

New Federal Law Mandates Pregnancy Accommodations

Thursday, May 25, 2023

The recently enacted federal Pregnant Workers Fairness Act (“PWFA”) requires employers with 15 or more employees to provide reasonable accommodations to workers for known limitations related to pregnancy, childbirth, or related medical conditions, unless the accommodation will cause the employer an undue hardship. The new law goes into effect on June 27, 2023, which is also the date on which the Equal Employment Opportunity Commission (“EEOC”) will begin to accept charges of discrimination based on violations of the PWFA.

Prior to passage of the PWFA, more than 30 states and cities, including Delaware, had pregnancy accommodation laws in place, which remain in effect. The federal law does not replace existing federal, state, or local laws that provide greater protections to workers affected by pregnancy, childbirth, or related medical conditions. Delaware’s law applies to employers with **four or more** employees.

The EEOC is charged with issuing regulations for the implementation of the PWFA. The EEOC plans to publish the proposed regulations for public comment prior to finalizing them. In the interim, the EEOC has published initial guidance on navigating the PWFA [here](#).

Like the federal Americans with Disabilities Act (“ADA”) and Delaware’s state pregnancy accommodation law, the PWFA requires covered employers to engage in an “interactive process” to determine whether an accommodation is reasonable or causes an undue hardship under the law. The PWFA defines an undue hardship as “significant difficulty or expense for the employer.” The interactive process is a cooperative exchange of information and ideas between the employer and employee. The House Committee on Education and Labor Report on the PWFA provides several examples of reasonable accommodations, including the ability to sit; access to drinking water; assignments to parking spots close to the work facilities; flexible hours; appropriately sized uniforms and safety apparel; additional break time to use the bathroom, eat, and rest; provision of leave or time off to recover from childbirth; and exemption from strenuous activities and/or activities that involve exposure to compounds and circumstances unsafe for pregnancy.

The full text of the PWFA can be found [here](#).

Affected employers should review their ADA and pregnancy accommodation policies to ensure that there is a process for requesting a reasonable accommodation as needed when pregnant. If you have any questions, please contact an RLF employment attorney.

