



July 13, 2023

OFFICERS

SUBJECT: Postal Service Policy on Accommodation of Pregnant and Nursing Workers

The Pregnant Workers Fairness Act (“PWFA”) took effect on June 27, 2023. The PWFA requires the provision of reasonable accommodations for known limitations related to pregnancy, childbirth, or related medical conditions of a job applicant or employee, absent undue hardship. The obligation to accommodate pregnancy-related limitations does not require a determination that a condition rises to the level of a disability under the Rehabilitation Act of 1973, as amended. The duty to accommodate exists solely based on the known limitations of a job applicant or employee due to a pregnancy-related condition.

In addition, under the law, the Postal Service may not:

- Require a job applicant or employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation that was not arrived at through an interactive process.
- Require an employee to take leave under any leave law or policy if another reasonable accommodation can be provided that allows the employee to continue working with the known limitations related to the pregnancy, childbirth, or related medical conditions.
- Deny job opportunities to an applicant or employee based on their need for reasonable accommodations related to pregnancy, childbirth, or related medical conditions. For example, it is unlawful to refuse to hire a pregnant applicant because the individual would need to take leave for medical appointments during their probationary period.

To guide reasonable accommodation decision-makers in evaluating reasonable accommodation requests in these matters, the Postal Service has created the attached *Postal Service Policy on Accommodation of Pregnant and Nursing Workers*. Please ensure dissemination to all managers and supervisors in your reporting structure.

If you have questions concerning this memorandum, please contact Tracy Wattree-Bond, Director, EEO Compliance and Appeals, at tracy.wattree-bond@usps.gov.

A handwritten signature in blue ink, appearing to read "Thomas J. Blum".

Thomas J. Blum

Attachment

cc: Mr. Bruce
Mr. Hensley
Ms. Hendrix
Ms. Wattree-Bond

Postal Service Policy on Accommodation of Pregnant and Nursing Workers

It is the policy of the United States Postal Service (“Postal Service”) to comply with federal laws protecting employees affected by pregnancy and pregnancy-related conditions, including the Pregnant Workers Fairness Act (“PWFA”), effective on June 27, 2023.

The PWFA requires the provision of reasonable accommodations to known limitations related to pregnancy, childbirth, or related medical conditions, absent undue hardship.

Further, under the law, the Postal Service may not:

- Require a job applicant or employee affected by pregnancy, childbirth, or related medical conditions to accept an accommodation that was not arrived at through an interactive process.
- Require an employee with pregnancy-related limitations to take leave under any leave law or policy if another reasonable accommodation can be provided that allows the employee to continue working.
- Deny job opportunities to an applicant or employee based on the need for reasonable accommodations related to pregnancy, childbirth, or related medical conditions. For example, it would be unlawful to refuse to hire a pregnant applicant because the individual anticipates a need to take leave for medical appointments during their probationary period or to remove a new employee for using such leave.

Reasonable Accommodation

Under the Rehabilitation Act of 1973, as amended, an employer has a duty to accommodate pregnancy-related medical restrictions only to the extent that they qualify as a disability.

However, under the PWFA, employers must provide reasonable accommodations to the known limitations of qualified applicants and employees resulting from pregnancy, childbirth, or related medical conditions, regardless of whether they rise to the level of disability under the Rehabilitation Act, unless accommodations would impose an undue hardship.

Also, under the PWFA, a qualified individual is defined as, “an employee or applicant who with or without reasonable accommodation can perform the essential functions of the employment position, except that an employee or applicant shall be considered qualified if:

- (a) any inability to perform an essential function is for a temporary period,
- (b) the essential function could be performed in the near future, and
- (c) the inability to perform the essential function can be reasonably accommodated.”

Reasonable accommodations under the PWFA may include, but are not limited to:

- More frequent or longer paid or unpaid breaks.
- Approved paid or unpaid time off to attend pregnancy-related medical appointments, or as needed for pregnancy-related complications and/or childbirth. Employees should not be penalized for use of such leave.
- Acquisition or modification of equipment or seating to accommodate specific pregnancy-related needs or limitations.
- Assistance with manual labor.

- Modification of work schedules.
- Temporary restructuring of job duties to allow lighter duty even outside the collectively bargained light duty process.
- Private, non-bathroom space for expressing breast milk.

Reasonable accommodations under the PWFA must be determined through an interactive process with the pregnant or pregnancy-affected employee. Approved leave may be an accommodation but only to the extent no other accommodation is reasonably available.

Undue Hardship

Denial of accommodation of a pregnant or pregnancy-affected applicant or employee is only appropriate if accommodation will create an undue hardship for the Postal Service. Undue hardship may include, but is not limited to:

- Accommodations that create significant difficulty or expense in conducting the business of the Postal Service.
- Accommodations that fundamentally alter the nature or operation of the business of the Postal Service.

If management thinks a request for accommodation should be denied, the matter must be referred to the Reasonable Accommodation Committee (RAC) for evaluation.

Process

- Upon notice of limitations from a pregnancy-affected applicant or employee, or from another on behalf of the employee, postal managers and supervisors are obligated to discuss accommodation with the employee. This includes determining what the employee is seeking in terms of accommodation as well as whether or to what extent the requested accommodation, or an alternative accommodation, is reasonable and available under the circumstances.
- If necessary, medical documentation of limitations may be requested, but is not required where the need for accommodation is obvious. Any medical documentation must be treated as confidential and promptly forwarded to the Medical Unit for placement into the employee's Employee Medical Folder.
- If a request is easily granted, the postal manager or supervisor should immediately approve and implement the accommodation. If management determines accommodation is not readily available, management must consult with the next level manager to review the request and to determine if referral to the RAC is appropriate. No request should be denied until a RAC review is completed.

If there is any delay in providing accommodation, interim accommodations should be provided to the greatest extent possible. The employee should be notified of the delay and the interim accommodations to be provided, if any.

All requests for pregnancy-related accommodation should be documented on the [Confirmation of Request for Reasonable Accommodation](#) form and recorded in the Reasonable Accommodation Data Activity Reporting (RADAR) system. Managers and supervisors may access RADAR via [HR Management Information, Statistics and Analytics \(eHRMISA\)](#). Those who do not have access to eHRMISA may request it via [eAccess](#).