



LEHR MIDDLEBROOKS  
VREELAND & THOMPSON, P.C.

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**This is going to be a bigger deal than I thought:**  
**A series of blog posts reflecting on the proposed Pregnant Workers Fairness**  
**Act regulations, Part 1 of 5**

**Takeaway 1: There is no threshold for the severity of limitation the affected employee experiences before she is entitled to a reasonable accommodation.**

The statutory text of the PWFA specifically requires an employer to make reasonable accommodations for an employee's known pregnancy-related limitations. The statute defines limitation as any mental or physical condition related to pregnancy, childbirth, or related medical conditions, even if it does not meet the substantial-impairment-of-a-major-life-activity standard for a disability under the ADA. Prior to reading the proposed PWFA regulations, I mainly thought of the "whether or not such condition meets the definition of disability specified in [the ADA]" in terms of the time the impairment lasted (and, yes, I know the definition of actual disability under the ADA doesn't expressly exclude transitory impairments). I missed, however, what the EEOC focused on, which was that *however inconsequential an impairment may be, the employer has an obligation to accommodate it, absent undue hardship*.

Under the proposed regulations, a "known limitation" may be as broad and generic as a condition of "pain." So, if a pregnant employee cites even a generic limitation commonly associated with pregnancy (like back pain, or pain while standing for extended periods), the employer will seldom have a right to ask for medical verification or clarification, in part because the employee's right to accommodation does not depend on the limitation being substantial.

*Further, the limitation, and therefore the accommodation sought, need not be job-related to be covered*, although the employer still does not have to provide items purely for an employee's personal use or convenience (*e.g.*, if an employee has trouble sleeping due to pregnancy and is not required to sleep onsite, the employer doesn't have to provide compression socks or a pregnancy pillow, though those might be cheaper and more convenient than the scheduling changes which may be required).

More to come tomorrow and next week, and we hope you will join us for a webinar on [August 23rd at 10am Central](#), where we'll discuss real-life situations where the failure to understand PWFA nuances like this one may trap the unwary and unprepared employer.

If you have any questions or would like to discuss this further, please contact [Whitney Brown](#) at 205-323-9274 or [wbrown@lehrmiddlebrooks.com](mailto:wbrown@lehrmiddlebrooks.com).