

11 Employer FAQs (No. 11): Are pregnant employees entitled to reasonable accommodation?

by [Robin E. Shea](#) on September 09, 2011

Never . . . well, hardly ever. (["What, never? No, never! What, never? Well . . . hardly ever! He's hardly ever sick at sea . . ."](#))

Our friends at the U.S. Equal Employment Opportunity Commission recently [scored](#) another big win in a pregnancy discrimination case -- actually got summary judgment against the employer, which is unusual. In this case, the employer apparently knew it had messed up and failed to contest the EEOC's motion with respect to two women's liability claims but did contest the liability claim of a third woman. The third woman's claim will be going to trial.

The only federal anti-discrimination laws that require reasonable accommodation are the Americans with Disabilities Act, and Title VII as it applies to religious practices. (State laws vary, so be sure to check in your jurisdiction.)

Normal pregnancy is not a "disability" within the meaning of the ADA. Instead, pregnancy discrimination is governed by the Pregnancy Discrimination Act amendments to Title VII of the Civil Rights Act of 1964 and is considered a form of sex discrimination.

The law requires employers to treat pregnant employees the same as they treat other employees with temporary disabilities -- no better, and no worse.

If an employer does not offer light duty to anyone, then it does not have to offer it to employees whose pregnancies may be restricting them in the performance of their job duties.

However, if the employer offers light duty to employees with temporary disabilities (and many do), then the light duty would have to be offered on the same basis to pregnant employees. What about reasonable accommodations? (The answer after a word from our sponsor.)

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As we all know now, [reasonable accommodation is not the same as light duty](#). For this reason, because pregnancy is viewed as a temporary condition, an employer would normally not have to offer reasonable accommodations for restrictions due to normal pregnancy. However, if the employer



offered reasonable accommodations to employees with temporary disabilities . . . well, you know the drill. It would, of course, have to treat the pregnant employee the same way.

One more [big "but"](#): A woman who had a pregnancy *with complications* might become "ADA-disabled" because of the complications. If so, the employer would have to offer reasonable accommodations regardless of its light duty policy. Also, even "normal" pregnancy-related conditions -- including morning sickness and prenatal doctor visits -- qualify as "serious health conditions" under the Family and Medical Leave Act.

Employers should also be aware that "pregnancy" under Title VII is interpreted broadly, and also includes childbirth and other conditions and procedures related to pregnancy and childbearing.

One more noteworthy development relating to women's health -- [it was reported last week](#) that the Equal Employment Opportunity Commission is suing Goodyear Tire & Rubber under the ADA for allegedly discriminating against a woman who had menorrhagia (heavy menstrual periods -- if you want to know more about *that* particular medical condition, you'll have to ask your parents).

According to the reports, the agency is not contending that menorrhagia is a "disability" but is alleging that Goodyear discriminated against the woman because it "regarded" her as being disabled, whether she was actually disabled or not. According to the lawsuit, Goodyear terminated the woman for fear that she would not be able to safely work near heavy machinery. (Menorrhagia apparently sometimes causes dizziness.)

Here ends the 11-part series on Employer FAQs. Thank you for reading! Here are the other ten:

FAQ No. 1: [What exactly is this "interactive process" that we hear so much about?](#)

FAQ No. 2: ["What does 'right to work' mean?"](#)

FAQ No. 3: [When do I have to start saving electronic evidence?](#)

FAQ No. 4: [Should I offer harassment training to rank-and-file employees? Isn't that just asking for trouble?](#)

FAQ No. 5: [Is there any difference between light duty and reasonable accommodation?](#)

FAQ No. 6: [We don't have a union. Do I still have to display that new NLRB poster?](#)

FAQ No. 7: [Should the "ugly" be protected from discrimination?](#)

FAQ No. 8: [May I send an employee to our doctor to verify the need for a reasonable accommodation?](#)

FAQ No. 9: [When must I pay a non-exempt employee for travel time?](#)

FAQ No. 10: [How can I guarantee that I'll get a sexual harassment suit?](#)

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