



Peer reviewed article

When is external expertise required? The employer's responsibility to assess work ability and use occupational health care to support

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Abstract

In particular in light of the increasing prevalence of mental illness in sickness absence statistics, as well as the difficulties this entails for employers in assessing work ability and the need for work adaptation and rehabilitation, the article analyses the employer's legal responsibility to assess employees' work ability in individual cases. Particular focus is placed on the extent to which this responsibility may actualize an obligation for the employer to engage occupational health care to assist with the assessment. The analysis shows that the requirement for individual and proportional assessments, adapted to the employer's financial and organizational capacity, constitutes a conscious compromise between flexibility and clarity, as well as reflecting a perception that work ability assessments constitute an area that is poorly suited for precise delineations in regulation. However, the design of the regulatory model creates an unnecessarily large lack of clarity in how occupational health care is to be integrated into the employer's work ability assessments.

Keywords: work ability assessment, mental health, regulation.



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