.g. health care, dental care etc.), there may be specific regulations which govern HIV disclosure. For example, doctors living with HIV are required to disclose their HIV status to the Alberta College of Physicians and Surgeons (the regulatory body governing their profession).<sup>3</sup> If you are unsure about the risks of HIV transmission in your profession or the regulations governing disclosure in your profession, you can contact AIDS Calgary for further information.

### **What if I am sick or need to ask for time off?**

People living with HIV often experience illness, side effects from medications (e.g. fatigue, diarrhea etc.) or periods of poor health when treatments lose their effectiveness. According to Alberta's human rights law, HIV is considered a disability. Specifically, HIV is often called an "episodic disability", which refers to a condition where people often experience intermittent periods of good health and periods of illness.<sup>4</sup> This can be very unpredictable, as you do not know when you will be sick and when you will be well. People often feel like they need to tell their employer about their HIV in order to explain why they need to take time off work and sharing this information with your employer can help them to understand the challenges you are dealing with. However, you have the right to privacy, which means that when you communicate with your employer you are allowed to be vague about the specific issues and provide them with general information:

- You can tell your employer that you have a "disability" rather than saying HIV.
- You can tell your employer that you require "accommodation" for your disability. Due to your disability, your employer is required to take steps to ensure that you can take care of your health and perform your job effectively. You need to communicate with your employer regarding your needs (usually in writing), so that they can work with you to figure out what options will work best for both of you (e.g. taking time off, or shifting to lighter job duties etc.).
- You can ask your doctor to provide you with a note for your employer stating that you have a "disability" and outlining what your limitations and special needs are (e.g. time off or shift to lighter job duties). Your doctor does not need to state what the disability is.
- If your employer asks for more information, feel confident saying that you "prefer to keep this private", or thank them for their concern and say you don't want to go into specifics.
- If your employer has questions you are not sure how to answer, feel free to write them down and ask for some time to think about them before you respond.<sup>5</sup>

### **Can I still get employee health benefits if I have HIV?**

Many group health benefits plans will cover people living with HIV. However, some do contain clauses regarding “pre-existing conditions” and may require employees to pay an additional charge due to a pre-existing condition, may require a specific period of time to pass before making a health claim related to a pre-existing condition, or may not offer coverage at all to people with pre-existing conditions. Before you accept a job offer with a new employer, you may want to ask them about their health benefits plan and find out if the plan will cover pre-existing conditions.<sup>6</sup> You may also want to request the manual for the health benefits plan to see what kind of coverage is provided and to identify how health claims are made (i.e. do you need to submit health claims to the Human Resources department or directly to the insurance company as this may have some bearing on the confidentiality of your health information).

### **How do I find out about workplace policies around HIV?**

It can be very difficult for people to ask their employers for information about HIV policies as people often fear that asking these questions will raise suspicions. The first place to look for this information is in a Human Resources Manual or an Employee Handbook as most offices do not have an official workplace HIV/AIDS policy. This information may have been provided when you were hired, or you may need to request this information from your supervisor or someone in the Human Resources department. Within these documents, key information relevant to HIV or general health may be found under the following possible headings:<sup>7</sup>

- HIV/AIDS in the Workplace;
- Life Threatening/ Chronic/ Episodic Disabilities;
- Code of Conduct;
- Duty to Accommodate;
- Privacy and Confidentiality;
- Records Management;
- Discrimination and/or Harassment;
- Flexible work arrangements;
- Health and safety;
- Leave policies;
- Insurance benefits and/or other income replacement benefits;
- Gradual back to work programs;
- Employee assistance program.

<sup>1</sup> Criminal Law and HIV/AIDS Fact Sheets #1-8. Canadian HIV/AIDS Legal Network. Electronic documents. Accessed Dec 19 2007. <http://www.aidslaw.ca/publications/interfaces/downloadFile.php?ref=26>

<sup>2</sup> Pre-Employment Inquiries Information Sheet & Duty to Accommodate Interpretive Bulletin. Alberta Human Rights and Citizenship Commission. Electronic document. Accessed Dec 19 2007.

[http://www.albertahumanrights.ab.ca/publications/Information\\_Sheets/Info\\_INDEX.asp](http://www.albertahumanrights.ab.ca/publications/Information_Sheets/Info_INDEX.asp)

<sup>3</sup> Alberta College of Physicians and Surgeons. Electronic document. Accessed Dec. 19 2007.

[http://www.cpsa.ab.ca/publicationsresources/attachments\\_policies/hiv%20infection%20in%20health%20care%20workers.pdf](http://www.cpsa.ab.ca/publicationsresources/attachments_policies/hiv%20infection%20in%20health%20care%20workers.pdf)

<sup>4</sup> Episodic Disabilities. Canadian Working Group on HIV and Rehabilitation. Electronic document. Accessed Dec 19 2007.

[http://www.hivandrehab.ca/EN/episodic\\_disabilities/index.php](http://www.hivandrehab.ca/EN/episodic_disabilities/index.php)

<sup>5</sup> HIV/AIDS and the Workplace: Information Sheets for PHAs. Interagency Coalition on AIDS and Development. Electronic document. Accessed Dec. 17 2007. [http://www.icad-cisd.com/pdf/PHA\\_IS1EN\\_Employment\\_info.pdf](http://www.icad-cisd.com/pdf/PHA_IS1EN_Employment_info.pdf)

<sup>6</sup> HIV in the Workplace. Mark Cichocki, RN. Electronic document. Accessed Dec 18 2007

<http://aids.about.com/od/hivandtheworkplace/a/workhiv.htm>

<sup>7</sup> HIV/AIDS and the Workplace: Information Sheets for PHAs. Interagency Coalition on AIDS and Development. Electronic document. Accessed Dec. 17 2007. [http://www.icad-cisd.com/pdf/PHA\\_IS1EN\\_Employment\\_info.pdf](http://www.icad-cisd.com/pdf/PHA_IS1EN_Employment_info.pdf)