

Disability or incapacity?

Ian Veary, a social worker, details why advocacy within a multi-disciplinary team for employed cancer patients is imperative.

Cancer is a medical condition that affects all of human kind and doesn't consider race, religion or socio-economic position. The effect of cancer on people living with this medical condition goes beyond physical and psychological distress¹

The legal framework in SA allows for employed cancer patients to be dismissed on the grounds of incapacity. Being a contract worker may make you more vulnerable to dismissal and financial stress due to the absence of any benefits associated with full-time, permanent employment.

Countries, such as England and USA, recognise cancer as a progressive disease which constitutes a disability and is granted different treatment in the workplace and in law.

Studies have indicated that after a cancer diagnosis, the number of sick days required by an employee do indeed rise to attend treatment, scans, oncology appointments and to recuperate after surgery.²

The amount of leave days required do decrease over time and a full return to work is possible for many patients after successful treatment. However, in SA, progressive conditions, such as cancer, don't fall into the category of disability unlike the current position in England¹

WHAT IS INCAPACITY?

Incapacity can be defined as the inherent inability of an employee to perform work according to the employer's established standards of quality and quantity due to ill health or injury, which can be temporary or permanent.¹ If an employee's illness or injury is of a

short duration then dismissal isn't possible.

So, what can be done by employers in the workplace for employees who have received a cancer diagnosis? The law requires reasonable accommodation on the part of the employer that can include: a flexible work schedule; provide extended medical leave or unpaid leave for treatments, surgeries and recovery periods; temporarily reduce the employee's workload or adjust job responsibilities to match their energy levels; assign tasks or projects that are less physically demanding, or allow the employee to work on less stressful assignments during treatment and recovery periods.

ADVOCACY FOR CONTINUED EMPLOYMENT


As the psychosocial aspects of dismissal of cancer patients can be significant, it's important for patients and social workers to advocate for the continued employment and for reasonable accommodation in the workplace for this vulnerable group.

Dismissal or medical boarding can result in financial stress and instability for a patient and family, and the sudden change in employment status together with uncertainty about the future can lead to feelings of anxiety and depression. Work often provides a sense of identity, purpose, and routine. Losing your job due to cancer can lead to a loss of this sense of identity and a feeling of disconnection from the world and the resulting loss of social support and engagement with others that is offered by colleagues.

STANDING UP FOR PATIENTS TOGETHER

My social work practice has provided examples where patients are unable to afford treatment due to loss of income and are unable to pay medical scheme fees. Patients have had to maintain work under extreme physical limitations to afford a medical item or procedure that isn't covered by medical aid. Dismissal and medical boarding leave patients feelings "abandoned, kicked out, and not wanted after years of service."

Social workers and other members of the multi-disciplinary team need to familiarise themselves with the Labour Relations Act (1995) and the recourse that patients have to have mediation and arbitration through the Centre for Conciliation Mediation and Arbitration (CCMA).

Patients and their families should be encouraged to speak up about their needs in the workplace and seek reasonable accommodation for their work. In addition, social workers should connect patients to community resources, such as legal services, financial assistance and advice that can help them on their journey. Lastly, social workers should support patients and motivate employers for continued opportunities and accommodation in the workplace. 

To view references, visit oncologybuddies.com



MEET THE EXPERT

Ian Veary is a social worker based in Cape Town and is a committee member of the South African Oncology Social Work Forum. He has a practice that includes working with oncology patients both in-hospital and at home.