

SNSFE QUARTERLY REVIEW

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A newsletter for our clients and friends

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From the President

The EEOC publishes on its website statistics relating to their enforcement activities. They tell us that in 2005, the EEOC received 4,449 charges of pregnancy-based discrimination. EEOC resolved 4,321 pregnancy charges in 2005 and recovered \$11.6 million in monetary benefits for charging parties and other aggrieved individuals (not including monetary benefits obtained through litigation). This level of enforcement activity suggests that it is wise to understand at least the basics of the Pregnancy Discrimination Act (the "PDA") which is an amendment to Title VII of the Civil Rights Act of 1964. What follows is a general survey of its coverage.

The PDA covers employers with 15 or more employees. The PDA requires employers to treat women who are pregnant or affected by related conditions in the same way the employer treats other applicants of employees with similar abilities or limitations.

The protections of the PDA cover hiring, pregnancy and maternity leave, health insurance and fringe benefits. Employers may not refuse to hire a pregnant woman because she is pregnant, because of pregnancy-related condition or because of prejudices of co-workers, clients, or customers.

An employer may not single out pregnancy-related conditions for special procedures to determine an employee's ability to work. If an employee is unable to perform her job due to pregnancy, the employer must treat her the same as any other temporarily disabled employee. Pregnant employees must be permitted to work as long as they are able to perform their jobs. Employers must hold open jobs for a pregnancy-related absence the same length of time jobs are held open for employees on sick or disability leave.

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 must be reimbursed on an equal footing with those incurred for other medical conditions. Amounts payable by an insurance provider can be limited only to the same extent as amounts payable for other conditions.

Pregnancy-related benefits cannot be limited to married employees. If an employer provides any benefits to workers on leave, the employer must provide the same benefits for those on leave with pregnancy-related conditions.

Caveat: This is a very general survey of the PDA. You should consult counsel regarding application of this statute to particular cases.

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