



**Pregnancy Rights
of
Working
Women
in
Maryland**



MARYLAND COMMISSION FOR WOMEN

RIGHTS OF THE PREGNANT WORKER IN MARYLAND

If you are a pregnant worker in Maryland, your rights are protected by

- The Pregnancy Discrimination Act and
- Maryland Human Relations Law Article 49B.

THE PREGNANCY DISCRIMINATION ACT*

The Pregnancy Discrimination Act was signed into law on October 31, 1978 as an amendment to Title VII of the Civil Rights Act of 1964, as amended. This act makes clear that discrimination on the basis of pregnancy, childbirth, or related medical conditions constitutes unlawful sex discrimination under Title VII.

The basic principle of the Pregnancy Discrimination Act is that women affected by pregnancy and related conditions must be treated the same as other applicants and employees on the basis of their ability or inability to work. Disabilities caused or contributed to by pregnancy, childbirth or related medical conditions must be treated the same, for all job-related purposes, as disabilities caused or contributed to by other medical conditions. The Act covers all areas of employment, including hiring, promotion, firing, seniority rights and fringe benefits such as sick leave and health insurance.

The employer's responsibility to the pregnant worker is dependent upon the employer's policy with regard to other temporary disabilities. If the employer has a poor policy regarding temporary disabilities, the pregnant worker will find that she has no more rights and privileges than are extended to other temporarily disabled workers. However, if the employer has a good temporary disability policy, it must extend to pregnant workers as well.

The Pregnancy Discrimination Act provides that:

- It is illegal for a woman to be fired or refused a job or promotion because she is pregnant or has had an abortion.
- A pregnant worker cannot be forced to go on leave as long as she can still work.
- A woman unable to work for pregnancy-related reasons is entitled to disability benefits or sick leave on the same basis as employees unable to work for other medical reasons.
- Any health insurance provided at work must cover expenses for pregnancy related conditions on the same basis as expenses for other medical conditions.

THE MARYLAND HUMAN RELATIONS LAW

In addition to providing for a prohibition against discrimination in employment on the basis of sex, race, religion, color, or national origin, the Maryland Human Relations Law specifically addresses the issue of pregnancy disability. Section 17 of Article 49B entitled "Disability Due to Pregnancy or Childbirth" states the following:

- Disabilities caused or contributed to by pregnancy or childbirth, are temporary disabilities for all job-related purposes, and shall be treated as such under any health or temporary disability insurance or sick leave plan available in connection with employment.
- Written and unwritten employment policies and practices involving matters such as the commencement and duration of leave, the availability of extensions, the accrual of seniority and other benefits and privileges, reinstatement and payment under any health or temporary disability insurance or sick leave plan, formal or informal, shall be applied to disability due to pregnancy or childbirth on the same terms and conditions as they are applied to other temporary disabilities.

**QUESTIONS AND ANSWERS REGARDING
YOUR RIGHTS UNDER THE
PREGNANCY DISCRIMINATION ACT
THE PREGNANT WORKER**

- Q. Who is covered by the Pregnancy Discrimination Act?**
- A.** The Act covers federal, state, and local government employers with fifteen or more workers. Private businesses which employ at least fifteen workers and participate in interstate commerce are likewise subject to the law.
- Q. May an employer limit disability benefits for pregnancy-related conditions to married employees?**
- A.** No.
- Q. If an employer has an all female workforce or job classification, must benefits be provided for pregnancy-related conditions?**
- A.** Yes. If benefits are provided for other conditions, they must also be provided for pregnancy-related conditions.
- Q. If for pregnancy-related reasons, an employee is unable to perform the functions of her job, does the employer have to provide her an alternate job?**
- A.** An employer is required to treat an employee temporarily unable to perform the functions of her job because of her pregnancy-related condition in the same manner as it treats other temporarily disabled employees, whether by providing modified tasks, alternative assignments, disability leaves, leaves without pay, etc. For example, if a woman's primary job function is the operation of a machine, she may need to carry materials to and from the machine. If other employees temporarily unable to lift are relieved of these functions, pregnant employees also unable to lift must be temporarily relieved of the function.
- Q. Must an employer hire a woman who is medically unable, because of a pregnancy-related condition, to perform a necessary function of a job?**
- A.** An employer cannot refuse to hire a woman because of her pregnancy-related condition so long as she is able to perform the major functions necessary to the job. Nor can an employer refuse to hire her because of its preferences against pregnant workers or the preferences of co-workers, clients, or customers.

PREGNANCY-RELATED LEAVE

- Q. What procedures may an employer use to determine whether to place on leave as unable to work a pregnant employee who claims she is able to work or deny leave to a pregnant employee who claims that she is disabled from work?**
- A.** An employer may not single out pregnancy-related conditions for special procedures for determining an employee's ability to work. For example, if an employer require its employees to submit a doctor's statement concerning their inability to work before granting leave or paying sick benefits, the employer may require employees affected by pregnancy-related conditions to submit such statements. Similarly, if an employer allows its employees to obtain doctor's statements from their personal physicians for absences due to other disabilities or return dates from other disabilities it must accept doctor's statements from personal physicians for absences and return dates connected with pregnancy-related disabilities.
- Q. Can an employer have a rule which prohibits an employee from returning to work for a predetermined length of time after childbirth?**
- A.** No.
- Q. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, may her employer require her to remain on leave until after her baby is born?**
- A.** No. An employee must be permitted to work at all times during pregnancy when she is able to perform her job.
- Q. Must an employer hold open the job of an employee who is absent on leave because she is temporarily disabled by pregnancy-related conditions?**
- A.** Unless the employee on leave has informed the employer that she does not intend to return to work, her job must be held open for her return on the same basis as jobs are held open for employees on sick or disability leave for other reasons.
- Q. May an employer's policy concerning the accrual and crediting of seniority during absences for medical conditions be different for employees affected by pregnancy-related conditions than for other employees?**
- A.** No, it must be the same.

Q. For purposes of calculating such matters as vacations and pay increases, may an employer credit time spent on leave for pregnancy-related reasons differently than time spent on leave for other reasons?

A. No. An employer's policy with respect to crediting time for the purpose of calculating such matters as vacations and pay increases cannot treat employees on leave for pregnancy-related reasons less favorably than employees on leave for other reasons. For example, if employees on leave for medical reasons are credited with the time spent on leave when computing entitlement to vacation or pay raises, an employee on leave for pregnancy-related disability is entitled to the same kind of credit.

Q. Can an employee who is absent due to a pregnancy-related disability be required to exhaust vacation benefits before receiving sick leave pay or disability benefits?

A. No. If employees who are absent because of other disabling causes receive sick leave pay or disability benefits without any requirement that they first exhaust vacation benefits, the employer cannot impose this requirement on an employee absent for a pregnancy-related cause.

LEAVE FOR CHILDCARE

Q. Must an employer grant leave to a female employee for childcare purposes after she is medically able to return to work following leave necessitated by pregnancy, childbirth, or related medical conditions?

A. While leave for childcare purposes is not covered by the Pregnancy Discrimination Act, ordinary Title VII principles would require that leave for childcare purposes be granted on the same basis as leave which is granted to employees for other non-medical reasons. For example, if an employer allows its employees to take leave without pay or accrued annual leave for travel or education which is not job related, the same type of leave must be granted to those who wish to remain on leave for infant care, even though they are medically able to return to work.

PROVISION OF BENEFITS

Q. For what length of time must an employer who provides income maintenance benefits for temporary disabilities provide such benefits for pregnancy-related disabilities?

A. Benefits should be provided for as long as the employee is unable to work for medical reasons unless some other limitation is set for all other temporary disabilities in which case pregnancy-related disabilities should be treated the same as other temporary disabilities.

Q. Must an employer who provides benefits for long-term or permanent disabilities provide such benefits for pregnancy-related conditions?

A. Yes, benefits must be provided to the same extent.

Q. If an employer provides benefits to employees on leave, such as, installment purchase disability insurance, payment of premiums for health, life or other insurance, continued payments into pension, saving or profit sharing plans, must the same benefits be provided for those on leave for pregnancy-related conditions?

A. Yes.

HEALTH INSURANCE AVAILABLE IN CONNECTION WITH EMPLOYMENT

Q. Where an employer provides its employees a choice among several health insurance plans, must coverage for pregnancy-related conditions be offered in all of the plans?

A. Yes.

Q. On what basis should an employee be reimbursed for medical expenses arising from pregnancy, childbirth, or related conditions?

A. Pregnancy-related expenses should be reimbursed in the same manner as are expenses incurred for other medical conditions. Furthermore, if medical costs for pregnancy-related conditions increase, reevaluation of the reimbursement level should be conducted in the same manner as are cost reevaluations of increases for other medical conditions.

Coverage provided by a health insurance program for other conditions must be provided for

pregnancy-related conditions. For example, if a plan provides major medical coverage, pregnancy-related conditions must be so covered. Similarly, if a plan covers the cost of a private room for other conditions, the plan must cover the cost of a private room for pregnancy-related conditions. Finally, where a health insurance plan covers office visits to physicians, pre-natal, and post-natal visits must be included in such coverage.

Q. May an employer limit payment of costs for pregnancy-related medical conditions to a specified dollar amount set forth in an insurance policy, collective bargaining agreement or other statement of benefits to which an employee is entitled?

A. The amounts payable for the costs incurred for pregnancy-related conditions can be limited only to the same extent as are costs for other conditions. Maximum recoverable dollar amounts may be specified for pregnancy-related conditions if such amounts are similarly specified for other conditions and so long as the specified amounts in all instances cover the same proportion of actual costs.

Q. May an employer impose a different deductible for payment of costs for pregnancy-related medical conditions than for costs of other medical conditions?

A. No. Neither an additional deductible, an increase in the usual deductible, nor a larger deductible can be imposed for coverage for pregnancy-related medical costs, whether as a condition for inclusion of pregnancy-related costs in the policy or for payment of the costs when incurred.

Q. If a health insurance plan excludes the payment of benefits for any conditions existing at the time the insured's coverage becomes effective (pre-existing condition clause), can benefits be denied for medical costs arising from a pregnancy-existing at the time the coverage became effective?

A. Yes. However, such benefits cannot be denied unless the pre-existing condition clause also excludes benefits for other pre-existing conditions in the same way.

HEALTH INSURANCE COVERAGE OF SPOUSES AND DEPENDENTS OF EMPLOYEES

Q. Must an employer provide health insurance coverage for the medical expenses of pregnancy-related conditions of the spouses of male employees? Of the dependents of all employees?

A. Where an employer provides no coverage for dependents, the employer is not required to institute such coverage. However, if an employer's insurance program covers the medical expenses of spouses of female employees, then it must equally cover the medical expenses of spouses of male employees, including those arising from pregnancy-related conditions.

But the insurance does not have to cover the pregnancy-related conditions of non-spouse dependents as long as it excludes the pregnancy-related conditions of such non-spouse dependents of male and female employees equally.

Q. Must an employer provide the same level of health insurance coverage for the pregnancy-related medical conditions of the spouses of male employees as it provides for its female employees?

A. No. It is not necessary to provide the same level of coverage for the pregnancy-related medical conditions of spouses of male employees as for female employees. However, where the employer provides coverage for the medical conditions of the spouses of its employees, then the level of coverage for pregnancy-related medical conditions of the spouses of male employees must be the same as the level of coverage for all other medical conditions of the spouses of female employees.

ABORTION

Q. Can an employer discharge, refuse to hire or otherwise discriminate against a woman because she has had or is contemplating having an abortion?

A. No.

Q. Is an employer required to provide fringe benefits for abortions if fringe benefits are provided for other medical conditions?

A. All fringe benefits other than health insurance, such as sick leave, which is provided for other medical conditions must be provided for abortions. Health insurance, however, need be provided for abortions only where the life of the woman would be endangered if the fetus were carried to term or where medical complications arise from an abortion.

Q. If complications arise during the course of an abortion, as for instance excessive hemorrhaging, must an employer's health insurance plan cover the additional cost due to the complications of the abortion?

A. Yes. The plan is required to pay those additional costs attributable to the complications of the abortion. However, the employer is not required to pay for the abortion itself, except where the life of the mother would be endangered if the fetus were carried to term.

Q. May an employer elect to provide insurance coverage for abortions?

A. Yes. The Act specifically provides that an employer is not precluded from providing benefits for abortions whether directly or through a collective bargaining agreement, but if an employer decides to cover the costs of abortion, the employer must do so in the same manner and to the same degree as it covers other medical conditions.

FOR ASSISTANCE

If you believe that you may have experienced unfair employment practices with regard to your rights as a pregnant worker, contact:

* The Maryland Commission on Human Relations
20 East Franklin Street
Baltimore, MD 21202
301/659-1700

* The Maryland Commission on Human Relations
Satellite Center
514 Race Street
Cambridge, MD 21613
301/228-0112

* County or Municipal Human Relations
Commissions

* The Equal Employment Opportunity
Commission
711 West 40th Street
Suite 210
Baltimore, MD 21211
301/962-3932

* Union Shop Stewart

* Company Equal Opportunity Official

FOR ADDITIONAL INFORMATION

* The Maryland Commission for Women
1123 North Eutaw Street
Suite 603
Baltimore, MD 21201
301/383-5608

* Information contained herein regarding the Pregnancy Discrimination Act was extracted from the *Federal Register*, Rules and Regulations, Volume 44, No. 78, April 20, 1979.

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