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Labor and Employment Law

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Amendment to the New York City Human Rights Law Requires Reasonable Accommodations for Pregnant Employees

Next year, most employers with employees working in New York City will be required to provide reasonable accommodations for pregnant employees. The new requirement is an amendment to the New York City Human Rights Law and takes effect on January 30, 2014.

Under the new law, employers in New York City with four or more employees will be required to provide reasonable accommodations needed due to pregnancy, childbirth, or related medical conditions, provided that the pregnancy or condition “is known or should have been known” to the employer. The law states that accommodations may include, “bathroom breaks, leave for a period of disability arising from childbirth, breaks to facilitate increased water intake, periodic rest for those who stand for long periods of time, and assistance with manual labor, among other things.”

Accommodations need not be provided if they would pose an “undue hardship.” Factors in determining undue hardship include the nature and cost of the accommodation, the nature of the facility, and the finances of the business.

The law also contains a notice requirement. Covered employers must notify employees of the right to be free from pregnancy discrimination. The notice must be given to all new employees and existing employees. The New York City Commission on Human Rights is expected to issue more specific guidance on the notice requirements. The new law allows employees to file complaints with the Commission or proceed directly to court.

It is fair to say that the New York City law broadens protections for pregnant workers beyond the scope of the Pregnancy Discrimination Act, the Americans with Disabilities Act, and the New York Human Rights Law. Typically, those other laws have not been interpreted to require that employers accommodate a normal, healthy pregnancy. Instead, the right to an accommodation is usually triggered only upon the showing of a particularized need or complicating medical condition, or at the point when the pregnancy becomes disabling (e.g., immediately before and after the birth). The effect of the New York City law is to put a normal, healthy pregnancy on par with a disability for the purpose of workplace accommodations.

Employers with employees in New York City are advised to review their policies and procedures concerning pregnancy and to educate supervisors and managers regarding the scope of these new protections.

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