

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

AARON WILLIAMS
3637 Columbus Drive
Baltimore, Maryland 21215

Plaintiff,

v.

Civil Action No. _____

**MARYLAND DEPARTMENT OF
HEALTH**

Herbert R. O'Connor State
Office Building
201 W. Preston Street
Baltimore, Maryland 21201

SERVE ON:

Nancy K. Kopp, State Treasurer
Statutory Agent
Goldstein Treasury Building
80 Calvert Street
Annapolis, Maryland 21401

Defendant.

COMPLAINT AND JURY DEMAND

Plaintiff Aaron Williams (“Plaintiff” or “Mr. Williams”), by and through his undersigned counsel, James M Ray, II and Ray Legal Group, LLC, hereby files suit against the Maryland Department of Health and states as follows:

THE NATURE OF THE ACTION

This is Mr. Williams’ civil action against the Maryland Department of Health, seeking damages and/or other legal relief for the Defendant’s violation of Mr. Williams’s rights under Section 504 of the Rehabilitation Act of 1973, 87 Stat. 355, as amended, codified at 29 U.S.C §

794 (the “Rehabilitation Act”).¹

THE PARTIES

1. Plaintiff Aaron Williams is a Maryland citizen and a resident of Baltimore City, Maryland.

2. Defendant Maryland Department of Health is, and was, at all times relevant a principal department of the State of Maryland, organized and existing under the laws of the State of Maryland. *See* Maryland Code Annotated, Health, § 2-101.

JURISDICTION & VENUE

3. The Court has subject matter jurisdiction of this case under 28 U.S.C. § 1331 as a matter arising under federal law, specifically under 29 U.S.C § 794 as a case arising under the Rehabilitation Act.

4. Venue is proper in the District of Maryland under 28 U.S.C. § 1391 as the material events giving rise to the claim are alleged to have occurred in Baltimore City, Maryland.

5. The Plaintiff’s Rehabilitation Act cause of action is authorized by 29 U.S.C. § 794a.

6. The Plaintiff has a right to trial by jury for his Rehabilitation Act claims.

7. The Plaintiff has complied with all conditions precedent, administrative requirements, and/or legal preconditions to properly file and pursue this civil action and has exhausted any and all required administrative remedies. This civil action is lawfully filed in this Court. All conditions precedent have occurred or been performed.

¹ The Plaintiff intends to amend this Complaint to bring disability discrimination, failure to accommodate and retaliation claims under the Maryland Fair Employment Practices Act (“FEPA”), Md. Code Ann., State Government § 20-606. While a FEPA plaintiff must wait until “at least 180 days have elapsed since the filing of the administrative charge or complaint” (which was filed on February 10, 2021), courts in this district have also held that a state government employee must also comply with the notice requirements of the Maryland Tort Claim Act, Md. Code Ann., State Government, § 12-101 *et. seq.* (“MTCA”). While the Plaintiff contends that provisions of the MTCA do not apply to state employee FEPA claims, the Plaintiff recently submitted a MTCA notice to the State Treasurer.

FACTS COMMON TO ALL COUNTS

8. Mr. Williams began his employment with the Cost Accounting and Reimbursements Division (the “Division”) of the Defendant Maryland Department of Health on or about January 29, 2020. His last position was as an Administrative Assistant. His immediate supervisor was Manager Deborah Brown-Demery (“Ms. Brown-Demery”), who is non-disabled.

9. During his entire employment with the Division, Mr. Williams always performed his job duties in a competent manner and met the Division’s reasonable expectations.

10. Mr. Williams has physical impairments (asthma and being pre-diabetic and moderately obese) that substantially limit his ability to perform one or more major life activities, including difficulty in walking long distances, walking up and down stairs, exercising, and performing activities when temperatures are high. Mr. Williams also has two elderly members of his family who suffer from asthma and disability, making Mr. Williams and his household a high risk for COVID-19 exposure.

11. As a result of Mr. Williams’ disabilities and the COVID-19 risk, Mr. Williams requested, on his doctor’s instructions, that he be placed on telework as a disability accommodation, which was granted on or about March 12, 2020.

12. On May 4, 2020, the Division attempted to reassign Mr. Williams to the 200 W. Preston St. building for a new assignment. Mr. Williams objected to this reassignment given his disability conditions. Mr. Williams was advised by Ms. Brown-Demery that Mr. Williams needed to obtain a note from his doctor’s office addressing his medical conditions and concerns and the need for continued telework. Mr. Williams provided to the required medical note and continued to telework.

13. On August 6, 2020, Mr. Williams entered the office to modify his desktop computer

for telework, an adjustment which Mr. Williams was told could not be done remotely. During his trip to the office, one of Mr. Williams' co-workers, Judith O'Brien, refused to put her mask on and would not socially distance. Mr. Williams mentioned Ms. O'Brien's behavior to Ms. Brown-Demery, Ms. Brown-Demery responded that the issue previously had been addressed with Ms. O'Brien. Mr. Williams also learned that constant reminders needed to be sent to staff about the mask requirement and maintaining social distancing as required by Governor Hogan's orders.

14. Beginning in September 2020, Mr. Williams endured several harassing attempts to force him to return to the office. He received a telephone call from Ms. Brown-Demery demanding that he obtain a note from his doctor's office stating that Mr. Williams could return to work physically in the office two (2) days a week. Mr. Williams' doctor's office refused to provide the note demanded by Ms. Brown-Demery.

15. As Mr. Williams continued to work remotely as a continued accommodation for his disabilities, Mr. Williams was targeted, and his work was excessively scrutinized. Ms. Brown-Demery and others began to "cc" Yolanda Jackson, the Division's human resourced representative on all emails that they sent to Mr. Williams. During a telephone conference with Ms. Jackson and Mr. Williams, Ms. Jackson confirmed that she had noticed Ms. Brown-Demery's aggressive attitude toward Mr. Williams.

16. On December 11, 2020, Mr. Williams was placed on "medical leave" even though he was able to continue to work remotely, as he had been doing over the last several months. Although he expressly told the Division, including Ms. Brown-Demery and Ms. Jackson, that he could continue to work remotely, he was forced to remain on "medical leave" and use his accrued PTO time. Mr. Williams was told that the decision to place him on "medical leave" was made by the Division's management, including Ms. Brown-Demery.

17. Mr. Williams' medical leave" ran from December 11, 2020 to January 11, 2021.

18. Mr. Williams was examined at his doctor's office on January 8, 2021 and was told that he would need to continue to stay out of the office from January 8, 2021 to February 8, 2021, but could continue to telework.

19. On Monday, January 11, 2021, Mr. Williams logged in and waited for work to be assigned to him. Later that day, Mr. Williams received by email the written note from his doctor's office directing that he continue telework from January 8, 2021 through February 8, 2021, and immediately forwarded that note to the Division.

20. On Tuesday, January 12, 2021, Mr. Williams again logged in and waited for work to be assigned to him. Later that day, Mr. Williams received a call from Ms. Jackson that he was considered to be absent without leave on January 11, 2021 and January 12, 2021, despite having provided a note from his doctor's office that he needed to still be on telework.

21. Mr. Williams' employment was terminated on January 13, 2021.

22. At all relevant times, the Defendant Maryland Department of Health acting through its agents, servants and/or employees, including agents, servants and employees of the Division, who were acting within the scope of their employment. Defendant Maryland Department of Health is responsible for all actions of the agents, servants and/or employees of the Division.

23. At all times relevant, the Defendant was aware of Mr. Williams's medical conditions and/or disabilities and limitations.

24. Mr. Williams has been discriminated and retaliated against (*i.e.* denied reasonable accommodations and/or terminated) due to his disability or for being regarded as having a disability, in violation of the Rehabilitation Act.

25. The Defendant's actions also were discriminatory and/or in retaliation for Mr.

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