

# Pregnancy Discrimination

The Office of Civil Rights (OCR) manages the Department of Commerce's Equal Employment Opportunity (EEO) Complaint Process and other EEO programs. This fact sheet includes basic information about pregnancy discrimination, which is prohibited by Title VII of the Civil Rights Act of 1964, as amended.

## **Q. How does Title VII protect employees and job applicants from discrimination based on pregnancy?**

**A.** Title VII, as amended by the Pregnancy Discrimination Act, provides that discrimination on the basis of pregnancy, childbirth, or related medical conditions is a type of unlawful sex discrimination.

Women affected by pregnancy or related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

## **Q. May an employer refuse to hire a woman because of a condition related to pregnancy?**

**A.** No. 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.

## **Q. May an employer refuse to hire a woman because co-workers or clients do not want to deal with pregnant women?**

No. It is unlawful to refuse to hire a woman because of prejudice against pregnant workers, whether this is the prejudice of the employer or the prejudices of co-workers, clients, or customers.

## **Q. How does the law apply to leave related to pregnancy and maternity?**

**A.** An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work.

However, an employer may screen pregnant employees using the same procedures used to determine other employee's ability to work. For example, if an employer requires employees to submit a doctor's statement concerning their inability to

work before granting leave or paying benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements.

If an employee is temporarily unable to perform her job due to pregnancy, the employer must treat her the same as any other employee with a temporary disability. For example, if modified tasks, alternative assignments, disability leave, or leave without pay are available to other temporarily disabled employees, they must be made available to employees unable to work because of pregnancy.

## **Q. May an employer require a pregnant employee to remain on leave until she has given birth or for a period after birth?**

No. 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 after the baby's birth.

An employer may not have a rule which prohibits an employee from returning to work for a predetermined length of time after childbirth. Pregnant employees must be permitted to work as long as they are able to perform their jobs.

**Q. How long must an employer hold a job open for an employee on a pregnancy-related absence?**

Employers must hold a job open for a pregnancy-related absence the same length of time jobs are held open for employees on sick or disability leave.

**Q. How does Title VII affect health insurance issues?**

**A.** Any health insurance provided by an employer must cover expenses for pregnancy related conditions on the same basis as costs for other medical conditions. Health insurance for expenses arising from an abortion is not required, except where the life of the mother is endangered.

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.

The amounts payable by the insurance provider can be limited only to the same extent as costs for other conditions. No additional, increased or larger deductible can be imposed.

If a health insurance plan excludes benefit payments for pre-existing conditions when the insured's coverage becomes effective, benefits can be denied for medical costs arising from an existing pregnancy.

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

**Q. What about fringe benefits?**

**A.** Pregnancy related benefits cannot be limited to married employees.

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

**Q. What recourse do I have if I believe I have been subjected to pregnancy discrimination?**

You can see an EEO Counselor to try to resolve the situation and find out about your rights. To preserve your right to file a formal EEO complaint, you must request counseling within 45 days of the action you believe is discriminatory or the date you knew of should have known that the action might be discriminatory. Contact your bureau EEO Officer to initiate counseling.

Your EEO Counselor can also give you information about other possible avenues of redress for your claim. If your case is appropriate, you may also be offered the opportunity to try to resolve your case through mediation as part of the EEO Complaint Process.

For more information about the EEO complaint process and pregnancy discrimination:

- see OCR's website at <http://www.osec.doc.gov/ocr>;
- contact your bureau EEO or Civil Rights Office; or
- contact OCR at 202/482-4993 (TTY Users call via the Federal Relay Service - 1-800-877-8339).

*Published December 2002*