



MA Supreme Court Rules for Woman Fired for Medical Marijuana Use

The Massachusetts Supreme Judicial Court (SJC) has ruled that employers may not fire employees for testing positive for marijuana use in violation of any existing drug testing policies if the employee has a legitimate medical need for medical marijuana. In *Barbuto v. Advantage Sales and Marketing, LLC*, the court ruled on July 17 that Christina Barbuto could not be fired for medical marijuana use.

About the case

Cristina Barbuto was hired by Advantage Sales and Marketing in the summer of 2014. Suffering from Crohn's disease at the time of hire, Barbuto had been prescribed medical marijuana by her doctor for treatment. Barbuto followed all the regulations that were set by the Medical Marijuana Act of 2012, including only using marijuana after hours and not on work property, but was still terminated on her first day due to testing positive for the drug.

The SJC ruled that employers must offer an accommodation for medical marijuana use for patients with a legitimate medical need consistent with the Medical Marijuana Act. The SJC also ruled that employees can sue their employers if they do not provide an accommodation, since this technically counts as handicap discrimination. According to the SJC, using medical marijuana is the same as using any other medication provided by a doctor, and employers must provide reasonable accommodations for employees who may be prescribed marijuana for medical purposes.

What does this mean for employers?

If you currently have a drug testing or marijuana usage policy, you will want to reevaluate it to ensure employees that are prescribed medical marijuana are covered under it. If you have any current employees that do use medical marijuana, work with them to find accommodations that allow them to do their job most effectively.

Note, however, that the Barbuto decision also includes guidelines for employers to not require accommodations for medical marijuana if it would impose an "undue burden" on the employer. Employers in "safety-sensitive" positions such as transportation are not required to make accommodations either, due to potential risks to the public.

Finally, employers should be aware that they do not have any duty to accommodate the use of marijuana in their workplace during business hours, and that this court decision only applies to medical marijuana and not the legalized use of recreational marijuana in the state. If you have any additional questions on medical marijuana policy guidelines, please [contact us](#).

This content is provided with the understanding that HR Knowledge is not rendering legal advice. While every effort is made to provide current information, the law changes regularly and laws may vary depending on the state or municipality. The material is made available for informational purposes only and is not a substitute for legal advice or your professional judgment. You should review applicable laws in your jurisdiction and consult experienced counsel for legal advice. If you have any questions regarding this blog, please contact HR Knowledge at 508.339.1300 or [email us](#).