

Pregnancy Discrimination Factsheet . . .

The following state and federal laws cover discrimination involving pregnancy: Chapter 216 of the Iowa Code
Title VII
Family and Medical Leave Act (FMLA) of 1993

Pregnancy Discrimination under Chapter 216 of the Iowa Code and Title VII

Chapter 216 of the Iowa Code prohibits discrimination in employment due to pregnancy. Chapter 216 is enforced by the Iowa Civil Rights Commission and applies to employers with 4 or more employees. Pregnancy is regarded as a temporary disability. Pregnancy must not be treated more harshly than other temporary disabilities under an employer's policies. Pregnancy, however, may be treated more favorably (California Federal Savings and Loan Ass'n v. Guerra, 479 US. 272). If a reasonable accommodation is necessary to allow the pregnant employee to perform the major functions of her position, the employer must attempt to do so. When leave is not available, an employer shall not refuse to grant a pregnant employee an unpaid leave of absence for up to eight weeks, as required by doctor's orders. The employer may require that there be a medical certification for such leave.

The Pregnancy Discrimination Act is an amendment to Title VII of The Civil Rights Act of 1964. It is enforced by the federal Equal Employment Opportunity Commission (EEOC), and applies to employers with 15 or more employees. Discrimination on the basis of pregnancy, childbirth or related medical conditions constitutes unlawful sex discrimination under Title VII. Women affected by pregnancy or related conditions must be treated in the same manner as other applicants or employees with similar abilities or limitations.

HIRING/TERMINATION

An employer cannot terminate or refuse to hire a woman because of her pregnancy-related condition as long as she is able to perform the major functions of her job, with or without accommodation. An employer cannot terminate or refuse to hire her because of its prejudices against pregnant workers or the prejudices of co-workers, clients or customers.

PREGNANCY AND MATERNITY LEAVE

An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work. However, an employer may use any procedure used to screen other employees' ability to work. For example, if an employer requires 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. If an employee is temporarily unable to perform her job due to pregnancy, the employer must treat her the same as any other temporarily disabled employee; for example, by providing modified tasks, alternative assignments, disability leave or leave without pay. Pregnant employees must be permitted to work as long as they are able to perform their jobs. If an employee has been absent from work as a result of a pregnancy-related condition and recovers, her employer may not require her to remain on leave until the baby's birth. An employer may not have a rule which prohibits an employee from returning to work for a predetermined length of time after childbirth. Employers must hold open a job for a pregnancy-related absence the same length of time jobs are held open for employees on sick or disability leave, but must allow up to eight weeks of medically indicated leave. Beyond that, employers should try to return the person to the same or similar job within the same pay range.

HEALTH INSURANCE

Any health insurance provided by an employer must cover expenses for pregnancy-related conditions on the same basis as costs for other medical conditions. Pregnancy-related expenses should be reimbursed exactly as those incurred for other medical conditions, whether payment is on a fixed basis or a percentage of reasonable and customary charge basis.

The amounts payable by the insurance provider can be limited only to the same extent as costs for other conditions. No additional, increased or larger deductible can be imposed.

If a health insurance plan excludes benefit payments for pre-existing conditions when the insured's coverage becomes effective, benefits can be denied for medical costs arising from an existing pregnancy. Employers must provide the same level of health benefits for spouses of male employees as they do for spouses of female employees.

FRINGE BENEFITS

Pregnancy-related benefits cannot be limited to married employees. In an all-female workforce or job classification, benefits must be provided for pregnancy-related conditions if benefits are provided for other medical conditions. If an employer provides any benefits to workers on leave, the employer must provide the same benefits for those on leave for pregnancy-related conditions. Employees with pregnancy-related disabilities must be treated the same as other temporarily disabled employees for accrual and crediting of seniority, vacation calculation, pay increases and temporary disability benefits.

Pregnancy Discrimination under the Family and Medical Leave Act of 1993

The FMLA requires employers with 50 or more employees within a 75-mile radius to provide eligible employees with unpaid family and medical leaves of absence of up to 12 weeks during a 12-month period. The FMLA is enforced by the U.S. Department of Labor.

Who is Eligible for FMLA Leave?

- The employer must have 50 or more employees for each working day during 20 or more calendar workweeks (not necessarily consecutive workweeks) in the current or preceding calendar year. The 50 or more employees must work within a 75-mile radius.
- The employee in question must have been employed for at least 1250 hours of service for the employer during the previous 12-month period immediately preceding commencement of the leave.

2 Types of Leave under FMLA:

1. An eligible employee, female or male, may take Family Leave for:

- The birth of a child/children
- The adoption of a child/children
- If the employee will have a foster child/children placed in her/his care
- To take care of a spouse, child/children or parent with a serious health condition

2. An eligible employee may take Medical Leave:

When an employee is unable to perform his or her job because of the employee's own serious health condition. This includes pregnancy, miscarriages, or complications or illnesses related to pregnancy.

3 Ways FMLA Leave May be taken:

1. A leave of up to 12 consecutive weeks
2. Intermittent leave taken in separate blocks of time due to a single injury or illness
3. A reduced work leave schedule whereby the usual hours per workweek or per workday of the employee are reduced

Important Information to Remember

- An employee must provide the employer at least 30 days advance notice before the FMLA leave is to begin if the need is foreseeable. If circumstances require that the leave begin in less than 30 days, notice must be provided as soon as "practicable."
- If an employee is requesting leave due to birth, adoption, or foster care placement, the employer may require, or the employee may request the use of accrued vacation leave and/or accrued personal leave.
- The FMLA does not require a covered employer to provide any paid leave. Under certain circumstances, the FMLA permits the employee to choose or the employer to require substitution of paid leave, which has been accrued pursuant to the employer's policies, for any part of the leave, so that the total paid and unpaid leave equals 12 weeks.
- For the duration of the FMLA leave, the employer must maintain the employee's health coverage under the existing premium contribution arrangement through any group health plan.
- An employee returning from FMLA leave is entitled to be restored either to the same position the employee held before or an equivalent position with equivalent benefits, pay and other terms and conditions of employment.

Agencies to Contact

Iowa Civil Rights Commission

Grimes Building, 400 East 14th Street
Des Moines, IA 50319
515-281-4121 or 1-800-457-4416
Web site: www.state.ia.us/government/crc

Iowa Commission on the Status of Women

Iowa Department of Human Rights
Lucas State Office Building, Des Moines, IA 50319
515-281-4461 or 1-800-558-4427
E-mail: dhr.icsw@iowa.gov
Web site: www.state.ia.us/dhr/sw

U. S. Equal Employment Opportunity Commission

Milwaukee District Office
310 West Wisconsin Avenue, Suite 800
Milwaukee, WI 53203-2292
414-297-1111

U.S. Department of Labor

Wage and Hour Division
210 Walnut Street, Des Moines, IA 50309
515-284-4625