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Employment Case Studies: Pregnant Workers Fairness Act Violations

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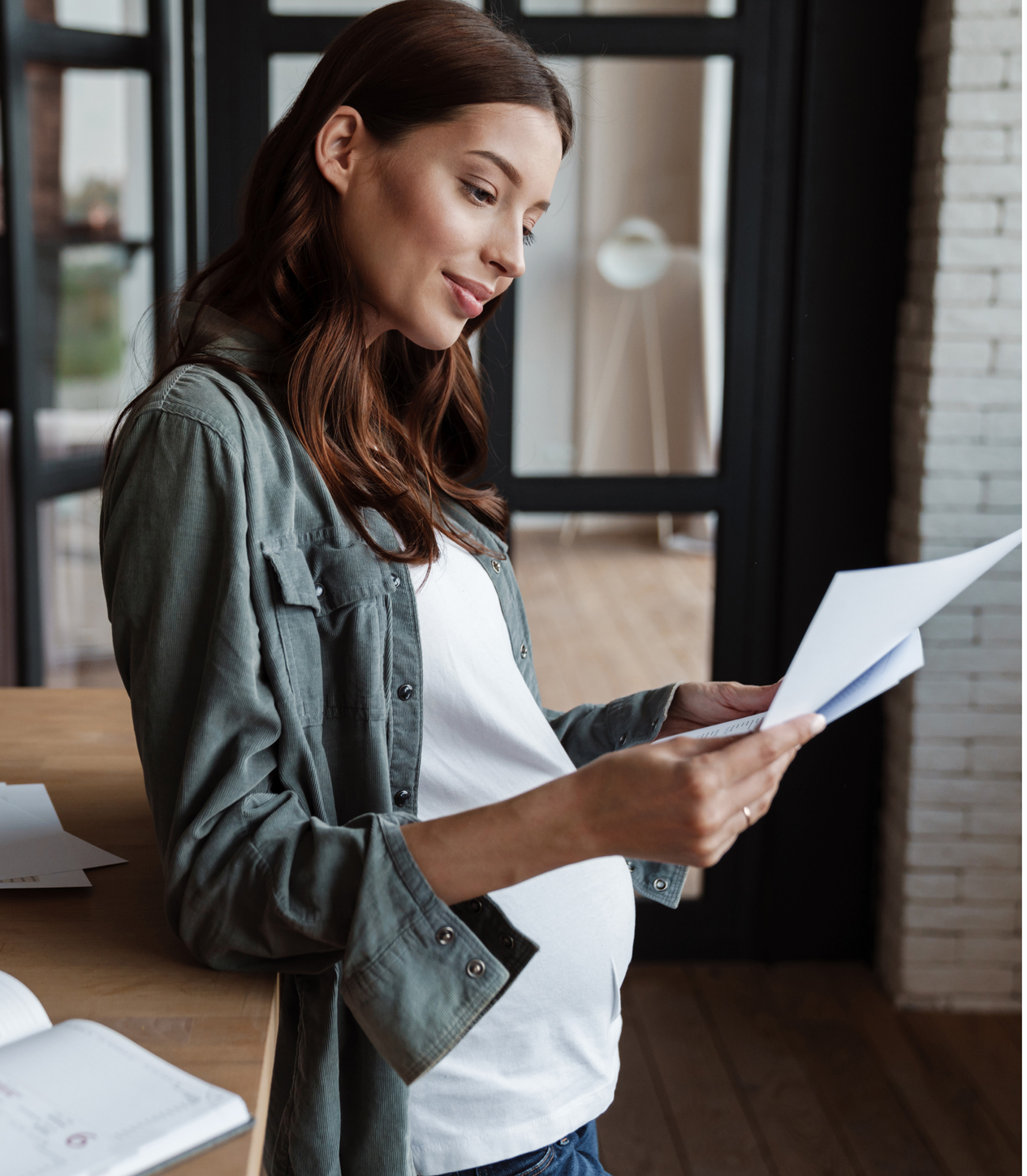

Introduction

The U.S. Equal Employment Opportunity Commission (EEOC) is tasked with enforcing the Pregnant Workers Fairness Act (PWFA). The PWFA took effect on June 27, 2023, and requires covered employers with 15 or more employees to provide reasonable accommodations, or changes at work, for an applicant's or employee's known limitations related to pregnancy, childbirth and related medical conditions unless the accommodation would impose an undue hardship on the employer.

The EEOC began accepting charges alleging violations on the law's effective date of June 27, 2023. The EEOC filed its first PWFA lawsuit on Sept. 10, 2024, and has continued to pursue charges under the law since then. Additionally, in its **Strategic Enforcement Plan for Fiscal Year (FY) 2024-2028**, the EEOC stated that it will prioritize emerging issues, including protecting workers affected by pregnancy, childbirth and related medical conditions under the PWFA. Employers who do not comply with the PWFA can find themselves in complicated legal situations or responsible for significant monetary penalties. Therefore, it is important that employers understand how their workplace actions may apply to the PWFA requirements.

This article contains case studies exploring the most recent, real-world examples of employers accused or found to be violating the PWFA. These case studies include snapshots of violations and general guidance on how employers can prevent similar issues. Employers can examine these case studies to learn from the mistakes of others in comparable industries and avoid PWFA violations.

Real-world Case Studies

Indianapolis, IN—The EEOC filed a **lawsuit** against a producer of semitrailers and other commercial trucking equipment for violating the PWFA for failing to accommodate an employee's pregnancy-related limitation.

What Went Wrong:

- The employer denied a pregnant employee's accommodation request to transfer to a role that did not require lying on her stomach and instead required her to take unpaid leave and, ultimately, return to her position without modification. The denial of the reasonable accommodation request caused the employee to resign at nearly eight months pregnant.
- In response to her request, the company unlawfully required medical documentation.
- The employer's alleged actions violate the PWFA, which requires employers to provide reasonable accommodations for pregnancy, prohibits employers from requiring employees to take leave as an accommodation and only allows employers to request medical documentation in certain circumstances.

Miami, FL—A hotel operator will pay $100,000 to settle a **lawsuit** filed by the EEOC for violations of the PWFA and Americans with Disabilities Act (ADA).

What Went Wrong:

- The hotel operator terminated an employee shortly after requesting leave to recover and grieve following a stillbirth during the fifth month of her pregnancy.
- The employer's alleged conduct violated the PWFA, which requires employers to provide reasonable accommodations for conditions related to pregnancy, including miscarriage or stillbirth, and prohibits employers from retaliating against employees who request or use a reasonable accommodation.

Tampa, FL—A residential and commercial pest control company will pay $47,480 in damages pursuant to a **conciliation agreement** entered into with the EEOC to resolve a pregnancy accommodation charge.

What Went Wrong:

- The company allegedly fired an employee after she requested a reasonable accommodation to attend monthly medical appointments for her pregnancy.
- The employer's alleged actions violated the PWFA, which prohibits employers from denying employment opportunities, including discharging an employee, based on the employee's known limitation and need for a reasonable accommodation for pregnancy, childbirth and related medical conditions.

Tulsa, OK—The EEOC filed a **lawsuit** against a specialty medical practice that failed to provide reasonable accommodations for an employee with a high-risk pregnancy and ultimately terminated the employee.

What Went Wrong:

- The employer did not allow a pregnant employee to sit, take breaks or work part-time during the final trimester of her high-risk pregnancy.
- The employer instead forced the employee to take unpaid leave and refused to guarantee she would have breaks to express breast milk. When she refused to return to work without such guaranteed breaks, the employer terminated her.
- The PWFA requires employers to provide reasonable accommodations, and certain modifications (such as sitting and taking specified breaks) are assumed to be reasonable accommodations that do not impose an undue hardship and must generally be provided. The PWFA also prohibits employers from requiring employees to take leave as an accommodation and punishing employees due to their need for accommodation.

Avoiding Violations

Failure to Provide a Reasonable Accommodation

Under the PWFA, employers must provide a reasonable accommodation for pregnancy, childbirth or related medical conditions (including, for example, miscarriage or stillbirth) unless doing so would impose an undue hardship on the employer. Further, employers may not require an employee to accept an accommodation other than a reasonable accommodation arrived at through the interactive process. Moreover, the PWFA identifies a limited number of simple modifications that will, in virtually all cases, be found to be reasonable accommodations that do not impose an undue hardship when requested by a pregnant employee. These "predictable assessments" include allowing an employee to:

- Carry or keep water near and drink;
- Take additional restroom breaks;
- Sit if their work requires standing, and stand if their work requires sitting; and
- Take breaks to eat and drink.

In each of the case studies, the employer failed to reasonably accommodate an employee's known limitation due to pregnancy, childbirth or a related medical condition. Further, in the Tulsa, Oklahoma, case study, the employer refused to allow the employee to sit or take breaks during pregnancy—each of which is a predictable assessment that employers generally must provide.

To avoid violations of the PWFA, employers should implement clear policies outlining the procedures for responding to requests for reasonable accommodations and indicate which accommodations must generally be provided regardless of potential hardship. Specifically, employers should ensure that they have a policy of providing predictable assessments without requiring a lengthy interactive process. Employers may also consider conducting supplemental training for personnel responsible for responding to accommodation requests on their obligations under the PWFA.

Unlawful Retaliation

The PWFA prohibits employers from punishing or retaliating against an employee or applicant for requesting or using a reasonable accommodation for a known limitation under the PWFA, reporting or opposing unlawful discrimination under the PWFA, or participating in a PWFA proceeding.

In both the Miami, Florida, and Tampa, Florida, case studies, the employer terminated the employee after requesting a reasonable accommodation under the PWFA, which is unlawful retaliation under the law. In the Tulsa, Oklahoma, case study, the employer unlawfully terminated the employee after she declined to return to work without reasonable accommodations.

To avoid similar violations, employers should ensure managers and HR personnel are aware of employee rights under the PWFA and are properly trained on the prohibition against retaliation. In particular, employers should emphasize that an employee may not be terminated because of their pregnancy or because they have requested or are using a reasonable accommodation.

Requiring Leave as an Accommodation

Under the PWFA, an employer may **not** require an employee to take leave, either paid or unpaid, if another effective reasonable accommodation exists that would not impose undue hardship on the employer. Essentially, an employee cannot be forced to take leave if another reasonable accommodation can be provided that would not impose an undue hardship and would allow the employee to continue to work.

In the Indianapolis, Indiana, case study, the pregnant employee requested a temporary transfer to a different role that would not require her to lie on her stomach. Instead of providing this or another reasonable accommodation, the employer required the employee to take unpaid leave. Similarly, in the Tulsa, Oklahoma, case study, the employer required the employee to take unpaid leave instead of providing another effective accommodation (such as sitting and additional breaks).

To avoid similar violations, employers should ensure that they engage in the interactive process with employees to find an effective accommodation that may allow the employee to perform their job duties to the extent possible. Employers may also train managers and HR personnel on the restriction on requiring leave in lieu of another effective accommodation.

Mandating Medical Documentation

An employer may require supporting documentation for a PWFA request only if it is reasonable to do so under the circumstances that the employer must determine whether to grant the accommodation. PWFA documentation itself must also be reasonable (i.e., only confirming the physical or mental condition, the relation to pregnancy, childbirth or related medical conditions, and the need for a change at work). For example, it would **not** be reasonable for an employer to require documentation when:

- Both the limitation and accommodation need are obvious;
- The employer has sufficient information to substantiate that the individual has a limitation and needs an adjustment at work;
- A pregnant employee seeks certain modifications, such as carrying and drinking water as needed, taking more restroom or snack breaks as needed, and alternating sitting and standing; and
- The limitation for which an accommodation is needed involves lactation.

In the Indianapolis, Indiana, case study, the employer unlawfully required the employee to provide medical documentation in connection with her request for a reasonable accommodation.

To avoid violations of the PWFA, employers may consider implementing policies that comply with the PWFA's documentation requirements, including policies that generally restrict requests for medical documentation where the known limitation and accommodation need are obvious and when another restriction applies. Employers may also consider supplemental training for managers or HR professionals tasked with handling pregnancy accommodation requests on the specific circumstances in which it may be appropriate to request medical documentation.

Conclusion

These case studies demonstrate how easy it can be for employers to run afoul of the PWFA. It is critical for employers to seek professional guidance before making potentially costly decisions. By learning from these employers' mistakes, others in similar industries can avoid major violations and prevent EEOC lawsuits.