Pregnant Workers Fairness Act (PWFA)

Effective June 27, 2023, the Pregnant Workers Fairness Act (PWFA) requires employers with fifteen or more employees to provide reasonable accommodations to a worker's known limitations related to pregnancy, childbirth, or related medical conditions. This requirement is similar to what covered employers are already required to do for qualified individuals with disabilities under the Americans with Disabilities Act (ADA). The difference is that pregnancy itself is typically not considered a disability under the ADA, so employers are not required to provide accommodations for "normal" pregnancies under the ADA. The PWFA closed that gap by requiring employers to provide reasonable accommodations to all pregnant workers, regardless of whether their pregnancy has led to a condition that would qualify as a disability under the ADA. Accommodations under the PWFA can include things like modifications to working conditions or duties to allow the worker to continue to perform their job during pregnancy. Leave may also be a reasonable accommodation in some circumstances, but employers are prohibited from forcing an employee to take leave if another reasonable accommodation can be provided that will enable the employee to keep working. Employers are required to engage in an interactive process with the employee to determine the applicable reasonable accommodation for the specific circumstances. This process is like what is required under the ADA.

The PWFA also provides protections against retaliation for pregnant workers who request accommodations. The only exception to the accommodation requirement is if the accommodation would impose an undue hardship on the operation of the employer's business. An "undue hardship" is significant difficulty or expense for the employer. The PWFA also protects pregnant employees who request a reasonable accommodation from retaliation or adverse action related to the request.

The Equal Employment Opportunity Commission (EEOC) is the agency designated to enforce the requirements of the PWFA and it has also published a set of frequently asked questions on the law that can be accessed at What You Should Know About the Pregnant Workers Fairness Act | U.S. Equal Employment Opportunity Commission (eeoc.gov). The EEOC also created an updated "Know Your Rights: Workplace Discrimination is Illegal" poster to include information on the PWFA. Employers can download a copy of the poster at https://www.eeoc.gov/poster.

The PWFA applies only to accommodations and does not replace federal, state, or local laws that provide more protections to workers affected by pregnancy, childbirth, or related medical conditions.

This material is not legal advice and is provided for informational purposes only. Employers should consult their own employment or benefits counsel for advice concerning their specific obligations under state-mandated disability and paid family and medical leave laws.

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