

## **5. WHAT SHOULD I DO IF MY EMPLOYER REQUIRES A DRUG TEST AND I AM TAKING MEDICATION FOR MY HIV/AIDS?**

At least one HIV drug (Sustiva) often produces a false positive on many drug tests. We advise you to take a note from your doctor that states that you take a medication which produces a false positive on many drug tests. Also ask your doctor to say that the medication is for a condition that does not affect your ability to perform the essential functions of the job. In most instances, these tests are not run by your employer, but by an outside contractor. Your questionnaire should not be received by the employer. However, you may also want to put a cover note on the questionnaire which specifically states that it includes information protected by law which may not be shared with your employer. You should not wait for the false positive before disclosing your prescription drugs. Once there is a positive test that seems to indicate exposure to an illegal drug, it is a lot harder to come in with an explanation that was not provided at the outset. If fact, if this is a conditional offer medical screen, you even run the risk of having the job offer rescinded for misrepresentation.

It's easy to think of AIDS as a medical problem. But AIDS is also a social problem. Since the epidemic was first identified in 1981, many people have used AIDS as an excuse to discriminate. People with HIV have been fired from their jobs, kicked out of their apartments, denied health care and abandoned by their families. Discrimination has always been a symptom of AIDS.

The best defense against discrimination is knowledge. If you have questions after reading this, you can call the Alabama Disabilities Advocacy Program. Someone there will be happy to speak with you.

### **ADAP**

Attn: Aiding Alabama  
Box 870395

Tuscaloosa, AL 35487-0395

205-348-4928 (V)

1-800-826-1675 (toll free)

205-348-9484 (TDD)

205-348-3909 (FAX)

E-mail: [adap@adap.ua.edu](mailto:adap@adap.ua.edu)

Website: <http://adap.ua.edu>



# **UNDERSTANDING YOUR LEGAL RIGHTS:**

# **GETTING HIRED WITH HIV/AIDS**



Protecting the Rights of People with HIV/AIDS

This is one in a series of pamphlets designed by the Alabama Disabilities Advocacy Program. All are designed to help you understand your legal rights in Alabama. Currently, other pamphlets in this series include the following:

*Working with HIV/AIDS*

*Returning to Work with HIV/AIDS*

*HIV/AIDS and Privacy on the Job*

*Getting Hired with HIV/AIDS*

*HIV/AIDS and the FMLA*

This guide is intended as an overview of HIV-related Alabama and federal law. As with any legal matter, it is always a good idea to consult an attorney concerning the particular circumstances of your case.

## **INTRODUCTION**

Many people with HIV or AIDS have good jobs and contribute to society in important ways. People may have told you that, because you are HIV positive, no one will hire you. This is not true. If you have the right skills and experience, you have as much right to a job as anyone else.

### **1. IF I APPLY FOR A JOB, CAN THE PERSON INTERVIEWING ME ASK IF I HAVE HIV?**

No. An interviewer cannot ask you if you have a disability or a medical condition. *Generally, you do not have to tell the employer that you are HIV positive.* An employer may ask you about your ability to perform certain job-related duties. For example, if you are applying for a job as a stock clerk, and the job requires you to lift heavy boxes, the employer could ask you if you are able to lift heavy things.

### **2. ARE THERE JOBS I AM NOT ALLOWED TO HAVE BECAUSE I AM HIV POSITIVE?**

The only job you would not be allowed to have is one in which you would present a direct threat to the health and safety of others. For example, a hospital could probably refuse to hire someone as a surgeon if she is HIV positive. However, to refuse you a job, an employer must show that you would pose a direct threat to the health and safety of others *by carrying out the routine job duties of the position you applied for.* For example, if you were applying for a job as a secretary, an employer could not say that you might accidentally cut yourself and therefore pose a direct threat to others.

### **3. CAN AN EMPLOYER ASK ME TO TAKE AN HIV TEST?**

Under certain circumstances, an employer may require that a person applying for a job take a medical examination. *But an employer can require this exam only if he has already offered you a job, and if everyone applying for the job has to take the exam also.* As part of the exam, the employer could legally require you to take an HIV test. However, the employer cannot refuse to hire you based on the result of that HIV test, unless your being HIV positive would pose a direct threat to the health and safety of others. Most employers do not test applicants for HIV because HIV is irrelevant to most jobs, and because HIV typically does not pose a direct threat to others.

### **4. I AM RETURNING TO WORK AFTER A LONG ABSENCE DUE TO ILLNESS. HOW DO I EXPLAIN THE GAP IN MY RESUME?**

This can be a very difficult question to answer. Each person's situation will be different. The most important thing is to prepare an answer for this question, in case it comes up in the interview. Did you do something interesting during your break from work? Did you travel, or take a class, or learn a new skill? Did you do some work out of your home? You can focus on those things. If you have to explain a long absence, it is best to explain it quickly and then move on to the positive points on your resume. Remember, your goal in an interview is to show the employer you are the right person for the job.