



Short-Term Pregnancy Complications Found Not to Be a Disability

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In a case of first impression in a court of appeals, the Seventh Circuit recently ruled that pregnancy-related complications can rise to the level of a "disability" within the meaning of the Americans with Disability Act (ADA). However, such complications, if they are of limited duration and dissipate once a woman gives birth, may not be "substantially limiting." Under those circumstances, no "disability" exists and no duty of reasonable accommodation is owed.

In *Serednyj v. Beverly Healthcare, LLC*, the plaintiff—who planned, coordinated, and conducted activities for nursing-home residents—became pregnant again shortly after having a miscarriage. She continued to perform her duties, some of which were strenuous, for about two months. When she began to experience spotting and cramping, however, her physician restricted her activities to the point that she was unable to perform many of her duties. Due to her short tenure with the nursing home, she was not eligible for FMLA leave, and her employer let her go. She sued, contending among other things that her employer had failed to provide her with a reasonable accommodation and had otherwise discriminated against her in violation of the ADA.

Citing the EEOC's Interpretive Guidance and various district court decisions, the Court held that while a normal pregnancy is not a "physical impairment" within the meaning of the ADA, pregnancy-related complications such as spotting, cramping, and an increased risk of miscarriage for which medical treatment is prescribed (here, progesterone suppositories and bed rest) may be. However, such an impairment may not be "substantially limiting." The Court wrote: "Pregnancy is, by its very nature, of limited duration, and any complications which arise from a pregnancy generally dissipate once a woman gives birth. Accordingly, an ADA plaintiff asserting a substantial limitation of a major life activity arising from a pregnancy-related physiological disorder faces a tough hurdle." In this case, the plaintiff's physical restrictions were in place for only four months, and her long-term ability to reproduce was not impacted. Accordingly, the Court found that she was not disabled within the meaning of the ADA.

Notably, this case applied the pre-amendment version of the ADA. As [previously reported](#), the ADA Amendments Act and accompanying regulations lowered an employee's burden for proving that she is "regarded as" having a disability and allows for the possibility that a short-term impairment lasting fewer than six months can be a disability. It's possible that a court applying the newer standards would have decided this case differently. In light of these changes, *Serednyj* reinforces that as in any situation implicating the ADA, employers should evaluate their obligation, if any, to accommodate pregnant employees on a case-by-case basis.

More Information

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