

PREGNANCY DISCRIMINATION ACT (PDA)

The Pregnancy Discrimination Act is an amendment to Title VII of the Civil Rights Act of 1964. According to the U.S. Equal Employment Opportunity Division (2004), discrimination on the basis of pregnancy, childbirth or any pregnancy related medical conditions “constitutes unlawful sex discrimination under Title VII. Women affected by pregnancy or related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations”¹

Pregnancy-related protections include five areas: hiring, pregnancy and maternity leave, health insurance, fringe benefits and disability due to a pregnancy.

Hiring

It is against the law to not hire a woman because she is pregnant. According to Title VII (1964), “An employer cannot refuse to hire a pregnant woman because of her pregnancy, because of a pregnancy-related condition or because of the prejudices of co-workers, clients, or customers.”²

Pregnancy and Maternity Related Leave

In determining a pregnant employee’s eligibility to use sick leave or benefits, pregnancy related leave must be allowed under the same conditions that any other sick leave or benefits are used. Title VII (1964) states, “an employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work.”³ However, if an employer requires its employees to submit a doctor's statement concerning their inability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements.

Additionally, if an employee is unable to perform her job for a brief amount of time due to pregnancy, the employer must treat her the same that other temporarily disabled employees are treated. For example, if the employer allows for temporarily disabled employees to modify work tasks or roles or take disability leave or leave without pay, that employer also must allow an employee who is temporarily disabled due to pregnancy to do those same options.

Pregnant employees must be permitted to work as long as they are able to perform their jobs. According to Title VII (1964), “if an employee has been absent from work as a result of a pregnancy-related condition and recovers, her employer may not require her to remain on leave until the baby's birth.”⁴ An employer also may not have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth.

Finally, Title VII (1964) deems that “employers must hold open a job for a pregnancy-related absence the same length of time jobs are held open for employees on sick or disability leave.”⁵

Health Insurance

Any health insurance provided by an employer must cover expenses for pregnancy-related conditions on the same basis as costs for other medical conditions. “Pregnancy-related expenses should be reimbursed exactly as those incurred for other medical conditions, whether payment is on a fixed basis or a percentage of reasonable-and-customary-charge basis.”⁶ No additional, increased, or larger deductible can ever be imposed on a pregnant employee; the amounts payable by the insurance provider can only be limited to the same extent as amounts payable for any other medical condition.

Medical expenses for abortion, “except where the life of the mother would be endangered if the fetus were carried to term or where medical complications have arisen from an abortion, are not required to be paid by an employer; nothing herein, however, precludes an employer from providing abortion benefits or otherwise affects bargaining agreements in regard to abortion.”⁷

Fringe Benefits

Pregnancy-related benefits cannot be limited to married or partnered employees. “Even in an all-female workforce or job classification, benefits must be provided for pregnancy-related conditions if benefits are provided for other medical conditions.”⁸

Disability Due to Pregnancy

If an employee acquires a short-term disability that is a result or is contributed to by pregnancy, childbirth, or related medical conditions, she must be treated the same as other temporarily disabled employees.⁹ These benefits include written and unwritten employment policies and examples include but are not limited to vacation accrual, matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement, and payment under any health or disability insurance or sick leave plan, formal or informal.¹⁰

Termination Due to Pregnancy

Employees cannot be terminated due to a pregnancy, even if they do not have leave available. According to Title 20 (2006), “such a termination violates the Act if it has a disparate impact on employees of one sex and is not justified by business necessity.”¹¹ It is also unlawful to “retaliate against an individual for opposing employment practices that discriminate based on pregnancy or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation” under Title VII.¹²

Resources:

Civil Rights Act of 1964, Title VII. *Pregnancy Discrimination*.

<http://www.eeoc.gov/types/pregnancy.html> (accessed July 15, 2007).

Title 29—Labor. Chapter XIV—Equal Employment Opportunity Commission. *Guidelines on Discrimination because of Sex*. July 2006.

http://a257.g.akamaitech.net/7/257/2422/01jul20061500/edocket.access.gpo.gov/cfr_2006/julqtr/29cfr1604.10.htm (accessed July 15, 2007).

NOTES

1. Civil Rights Act of 1964, Title VII, para.1.
2. Ibid., para. 3
3. Ibid., para. 4
4. Ibid.
5. Ibid., para. 7
6. Ibid., para. 9
7. Title 29, para. 2.
8. Title VII, para. 12.
9. Title VII, para. 29.
10. Ibid.
11. Title 29, para. 3.
12. Title VII, para. 15.

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