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# EEOC's Revised Guidance Regarding Pregnancy Discrimination Exposes Employers to Increased Liability

By Amanda J. MacDonald / Jul 14, 2015

On June 26, 2015, the Equal Employment Opportunity Commission (EEOC) issued revised guidance on pregnancy discrimination in light of the Supreme Court's decision in *Young v. United Parcel Service, Inc.* The revised guidance complies with the Court's conclusion in *Young v. United Parcel Service, Inc.* that women may prove unlawful pregnancy discrimination by showing that the employer accommodated some employees with work restrictions but not pregnant women with the same work restrictions.

The case of *Young v. United Parcel Service, Inc.* involved a pregnant woman, Peggy Young, whose doctor advised her not to lift more than twenty pounds during the first twenty weeks of her pregnancy. Ms. Young worked as a part-time driver for United States Parcel Service, Inc. (UPS), and her job required her to lift packages weighing up to seventy pounds. UPS's policy regarding accommodating employees with lifting restrictions applied only to (1) drivers who were disabled on the job, (2) employees who lost their Department of Transportation certifications, and (3) employees with a disability covered by the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 *et seq.* Because Ms. Young did not qualify for light-duty under UPS's policy, UPS did not allow her to work due to her lifting restriction.

Ms. Young filed a lawsuit against UPS, alleging pregnancy discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.*, as amended by the Pregnancy Discrimination Act (PDA). The PDA prohibits an employer from taking an adverse employment action against a woman because of pregnancy, childbirth, or a related medical condition.

The Court found that a pregnant employee has a claim under the PDA if she shows that she sought an accommodation, and the employer did not accommodate her, but did accommodate other employees "similar in their ability or inability to work." Notably, the Court also found that an employer may violate the PDA if the employer's legitimate, nondiscriminatory reason for denying accommodation to a pregnant employee imposes a significant burden on pregnant employees without a sufficiently strong justification.

Based on the Court's decision, the revised EEOC guidance now cautions employers that a pregnant employee's burden of establishing a discrimination claim under the PDA is not "onerous." Indeed, according to the revised guidance, "[a]n employer's policy of accommodating a large percentage of nonpregnant employees with limitations while denying accommodations to a large percentage of pregnant employees may result in a significant burden on pregnant employees."

The revised EEOC guidance makes clear that an employer may still be subject to liability for denying an accommodation to a pregnant employee, even if the employer has a legitimate, nondiscriminatory reason for doing so, if such reason significantly burdens pregnant employees. Accordingly, employers are well-advised to consult legal counsel before implementing policies regarding accommodations to pregnant employees or making decisions with respect to pregnant employees seeking an accommodation due to pregnancy, childbirth, or a related medical condition.

If you have any questions about pregnancy accommodation or discrimination, you may contact Amanda J. MacDonald at (412) 394-2507 | [amacdonald@clarkhill.com](mailto:amacdonald@clarkhill.com); Kurt A. Miller at (412) 394-2363 | [kmiller@clarkhill.com](mailto:kmiller@clarkhill.com); or another member of Clark Hill's Labor and Employment Practice Group.