



# Fact Sheet: Pregnancy Discrimination

This technical assistance document was issued upon approval of the Chair of the U.S. Equal Employment Opportunity Commission.

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**General Topics:** Sex/Pregnancy

**Summary:** This document addresses information about pregnancy discrimination under Title VII, as amended by the Pregnancy Discrimination Act (PDA).

**Citation:** Title VII, 29 CFR Part 16

**Document:** Employees, Employers, Applicants, HR Practitioners

**Applicant:**

**Previous:** No

**Revision:**

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies.

The Pregnancy Discrimination Act (PDA) is an amendment to Title VII of the Civil Rights Act of 1964. Discrimination on the basis of pregnancy, childbirth, or 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 who are similar in their ability or inability to work.

## Hiring and Working Conditions

An employer cannot refuse to hire a woman because of her pregnancy related condition as long as she is able to perform the major functions of her job. An employer cannot refuse to hire her because of its prejudices against pregnant workers or because of the prejudices of co-workers, clients, or customers. The PDA also forbids discrimination based on pregnancy when it comes to any other aspect of employment, including pay, job assignments, promotions, layoffs, training, fringe benefits, firing, and any other term or condition of employment.

## Pregnancy and Maternity Leave

An employer may not single out pregnancy related conditions for medical clearance procedures that are not required of employees who are similar in their ability or inability to work. For example, 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 do the same.

Pregnant employees must be permitted to work as long as they are able to perform their jobs. 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. Nor may an employer have a rule that prohibits an employee from returning to work for a predetermined length of time after childbirth.

Under the PDA, an employer that allows temporarily disabled employees to take disability leave or leave without pay must allow an employee who is temporarily

disabled due to pregnancy to do the same. Employers must hold open a job for a pregnancy related absence the same length of time that jobs are held open for employees on sick or temporary disability leave.

Further, under the Family and Medical Leave Act (FMLA) of 1993, enforced by the U.S. Department of Labor, a new parent (including foster and adoptive parents) may be eligible for 12 weeks of leave (unpaid, or paid if the employee has earned or accrued it) that may be used for care of the new child. To be eligible, the employee must have worked for the employer for 12 months prior to taking the leave and the employer must have a specified number of employees. For more information please see: [www.dol.gov/whdregs/compliance/whdfs28.htm](http://www.dol.gov/whdregs/compliance/whdfs28.htm) (<http://www.dol.gov/whdregs/compliance/whdfs28.htm>) .

## Pregnancy and Temporary Disability

If an employee is temporarily unable to perform her job due to pregnancy, the employer must treat her the same as any other temporarily disabled employee; for example, by providing light duty, modified tasks, alternative assignments, disability leave, or leave without pay.

Additionally, impairments resulting from pregnancy (for example, gestational diabetes) may be disabilities under the Americans with Disabilities Act (ADA). An employer may have to provide a reasonable accommodation for a disability related to pregnancy, absent undue hardship (significant difficulty or expense). For example, an employer may be required to provide modified duties for an employee with a 20-pound lifting restriction stemming from pregnancy related sciatica, absent undue hardship. The ADA Amendments Act of 2008 makes it much easier to show that a medical condition is a covered disability. For more information about the ADA, see <https://www.eeoc.gov/disability-discrimination> (<https://www.eeoc.gov/eeoc-disability-related-resources>). For information about the ADA Amendments Act, see <https://www.eeoc.gov/regulations-related-disability-discrimination> (<https://www.eeoc.gov/regulations-related-disability-discrimination>).

# **Health Insurance**

Any health insurance provided by an employer must cover expenses for pregnancy related conditions on the same basis as expenses for other medical conditions. The PDA specifies, however, that insurance coverage for expenses arising from abortion is not required, except where the life of the mother is endangered or medical complications arise from an abortion.

Pregnancy related expenses should be reimbursed in the same manner as those incurred for other medical conditions, whether payment is on a fixed basis or a percentage of reasonable and customary charge basis. The amounts payable by the insurance provider can be limited only to the same extent as costs for other conditions. No additional or larger deductible can be imposed.

Under Title VII, benefits can be denied for medical costs arising from an existing pregnancy if a health insurance plan excludes benefit payments for pre-existing conditions. Other laws, however, may apply to the coverage of pre-existing conditions.

Employers must provide the same level of health benefits for spouses of male employees as they do for spouses of female employees.

# **Equal Access to Benefits**

If an employer provides any benefits to workers on medical leave, the employer must provide the same benefits for those on medical leave for pregnancy related conditions.

Employees with pregnancy related disabilities must be treated the same as other temporarily disabled employees for accrual and crediting of seniority, vacation calculation, pay increases, and temporary disability benefits.