

[TRACK 6: SURVIVOR STORIES: EMPLOYMENT ISSUES]

[Narrator]

Anthony's case brings up another important topic: your employment rights as a cancer survivor. Nearly one-half of all cancer survivors are working-aged adults. Most employers treat cancer survivors fairly and legally. Some employers, however, treat survivors differently from other employees in ways that may violate your legal rights.

[Narrator]

Under federal and state laws, an employer cannot treat you differently from other workers in job-related activities because you have or had cancer, as long as you are able to do the job. To be protected by these laws, you must show that: you have the necessary skills, experience, education, and ability to do the essential duties of the job in question, and your employer treated you differently from other workers in job-related activities because either you have a disability from your cancer treatment or your employer believes your cancer is disabling.

[Narrator]

The Americans with Disabilities Act, also known as the "ADA," makes some types of job discrimination by employers against people who have or have had cancer illegal. The ADA covers private employers with 15 or more employees, state and local governments, employment agencies, and labor unions. The ADA and most state laws provide cancer survivors with several rights in looking for and keeping a job. Let's listen to how a 43-year old woman, Nancy, who has bladder cancer, negotiates with her employer to continue working daily during her cancer treatment.

Nancy, 43 years old

[Nancy]

I work as a bank teller -- I need my job for the income and the health insurance. I also like the friendship of the people I work with. Before I got cancer, I worked Tuesday through Saturday from 8 in the morning to 4 in the afternoon. But, after my diagnosis, my cancer doctor suggested I take chemotherapy once every three weeks for six cycles. He said he could give me the drugs as an outpatient in his office. The best day to do this, he said, was on Fridays, and it would take the whole afternoon.

[Nancy]

I found out that the ADA, the Americans with Disabilities Act, gives me the right to a "reasonable accommodation," such as a change in my working hours, to allow me to see my doctor. So, I worked out a plan. I asked a co-worker to switch days with me during the six weeks I will receive treatment. I then asked my boss if I could work on Mondays instead of Saturdays and leave early on Fridays every third week until my treatment was finished. I also gave my boss a letter from my cancer doctor explaining that I should feel well enough after the Friday treatments to return to work the next Tuesday. The doctor's letter also pointed out that I would probably need to receive treatment six times, but after that I could probably return to work on my regular schedule. The way I planned it, switching my schedule with my co-worker, I could get the medical care I needed without losing my job, and the bank would not have to waste money hiring and training a new teller. I was able to create a win-win situation that my boss agreed to.

[Narrator]

Another federal law, the Family and Medical Leave Act, requires employers with 50 or more employees to provide up to 12 weeks of unpaid, job-protected leave. Employees can use the time

to take care of their own serious illness or to care for a seriously ill child, parent, spouse, a healthy newborn, or a newly adopted child. Employers must continue to provide benefits -- including health insurance -- during the leave period.

[Narrator]

State and federal anti-discrimination laws help cancer survivors in two ways. First, they discourage discrimination. Second, they offer remedies when discrimination does occur. But, you should sue for protection under these laws only when all else fails. Lawsuits can cost a lot of money, take months or years to decide, and do not always bring fair results. Try to avoid discrimination in the first place. If that fails, try to reason with your employer. If that doesn't work, you may have to file a lawsuit. Let's hear from Charles, a professional cancer-care advocate.

Charles, cancer care advocate

[Charles]

When you're looking for a new job, I recommend the following approaches to protect yourself from discrimination: First: If you are not asked about your cancer, do not volunteer information about it unless your health would prevent you from doing the job. An employer has the right -- under accepted business practices and most state and federal laws -- to only ask if you can perform the essential duties of the job.

[Charles]

Second: Do not lie on a job or insurance application. If you are hired and your employer later learns that you lied, you may be fired for your dishonesty, and insurance companies may refuse to pay benefits or may cancel your coverage.

[Charles]

Third: Keep the focus on your current ability to do the job. Employers may not ask how often you missed work in past jobs, but they can ask if you can meet the employer's current attendance rules.

[Charles]

Fourth: If you have to explain a long period of unemployment during cancer treatment, if possible, explain it in a way that shows your illness is past, and that you are now in good health and expect to remain healthy.

[Charles]

Fifth: Offer your employer a letter from your doctor that explains your current health and ability to work. Be prepared to help the interviewer understand your cancer and why cancer often does not result in death or disability.

[Charles]

Sixth: Seek help from a job counselor about resume preparation and job interviewing skills. Practice answers to expected questions such as, "Why did you miss a year of work," or "Why did you leave your last job?" Answer honestly, but stress your ability to do the job and not any past problems resulting from your cancer.

[Charles]

Seventh: Do not ask about health insurance until after you receive a job offer. Then ask to see

the benefits package.

[Narrator]

These steps may help you avoid discrimination. If you do face discrimination, however, try reaching an informal solution before leaping into a lawsuit. Follow your employer's system for settling employment issues. If you need some kind of accommodation, such as flexible working hours to make doctor's appointments, suggest several options to your employer. If your employer offers you accommodations, do not turn them down lightly. Additionally, you should do what you can to educate employers and co-workers who might believe that people cannot survive cancer and remain productive workers.