



In the News

New Federal Guidance Says COVID-19's Long-term Effects Can Qualify as a Disability

Joan Stephenson, PhD

People in the US who experience persistent, recurring, or new symptoms after infection with COVID-19—a condition known as long COVID—can qualify as having a disability under federal civil rights laws and receive appropriate accommodations and services, the Biden-Harris administration [announced last week](#).

The US Department of Health and Human Services (HHS) and the Department of Justice jointly [released new guidance](#) that classifies long COVID—also [known](#) in the research community as postacute sequelae of SARS-CoV-2 infection—as a physical or mental impairment, which means that those affected can qualify for discrimination protections under the Americans with Disabilities Act (ADA).

"We're bringing agencies together to make sure Americans with long COVID, who have a disability, have access to the rights and resources that are due under the disability law," President Biden said at an event marking the 31st anniversary of the ADA.

The guidance provides "clarity on how these disability nondiscrimination laws apply to people who may be newly covered under these laws because of the impact of the COVID-19 infection on their bodies and their lives," according to HHS. The document discusses when long COVID may be considered a disability under the ADA and provides examples and resources related to the issue.

Individuals with long COVID have new or ongoing symptoms that can persist weeks or months after they become infected with SARS-CoV-2 and worsen with physical or mental activity, [according to the Centers for Disease Control and Prevention \(CDC\)](#). Patients can experience a combination of symptoms, such as difficulty breathing or shortness of breath; tiredness or fatigue; difficulty thinking or concentrating (sometimes referred to as "brain fog"); cough, chest, or stomach pain; headache; a fast-beating or pounding heart; joint or muscle pain; diarrhea; fever; dizziness on standing; change in smell or taste; and other symptoms. Some patients who were severely ill with COVID-19 also experience damage to multiple organs (such as the heart, lungs, kidneys, and brain) or autoimmune conditions.

COVID-19's effects sometimes persist for months, even in individuals who experienced only mild illness after they became infected with the coronavirus. There's also [evidence](#), based on a study of records of patients in the US Department of Veterans Affairs health system, that SARS-CoV-2 infection may increase the subsequent risk of chronic health conditions or death, even among individuals who did not require hospitalization when they had COVID-19.

Research findings about the proportion of people infected with SARS-CoV-2 who develop long COVID vary considerably. A March 2021 [review](#) of studies found that among patients hospitalized with acute COVID-19, 32.6% to 87.4% reported at least 1 symptom persisting after several months. Another [analysis](#), by the UK Office of National Statistics, found that 13.7% of a sample of more than 20 000 people who tested positive for SARS-CoV-2 between April 26, 2020, and March 6, 2021, reported having symptoms that persisted for at least 8 weeks.

The [new guidance explains](#) that a person with long COVID has a disability under the ACA if that individual's condition or any of its symptoms is a "physical or mental impairment" that "substantially limits one or more major life activities." It notes that a physical impairment includes any physiological disorder or condition affecting one or more body systems (such as lung, heart, kidney, or

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neurological damage), and that a mental impairment includes "any mental or psychological disorder, such as an emotional or mental illness."

Examples of major life activities that long COVID could potentially limit include caring for oneself, doing manual tasks, sleeping, eating, walking, reading, writing, thinking or concentrating, communicating, interacting with others, working, and many others. Under the ACA, the guidance says, "major life activities" also includes "the operation of a major bodily function, such as the functions of the immune system, cardiovascular system, neurological system, circulatory system, or the operation of an organ."

Someone who has long COVID that qualifies as a disability is entitled to the same protections from discrimination as any person with a disability under the ADA. "For example, this may mean that businesses or state or local governments will sometimes need to make changes to the way that they operate to accommodate a person's long COVID-related limitations," the guidance notes.

Other agencies are also providing resources to address the issue. The Department of Education offers [guidance](#) about schools' and public agencies' responsibilities for providing services, specialized instruction, or reasonable modifications to children and students for whom long COVID is a disability. In addition, the Department of Labor's Office of Disability Employment Policy launched a new [webpage](#) that includes resources on long COVID for workers, employers, and policy makers.

However, long COVID is not always regarded as a disability under the new guidelines. "An individualized assessment is necessary to determine whether a person's long COVID condition or any of its symptoms substantially limits a major life activity," HHS notes. "The CDC and health experts are working to better understand long COVID."

In February, National Institutes of Health (NIH) Director Francis Collins, MD, PhD, [announced a new NIH initiative](#) to study long COVID.

"We do not know yet the magnitude of the problem, but given the number of individuals of all ages who have been or will be infected with SARS-CoV-2 ... the public health impact could be profound," Collins said.

ARTICLE INFORMATION

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