

Articles + Publications | October 14, 2024

EEOC's Pregnancy Priority: The Commission Sues Three Employers in Lawsuits Alleging ?Violations of the Pregnant Workers' Fairness Act?

Labor & Employment Workforce Watch

WRITTEN BY

Lani Blake | Jeffrey M. McPhaul

RELATED OFFICES

Houston

In September 2024, the Equal Employment Opportunity Commission (EEOC) filed lawsuits against three separate employers alleging violations of the Pregnant Workers' Fairness Act (PWFA), a federal law enacted in June 2023 that requires covered employers to provide reasonable accommodations to employees for known limitations related to pregnancy, childbirth, and related medical conditions.

PWFA Requirements

The PWFA includes the following obligations for employers:

- Employers with 15 or more employees must provide reasonable accommodations to employees for known limitations related to pregnancy, childbirth or related medical conditions, unless doing so would create an undue hardship. Per the [EEOC](#), "known limitations" is broadly defined to include a wide range of scenarios and issues that arise in connection with pregnancy or related conditions (e.g., ranging from morning sickness and migraines, to the inability to work in the heat or stand for extended periods, to the need to attend numerous health care appointments).
- Employers must engage in an interactive, communicative process with a covered employee to evaluate potential reasonable accommodations that will effectively address the limitations caused by the pregnancy, childbirth, or other associated condition. Examples of potential accommodations that may be reasonable under the circumstances include additional or longer breaks, changes to work schedules, allowing remote or telework, temporary reassignment, leave for prenatal or related appointments, light duty where appropriate, leave to recover from childbirth or other associated medical conditions, etc. Employers may not require an employee to take a leave of absence if another reasonable accommodation is available and would enable the employee to continue working.
- Employers may not punish or retaliate against an employee or applicant for requesting or utilizing a reasonable accommodation under the PWFA.

EEOC Final Rule and Enforcement Actions

In April 2024, the EEOC issued interpretative guidance related to the PWFA in the form of a [Final Rule](#). Per the EEOC, the Final Rule sought to provide clarity to employers and workers about coverage and specifics of the PWFA and to provide examples of how the PWFA is meant to work in real-life scenarios. Now, it seems that the

EEOC's focus has shifted from *guidance* for the new law to *enforcement* of the new law, as indicated by the EEOC's recent lawsuits, which have been initiated to "defend workers' rights under" the PWFA. (See EEOC [Press Release](#)).

The trend began on September 10, 2024, when the EEOC filed a first-of-its-kind [lawsuit](#) in the Western District of Kentucky, *EEOC v. Wabash National Corporation*, against a national manufacturing company alleging it denied a pregnant assembly line worker's accommodation request. According to the lawsuit, at seven months' pregnant, the employee's job duties required her to put pressure on her pregnant stomach, resulting in pain and, in turn, fear for the safety of her unborn child. The employee allegedly asked to be temporarily transferred to a different position or to move to light-duty for the remainder of her pregnancy. According to the EEOC's complaint, the company rejected the employee's accommodation requests and gave her the sole option of taking an unpaid leave of absence.

A few weeks later, on September 25, 2024, the EEOC filed two additional [lawsuits](#) against employers in *EEOC v. Polaris Industries, Inc.*, Case 5:24-cv-1305 and *EEOC v. Urologic Specialists of Oklahoma, Inc.*, Case 4:24-cv-0452. In *Polaris*, pending in the Northern District of Alabama, the EEOC alleges that the employer, a vehicle manufacturing company, refused to allow a pregnant employee to take absences for prenatal and other pregnancy-related appointments and ultimately terminated the employee for accruing unexcused attendance points under the company's time off policy. In *Urologic Specialists of Oklahoma, Inc.*, pending in the Northern District of Oklahoma, the EEOC alleges a medical practice denied a pregnant employee's request to periodically sit and take short breaks to eat and drink throughout the day due to certain pregnancy complications and later terminated her employment.

These lawsuits are in their early stages, and likely far from any final or merit-based determinations. Nevertheless, this flurry of activity and the EEOC's focus on pregnancy accommodations in the workplace means employers should take note.

Employers should also keep in mind that workplace issues that trigger employee rights under the PWFA may also implicate other applicable employment laws and employer obligations under those laws, such as the Family Medical Leave Act, the Americans with Disabilities Act, or certain state laws, if applicable.

The EEOC's recent activity is particularly noteworthy given that the EEOC's overall enforcement actions for 2024 are down by about [35% from 2023](#). The EEOC foreshadowed that aggressive enforcement of the PWFA would be a priority for the agency in the near term in its recent Strategic Enforcement [Plan](#) for Fiscal Years 2024–2028 (issued in September 2023). Employers should proceed cautiously when faced with any potential pregnancy-related workplace concerns or complaints, or if questions arise as it relates to the PWFA generally, an employer's compliance obligations or an employee's rights under the law.

RELATED INDUSTRIES + PRACTICES

- [Employment Counseling](#)
- [Labor + Employment](#)