

New Rules Provide Insights For Pregnancy Accommodations In Illinois

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Since the start of the year, all employers in Illinois with one or more employees are required to provide accommodations for pregnant workers for conditions associated with pregnancy and childbirth. Now the Illinois Department of Human Rights (IDHR) and the Illinois Human Rights Commission (IHRC) have issued a set of proposed joint rules to assist with interpretation and enforcement of the new law. Under amendments to the [Illinois Human Rights Act](#) that went into effect on Jan. 1, 2015, employers and labor organizations must make reasonable accommodations for any medical or common condition related to pregnancy or childbirth, unless the employer or labor organization can demonstrate that the accommodation would impose an undue hardship on the ordinary operations of the business of the employer or labor organization. Beyond the information already provided in the law itself, the rules go into further detail as to the types of accommodations that employers must consider and how an employer should engage in the interactive process when considering a request for an accommodation. The rules also provide detailed sections on consideration of job transfers and time off as reasonable accommodations. Of particular interest is the guidance concerning when an employer can seek medical certification of an employee's need for a reasonable accommodation. While the rules make clear that employers are entitled to obtain information in order to evaluate if a requested reasonable accommodation may be necessary, the request needs to be limited to:

- The medical justification for the requested accommodation;
- A description of the reasonable accommodation medically advisable;
- The date the reasonable accommodation became medically advisable; and
- The probable duration of the reasonable accommodation.

Moreover, employers may request documentation from the job applicant's or employee's health care provider concerning the need for the requested accommodation if:

- The employer would request the same or similar documentation from a job applicant or employee regarding the need for reasonable accommodation for conditions related to disability;
- The employer's request for documentation is job-related and consistent with business necessity; and
- The information sought is not known or readily apparent to the employer.

Under the rules as proposed by the IDHR and IHRC, the determination of

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whether an employer's request for documentation from the employee's healthcare provider concerning the need for a reasonable accommodation is job-related or consistent with business necessity will depend upon the totality of the circumstances, including factors such as whether the need for reasonable accommodation is readily apparent; whether the job applicant or employee is able to explain the relationship between the requested accommodation and her pregnancy condition; the employer's reasons for requesting the information; and the degree to which the requested accommodation would impact the ordinary operations of the employer's business if it were granted by the employer. If an employee needs a reasonable accommodation beyond the probable duration identified by her healthcare provider, the employer may request additional information from the health care provider. It is also important to note that, under the rules, medical conditions related to pregnancy or childbirth need not constitute a disability within the meaning of the Illinois Human Rights Act and may be transitory in nature. The rules, which were published in the Illinois Register, are expected to go into effect sometime in October. Once fully adopted, the rules will be found at 56 Ill. Admin. Code 2535.10 et seq. For now, they can be found in the [Illinois Register](#). And if you are an employer in Illinois and you have not yet posted the notice required under the new law, you can print a [copy from the Illinois Department of Human Rights website](#).